

Chapter 35

ZONING

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Editor's Note: See Chapter 31 for Planning Board Acting as Zoning Board of Adjustment. All references to the "Zoning Board," "Board of Adjustment" or "Zoning Board of Adjustment" shall refer to the "Planning Board" except where such reference is clearly inapplicable.

Purpose

§ 35-1. PURPOSE. [1972 Code § 107-1; Ord. No. 1097; Ord. No. 1657-95]

- a. It is the intent and purpose of this chapter to exercise the authority delegated to municipalities by the Municipal Land Use Law and thereby, in conformance with the purposes of said law:
 1. To guide the appropriate use or development of all lands in a manner that will promote the public health, safety, morals and general welfare.
 2. To secure safety from fire, flood, panic and other natural and man-made disasters.
 3. To provide adequate light, air and open space.
 4. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and the preservation of the environment.
 5. To divide the Borough of Manasquan into zones or districts, restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for trade, industry, residence and other specified uses.
 6. To regulate the intensity of the use of lot areas and to regulate and determine the area of open spaces surrounding such buildings.
 7. To establish building lines and the location of buildings designed for specified industrial, business, residential and other uses within such areas.
 8. To fix standards to which buildings or structures shall conform therein.
 9. To prohibit uses, buildings or structures incompatible with the character of such districts, respectively.

10. To prevent additions to and alterations or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed hereunder.
11. To limit and lessen congestion in the public streets by providing for the off-street parking and loading and unloading of vehicles, by eliminating and reducing vehicular parking or loading practices which affect the free-flow of traffic or pedestrians, and by insuring that traffic created by land development can be accommodated on roadways in the municipality.
12. To provide for the gradual elimination of nonconforming uses of land, buildings and structures.
13. To prescribe penalties for the violation of the chapter.
14. To insure that the development of the municipality does not conflict with the development and general welfare of neighboring municipalities, the County or the State of New Jersey, as a whole.
15. To prevent the overcrowding of land.
16. To conserve the value of land and buildings throughout the Borough.
17. To provide sufficient space in appropriate locations for a variety of residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens.
18. To promote a desirable visual environment through creative development techniques and good civic design and arrangements.
19. To promote the conservation of historic districts, open space, energy resources and valuable natural resources and to prevent urban sprawl and degradation of the environment through improper use of land.
20. To encourage planned developments which incorporate the best features of design and relate the type, design and layout of development to the particular site.
21. To encourage senior citizen community housing construction.
22. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land.
23. To promote the utilization of renewable energy resources.
24. To promote the maximum practical recovery and recycling of recyclable material from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to complement municipal recycling programs.
25. To be consistent with, and to promote the objectives of the New Jersey State Development and Redevelopment Plan.

Title**§ 35-2. TITLE. [1972 Code § 107-2; Ord. No. 1097]**

This chapter shall be known and may be cited as the "Zoning Ordinance of the Borough of Manasquan."

Definitions and Word Usage**§ 35-3. WORD USAGE.¹ [Ord. No. 1812-2000 § 2]**

For the purpose of this chapter, certain phrases and words are herein defined as follows:

- a. Words used in the present tense include the future tense;
- b. Words used in the singular number include the plural number and vice versa;
- c. Words used to include the male gender include the female gender and vice versa;
- d. The word "used" shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used;
- e. The word "lot" includes the words "plot" and "premises";
- f. The word "building" includes the word "structure";
- g. The word "shall" is mandatory and not discretionary; and
- h. The word "may" is discretionary and not mandatory.

§ 35-3.1. Definitions. [Ord. No. 1812-2000 § 2; Ord. No. 1825-00 § 1; Ord. No. 1884-02 §§ 1, 2; Ord. No. 1976-06 § 1; Ord. No. 2034-08 § 1; Ord. No. 2057-09 § 1; Ord. No. 2100-11; Ord. No. 2122-12 § 2; Ord. No. 2130-13 §§ 4, 5; Ord. No. 2145-13 § 1; Ord. No. 2150-14 § 1; Ord. No. 2271-18; amended 10-3-2022 by Ord. No. 2377-22]

ABANDONMENT — The relinquishment of property for not less than one year by the owner or lessee without any intention of transferring rights of the property to another owner or of resuming the use of the property.

ACCESSORY BUILDING OR STRUCTURE — A building or structure, the use of which is customarily incidental and subordinate to that of the principal building located on the same lot.

ACCESSORY USE — A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.

ADVERSE ENVIRONMENTAL IMPACT ELEMENT — Any environmental pollutant such as smoke, odors, liquid wastes, solid wastes, radiation, noise, vibrations, glare or heat.

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

ALTERATION — Any change or rearrangement in the supporting members of an existing

1. Editor's Note: Ord. No. 1812-2000 repealed former Section 107-3. Definitions and Word Usage, as contained in the 1972 Code § 107-3, as further amended and supplemented, and established a new Section 107-3, WORD USAGE.

building such as bearing walls, columns, beams, girders or interior partitions, as well as any change in doors or windows or any enlargement or diminution of a building or structure. Alteration shall not be construed to mean any necessary repairs and renovation of an existing structure solely for the purpose of maintenance, improvement or redecoration of the appearance.

APARTMENT — See Dwelling Unit.

APPLICANT — The landowner or the agent, optionee, contract purchaser or other person or entity authorized to act for the landowner in submitting an application under this chapter.

APPLICATION FOR DEVELOPMENT — The application form and all accompanying documents required by ordinance for approval of a subdivision plan, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to N.J.S. 40:55D-34, 35 and 36.

APPROVING AUTHORITY — The Planning Board of the Borough of Manasquan.

ARCHITECTURAL DESIGN — In order to promote a desirable environment through creative development techniques and good civic design where elevation or construction of a building is either necessary or desirable, facade treatment shall be required to a point not less than 2 1/2 feet above the finished grade of the property surrounding the building.

ATTACHED SIGN — Any sign erected, constructed or maintained on a building with the principal support of the sign being the building, including specifically the painting of signs or displays on the exterior surface of a building. "Attached signs" shall be not more than 12 inches off the building to which they are attached.

AUTOMOBILE REPAIR — General repair, engineer rebuilding or reconditioning of motor vehicles, collision service, such as body, frame or fender straightening and repair, or overall painting of motor vehicles.

AUTOMOBILE SERVICE STATION — A place where motor fuels stored only in underground tanks, kerosene or motor oil and lubricants or grease for operation of automobiles, are retailed directly to the public on the premises, including minor accessories and services for automobiles, but not including automobile repairs and rebuilding. When the dispensing, sale or offering for sale of motor fuels or oil is incidental to the conduct of a public garage, the premises shall be classified as a public garage. This definition is not intended to cover or include the provision on site of food or beverage sales or other commercial or retail activities not described herein.

BASEMENT — A space having 1/2 or more of its floor-to-ceiling height above the average level of the adjoining ground and with a floor-to-ceiling of not less than 6 1/2 feet.

BED AND BREAKFAST — An "owner-occupied" dwelling in which overnight accommodations and a morning meal are provided for transient guests (guests staying not more than 30 days during any 60 calendar day period) for compensation, and in which the overnight accommodations are accessory to the principal use of the dwelling as a residence.

BICYCLE LANE — A lane at the edge of a roadway reserved and marked for exclusive use of bicycles.

BICYCLE PATH — A pathway, often paved and separated from streets and sidewalks, designed to be used by bicyclists.

BILLBOARD — See Sign, Billboard.

BLOCK — A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways or any other barrier to the continuity of development.

BOARDING HOUSE — A dwelling unit or part thereof in which, for compensation, lodging and meals are provided; personal and financial services may be offered as well.

BOROUGH — The Borough of Manasquan.

BUFFER — Open spaces, landscaped areas, fences, walls, berms or any combination thereof used to physically separate or screen one use of property from another so as to visually shield or block noise, lights or other nuisances.

BUILDING — Any structure having a roof supported by columns, posts, piers or walls and intended for the shelter, business, housing or enclosing of persons, animals, property or materials of any kind.

BUILDING COVERAGE — The aggregate square footage or other area measurement by which all buildings occupy a lot as measured in a horizontal plane around the periphery of the foundation, and including the area under any roof extending more than two feet beyond the foundation.

BUILDING ENVELOPE — The two-dimensional space within which a structure is permitted to be built on a lot and that is defined by minimum yard setbacks.

BUILDING HEIGHT — The vertical distance from the reference datum to the highest point of the structure. (a) single frontage or corner properties — height shall be measured from the top of the curb or in the absence of the curb from the crown of the road or in the absence of a road with a crown, then from the average of the grades at the center of each street front (or the monumented borough beach walk in the case of structures contiguous to the beachfront). (b) properties with opposite frontages — heights from the lot midpoint to the respective right-of-way line shall be measured from the top of the curb or in the absence of a curb from the crown of the road or in the absence of a road with a crown, then from the grade at the center of the street front or the monumented Borough beach walk in the case of structures contiguous to the beachfront. A decorative cupola not more than 3 feet by 3 feet by 3 feet high may be added to the roof of a single-family dwelling. **[Amended 10-3-2022 by Ord. No. 2377-22]**

BUILDING LINE — A line parallel to the street line touching that part of a building closest to the street. In the case of a cantilevered section of a building, the building line will coincide with the most projected surface. All yard requirements shall be measured to the "building line."

BUILDING PRINCIPAL — A structure in which is conducted the principal use of the lot on which it is located.

BUSINESS SIGN — An on-premises sign which directs attention to a business, commodity, service, industry, or other activity which is sold, offered, or conducted on the premises on which the sign is located or to which it is affixed.

CALIPER — The diameter of a tree trunk measured in inches, six (6) inches above ground level for trees up to four (4) inches in diameter and measured twelve (12) inches above ground level for trees over four (4) inches in diameter.

CAMPER —

- a. A self-propelled, vehicular structure built as one unit on a chassis and designed for temporary living for travel, recreation, vacation or other short-term uses which may contain cooking, sleeping and sanitary facilities.
- b. 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.

- c. 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.
- d. 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.

CAR WASH — Any land, building or part of a building used for the commercial washing of motor vehicles, but excluding service stations where the washing of motor vehicles is a use incidental to the service station.

CARPORT — A structure with a roof for storing automobiles, enclosed by not more than three sides.

CARTWAY — The paved area of a street between the curbs, including travel lanes and parking areas but not including shoulders, curbs, sidewalks or swales. Where there are no curbs, the "cartway" is that portion between the parallel edges of the paved street width.

CELLAR — A space with less than one-half of its floor to ceiling height, above the averaged finished grade of the adjoining ground or with a floor-to-ceiling height of less than 6 1/2 feet.

CEMETERY — A use of land for the burial of the dead.

CERTIFICATE OF OCCUPANCY — A document issued by the Construction Official allowing the occupancy or use of a building and certifying that the structure or use has been constructed and will be used in compliance with all applicable State codes and Municipal ordinances.

CHANGEABLE COPY SIGN — Any sign which is designed so that characters, letters or illustrations can be changed or rearranged without altering the face or the surface of the sign shall be prohibited in all zones. This shall include all signage inclusive of billboards.

CHILD CARE CENTER — An establishment providing for the care, supervision, and protection of children that is licensed by the State of New Jersey pursuant to N.J.S. 30:5B-1 et seq.

CHURCH — See House of Worship.

CLUB, SOCIAL — A private organization for social purposes in which the principal use is in enclosed buildings and no outdoor sports are involved.

CLUBHOUSE — A building to house a club or social organization not conducted for profit and which is not an adjunct to or operated by or in connection with or as a public tavern, cafe or other like public place.

COMMON OPEN SPACE — Land within or related to a development, not individually owned or dedicated for public use that is designed and intended for the common use or enjoyment of the residents and their guests of the development and may include such complementary structures and improvements as are necessary and appropriate.

COMMUNITY IMPACT STATEMENT — A study to determine the potential direct or indirect effects of a proposed development on community facilities.

COMMUNITY RESIDENCE FOR THE DEVELOPMENTALLY DISABLED — Any community residential facility licensed pursuant to N.J.S. 30:11B-1 et seq. providing food,

shelter and personal guidance, under such supervision as required, to not more than 15 developmentally disabled or mentally ill persons, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, half-way houses, intermediate care facilities, supervised apartment living arrangements, and hotels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act" (N.J.S. 26:2H-1 et seq.). In the case of such community residence housing mentally ill persons, such residence shall have been approved for a purchase of service contract or an affiliation agreement pursuant to such procedures as shall be established by regulation of the Division of Mental Health and Hospitals of the Department of Human Services.

COMMUNITY SHELTER FOR VICTIMS OF DOMESTIC VIOLENCE — Any shelter approved for a purchase of service contract and certified pursuant to standards and procedures established by regulation of the Department of Human Services pursuant to N.J.S. 30:14-1 et seq. providing food, shelter, medical care, legal assistance, personal guidance, and other services to not more than 15 persons who have been victims of domestic violence, including any children of such victims, who temporarily require shelter and assistance in order to protect their physical and psychological welfare.

COMPLETE APPLICATION — The application form and all accompanying documents required by ordinance or promulgated checklist in connection with the approval of a subdivision plan, site plan, planned development, conditional use, zoning variance or permit issuance direction.

CONCEPT PLAN — An informal map of a proposed subdivision or site plan of sufficient accuracy and detail to be used for the purpose of discussion and classification.

CONDITIONAL USE — A use permitted in a particular zoning district upon showing that such use will comply with the conditions and standards for the location or operation of the use as specified in the zoning ordinance and authorized by the approving agency.

CONDOMINIUM PROPERTY — The land covered by the master deed, whether or not contiguous, and all improvements thereon, all owned either in fee simple or under lease and all easements, rights and appurtenances belonging thereto or intended for the benefit thereof.

CONSERVATION EASEMENT — The grant of a property right stipulating that the described land will remain in its natural state and precluding future or additional development.

CONSOLIDATION — A conveyance of land so as to combine existing lots by deed or other instrument and having the consent of all parties in interest.

CONSTRUCTION OFFICIAL — The Borough official specified in the Municipal Code who is charged with administering the land development regulations, together with the Administrative Officer of the Borough.

CONTIGUOUS PARCELS — Tracts of land which share a common boundary.

CONVENIENCE RETAIL — Any retail establishment offering for sale prepackaged food products, household items, newspapers and magazines, sandwiches and other freshly prepared foods, such as salads. Food products are generally for off-site consumption but may contain seating accommodations of not more than eight seats. Examples shall include but not be limited to a cheese shop, dessert shop or ice cream parlor.

COUNTY MASTER PLAN — A composite of the Master Plan for the physical development of Monmouth County, with accompanying maps, plats, charts and descriptive and explanatory

matter adopted by the Monmouth County Planning Board pursuant to N.J.S. 40:27-1 et seq.

COUNTY PLANNING BOARD — The Monmouth County Planning Board.

COVERAGE, BUILDING — The aggregate square footage or other area measurement by which all buildings occupy a lot as measured in a horizontal plane around the periphery of the foundation and including the area under any roof extending more than two feet beyond the foundation.

COVERAGE, LOT — The aggregate square footage or other measurement by which all buildings and structures and driveways, parking areas, and other impervious surface covers a lot, as measured in a horizontal plane.

CRITICAL AREA — Water bodies, including streams, ponds and lakes, 100-year flood plains, freshwater wetlands, transition areas and slopes over 25%.

CUL-DE-SAC — See Street, Cul-de-sac.

CUPOLA — A small dome like structure on the roof of a building or structure and designed to provide ventilation and/or decoration. Maximum dimension of 3 feet by 3 feet by 3 feet in height.**[Added 10-3-2022 by Ord. No. 2377-22]**

CURB CUT — The depression of the curbline at which point vehicles, people or surface water runoff cross the curbline.

DAY — A calendar day in any year.

DECK — An above grade, unroofed structure without walls that is attached to a residential dwelling unit, eight inches or more above grade.

DEDICATION — An offering for public use by an owner of an interest in property, with or without improvements, which is accepted by the appropriate public body.

DENSITY — The permitted number of dwelling units per gross acre of land to be developed.

DESIGN STANDARDS — Standards that require or establish specific improvement requirements.

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

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

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

DEVELOPMENT REGULATION — A zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land, adopted pursuant to the "Municipal Land Use Law" (N.J.S. 40:55D-1 et seq.).

DEVELOPMENT SIGN — A sign designating the name of a subdivision of residential homes, whether single-family or multi-family, attached or detached or an apartment complex.

DEVELOPMENTALLY DISABLED PERSON — A person who is developmentally disabled as defined in N.J.S. 30:11B-2.

DILAPIDATED SIGN — A sign which is structurally unsound, contains faulty wiring or loose fastenings, or is otherwise detrimental to the public health, safety or welfare.

DIRECTIONAL SIGN — Any sign which is designed and erected solely for the purpose of traffic or pedestrian direction which is placed on the property to which or on which the public is directed.

DISTRICT — The zone districts established in this chapter.

DORMER — A projection from a roof that contains a window is set back a minimum of two feet from the exterior vertical building wall beneath the dormer. In the R-4 Zone, no dormer shall exceed 10 feet in length measured along the fascia. **[Ord. No. 2226-2017; amended 9-21-2020 by Ord. No. 2314-20; 10-3-2022 by Ord. No. 2377-22]**

DRAINAGE — The removal of surface water or groundwater from land by drains, grading or other means and includes control of runoff during and after construction or development to minimize erosion and sedimentation, to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, to lessen nonpoint pollution, to maintain the integrity of stream channels for their biological functions as well as for drainage, and the means necessary for water supply preservation or prevention and alleviation of flooding.

DRIVE-IN RESTAURANT/TAKE OUT — The same as "Restaurant Drive-In/Take-Out."

DRIVEWAY — A delineated paved and unpaved area used for ingress and egress of vehicles and allowing access from a street to a building or other structure or facility.

DWELLING — A structure or portion thereof that is used exclusively for human habitation. "Dwellings" may include but are not limited to the following types:

- a. **DETACHED SINGLE-FAMILY** — A dwelling unit that is not attached to any other dwelling by any means.
- b. **GARDEN APARTMENT** — Three or more dwelling units located within a single building, with an entrance to each dwelling by direct access from the outside or through a common hall. "Garden apartments" may include buildings in cooperative or condominium ownership. Also see "dwelling, multifamily."
- c. **TOWNHOUSE** — A one family dwelling unit in a row of at least three such attached units in which each unit has its own front and rear access to the outside, no unit is located over another unit and each unit is separated from any other unit by one or more vertical common fire-resistant walls.
- d. **MULTIFAMILY** — A building containing three or more dwelling units that share common vertical and/or horizontal separations, including garden apartments.
- e. **SEMI-DETACHED SINGLE-FAMILY** — A single-family dwelling attached to one other single-family dwelling on an adjoining lot by a common vertical wall erected on the lot line dividing the two lots.

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

ENVIRONMENTAL COMMISSION — The Manasquan Environmental Commission, a municipal advisory body, created pursuant to N.J.S. 40:56A-1 et seq.

ENVIRONMENTAL CONSTRAINTS — Features, natural resources, or land characteristics that are sensitive to improvements and may require conservation measures or the application of creative development techniques to prevent degradation of the environment, or may require limited development, or in certain instances may preclude development.

ESCROW — A deed, bond, money, or a piece of property delivered to a third person to be delivered by that person to the grantee only upon fulfillment of a condition.

EXTENDED CARE FACILITY — A long-term care facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged, or a governmental medical institution.

EXTERNALLY LIGHTED SIGN — Any sign whose sole source of artificial illumination is outside the display portion of the sign.

FACADE SIGN — (Reserved)

FAIR HOUSING ACT — The provisions of N.J.S. 52:27D-302 et seq.

FAMILY — A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

FAMILY DAY CARE HOME — A private residence which is registered as a family day care home pursuant to the "Family Day Care Provider Registration Act" (N.J.S. 30:5B-16 et seq.); and is further defined as a private residence in which child care services are provided for a fee to not less than three and no more than five children at any one time for no less than 15 hours per week; except that the division shall not exclude a family day care home with less than three children from voluntary registration.

FAST SERVICE RESTAURANT — An establishment or business which is essentially designed to dispense a limited variety of food and beverages which are so prepared, packaged in paper or in other types of disposable wrappers and contained in a form for quick or ready consumption. Such establishments may or may not have tables, and the food and beverages may be sold for consumption inside the building or on or off the premises. It shall not include a convenience retail establishment.

FENCE — An artificially constructed barrier of any material or combination of materials erected to enclose, screen or separate areas.

FINAL APPROVAL — The official action of the Planning Board taken on a preliminary approved major subdivision or site plan, after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of those guarantees.

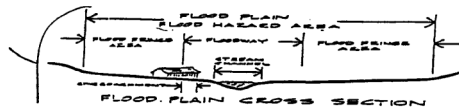
FINAL PLAT — The final map of all or a portion of a subdivision which is presented for final approval.

FLAG LOT — A lot not meeting the minimum frontage requirements and where access to the public road is provided by a narrower extension of the lot encompassing a driveway or by private right-of-way easement. **[Ord. No. 2271-18; amended 10-3-2022 by Ord. No. 2377-22]**

FLOOD ELEVATION DETERMINATION — A determination of the water surface elevations of the design flood, i.e., the flood level that has a 1% or greater chance of occurrence in any given year, i.e., a 100-year storm.

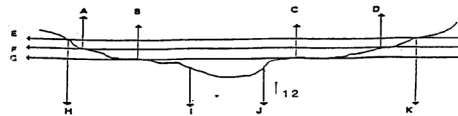
FLOOD FRINGE AREA — That portion of the flood hazard area outside the floodway, based on the total area inundated during the regulatory base flood plus 25% of the regulatory base flood discharge. See Figure below.

FLOOD HAZARD AREA — The floodway and flood fringe areas of a delineated stream as determined by the New Jersey Department of Environmental Protection under N.J.A.C. 7:13 et seq. (Flood Hazard Control). See Figure below.



FLOOD PLAIN — The relatively flat area adjoining the channel of a natural stream, which has been or may be hereafter covered by flood water. Also known as a floodway. See Figure below.

FLOODWAY — The channel of a natural stream or river and portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream or river. See Figure below.



Distances A-B and C-D are the Flood Fringe Zones

Distance H-K is the 100 year Flood Plain & Flood Hazard Area

Distance A-D is the Floodway Line

Distance I-J is the Stream Channel

Line E is the Flood Elevation when confined within the Floodway

Line F is the Flood Elevation after encroachment

Line G is the Flood Elevation before encroachment

FLOOR AREA RATIO (FAR) — The gross floor area, of all buildings on a lot divided by the total lot area.

FLOOR AREA, GROSS — The sum of the gross horizontal areas of all floors of a building or group of buildings on a lot, measured from the exterior faces of exterior walls or from the center line of a wall separating two buildings, but excluding the following:

- a. Cellars; or
- b. Any floors or portions thereof contained on terraces or balconies projecting beyond the exterior face of the building.

FLOOR AREA, NET HABITABLE (N.H.F.A.) — The finished and heated area fully enclosed

by the inside surfaces of walls, windows, doors and partitions and having a headroom of at least 6 1/2 feet including working, living, eating, cooking, sleeping, stair, hall, service and storage areas, but excluding garages, carports, parking spaces, cellars, half-stories and unfinished attics and basements.

FRONTAGE — See Lot, Frontage.

GARAGE, PRIVATE — A structure that is an accessory to the principal building and that is used for the storage of motor vehicles and in which no occupation, business or service for profit is carried on. A portion of a garage not to exceed 50% may be used as a pool house etc. to include a kitchen, bath, bar and changing area. The remaining portion of the garage must be used for parking of a vehicle or for storage. **[Amended 10-3-2022 by Ord. No. 2377-22]**

GARAGE, PUBLIC — A building, other than a private garage, used for the care, repair or equipment of automobiles, or where such vehicles are parked or stored for remuneration within the structure.

GARAGE, REPAIR — Any building, premises or land in which or upon which a business, service or industry involving the maintenance, servicing, repair or painting of motor vehicles is conducted or rendered. Sales of motor vehicle accessories are permitted. This term does not include car washes and motor vehicle showrooms for new or used motor vehicles.

GROUND FLOOR — The first floor of a building other than a cellar or basement.

GROUP HOME — Any single-family dwelling used in the placement of children pursuant to law recognized as a group home by the Department of Institutions and Agencies in accordance with rules and regulations adopted by the Commissioner of Institutions and Agencies, provided, however, that no group home shall contain more than 12 children.

HISTORIC DISTRICT — One or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites.

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 — An occupation including, but not limited to, any licensed profession, conducted in a dwelling unit, subordinate to its residential use, provided that:

- a. The occupation may be pursued in the principal dwelling unit structure or in a secondary building which is accessory to the principal building or structure.
- b. The use of the property for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the net habitable floor area of all structures shall be used in the conduct of the home occupation.
- c. No other person other than members of the household residing on the premises plus one secretary or other assistant shall be engaged in the occupation.
- d. The residential character of the lot and building shall not be changed; no occupational sounds shall be audible outside the building; and no equipment shall be used which will cause interference with radio or television reception in neighboring residences.
- e. There shall be no exterior evidence of the home occupation other than one unlighted name plate identifying the home occupation, not exceeding four square feet in area, either attached or free-standing and set back at least 15 feet from all street rights-of-way and

property lines.

- f. The home occupation shall not generate vehicular traffic in excess of two passenger automobiles, which must be parked off-street.
- g. The applicant shall have applied for and received "minor" site plan approval.

HOME PROFESSIONAL OFFICE — The office or a studio of a resident physician, dentist, lawyer, licensed professional planner, licensed professional engineer, artist, licensed land surveyor, registered architect or teacher as herein restricted, provided that no more than two persons are employed who are not members of the family and that such office shall be in the main building and shall not occupy more than the equivalent of 1/2 of the area of one floor of the building. For the purpose of this definition, "teacher" shall be restricted to a person giving individual instructions in a musical instrument, in singing or in academic or scientific subjects to a single pupil at a time. A "home professional office" shall not include the office of any person professionally engaged in the purchase or sale of economic goods or services. Dancing instructions, band instrument or voice instruction in groups, tearooms, tourists homes, beauty parlors, hairdressing and manicuring establishments, real estate offices, insurance offices, convalescent homes, mortuary establishments and stores, trades or businesses of any kind not herein excepted shall not be deemed to be "home professional offices". The "home professional office" of a physician shall not include a biological or other medical testing or screening laboratory.

HOT TUB/SPA — A structure intended for recreational bathing, in which all controls, water-heating and water-circulating equipment are an integral part of the structure.

HOTEL — A facility offering transient lodging accommodations to the general public and which may provide additional services, such as restaurants, reception rooms, meeting rooms, entertainment and recreation facilities.

HOUSE OF WORSHIP — A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

HOUSEHOLD — A family living together in a single dwelling unit, with common access to and common use of all living and eating areas and all areas and facilities for the preparation and serving of fast food within the dwelling unit.

IMPERVIOUS COVERAGE — That portion of the lot that is covered by nonpermeable surfaces, including but not limited to, buildings, parking areas, driveways, service areas, streets, walkways, patios, pools and plazas. With reference to walkways, patios and plazas, the materials utilized in the construction of such areas, may determine to be permeable based upon commonly accepted construction standards and credible testimony received by the Board. All required parking areas which are permitted to remain unimproved and all gravel areas and landscape areas shall be considered as impervious surfaces if they are lined with weed-inhibiting plastic or other material.

IMPROVEMENT — Any man-made, immovable item which becomes part of, placed upon, or is affixed to real estate.

INFORMAL REVIEW — At the request of the developer, the Planning Board shall grant an informal review of a concept plan for a development provided same does not require relief in form of a use variance for which the developer intends to prepare and submit an application for development. The amount of any fees for an informal review shall be a credit toward fees for

review of the application for development. Neither the developer nor the Board shall be bound by any concept plan presented or for any comments or recommendations made during an informal review.

INOPERABLE VEHICLE — Any vehicle, including but not limited to automobiles, motorcycles, motor-drawn vehicles, omnibuses, semitrailers, trailers, trucks, truck tractors, and other motor vehicles all as defined in Title 39 of the New Jersey Statutes, which is not operable or which is not capable of being safely and legally operated on public roads, streets or highways. Any vehicle which is unregistered or without current license tags or plates shall be considered an inoperable vehicle. A vehicle located at a facility for not more than seven days while awaiting repairs shall not be considered to be an inoperable vehicle.

INTERNAL SIGN — Any sign erected, constructed or maintained inside of a building and visible from outside the building, whether illuminated or non-illuminated.

INTERNALLY LIGHTED SIGN — Any sign whose sole source of artificial illumination is contained within the display portion of the sign.

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

LAND AREA, GROSS (G.L.A.) — The entire area of a lot or lots included in a single proposed development or site plan, before any deductions are made for wetlands, conservation areas, steep slopes or for any other required purpose.

LAND AREA, NET (N.L.A.) — The remaining developable area of a lot or lots included in a single proposed development or site plan, after deductions are made for wetlands, conservation areas, steep slopes or for any other required purpose.

LANDING — A level part of a staircase at the end of a flight of stairs.

LANDLOCKED — Property which has no ownership adjacent to a public street right-of-way and is surrounded by lands belonging to others.

LANDSCAPE PLAN — A component of a development plan on which is shown: proposed landscape species (such as number, spacing, size at time of planting and planting details); proposals for protection of existing vegetation during and after construction; proposed treatment of hard and soft surfaces; proposed decorative features; grade changes; buffers and screening devices; and any other information that can reasonably be required in order that an informed decision can be made by the approving authority.

LOT — A designated parcel, tract or area of land established by plat, subdivision, court order or as otherwise permitted by law, to be separately owned, used, developed or built upon.

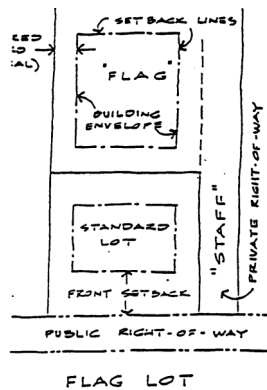
LOT AREA — The total area within the lot lines of a lot.

LOT CORNER — A lot or parcel of land abutting upon two or more intersecting streets, or upon two parts of the same street forming an interior angle of less than 135°.

LOT DEPTH — The average distance measured from the front lot line to the rear lot line.

LOT FRONTAGE — The length of the front lot line measured at the street right-of-way line. On a comer lot, the lesser frontage shall be the front of the lot and the greater frontage shall be the depth of the lot. If a comer lot has equal frontages, the front yard shall be the yard on which the main entry of the structure faces, and such designation of the front yard shall be permanent. If an interior lot faces two streets, the property owner shall select the front yard when applying for a zoning permit to build a structure and such designation shall be permanent.

LOT, FLAG — A lot not meeting minimum frontage requirements and where access to the public street is by a private right-of-way or driveway. See Figure below.



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

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

LOT LINE, FRONT — The lot line separating from a street right-of-way, also referred to as a "street line".

LOT LINE, REAR — The lot line opposite and most distant from the front lot line, or, in the case of triangular or otherwise irregularly shaped lots, a line at least 10 feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

LOT LINE, SIDE — Any lot line other than a front or rear lot line.

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 building setback line.

LOW-INCOME HOUSING — Housing affordable according to Federal Department of Housing and Urban Development or the standards established by the New Jersey Council on Affordable Housing for home ownership and rental costs, 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 of the same size within the housing region in which the housing is located, and which is subject to affordability controls promulgated by the Council.

MAINTENANCE GUARANTEE — Any security, including but not limited to letters of credit and surety bonds, that may be required and accepted by the Borough to assure that necessary improvements will function as required for a specific period of time.

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

MAJOR SUBDIVISION — Any subdivision not classified as a minor subdivision.

MARINA — A waterfront facility predominantly used for the dockage and moorage of recreational boats for which dockage or moorage fee is paid and sanitary facilities and parking area provided.

MARQUEE — Any hood, canopy, awning or permanent construction that projects from the exterior wall of a building, usually above an entrance, or the front face of the building.

MASTER PLAN — A composite of one or more written or graphic proposals for the development of the Borough as set forth in and adopted pursuant to N.J.S. 40:55D-28 et seq.

MINOR SUBDIVISION — A subdivision of land that does not involve any of the following:

- a. The creating of more than two lots (one new lot and the remaining parcel), each fronting on an existing improved street or road;
- b. A planned development;
- c. Any new street; or
- d. The extension of any off-tract improvements.

Any subdivision application from a subdivider or owner which has previously been subdivided or granted a "minor subdivision" shall be classified as a major subdivision.

MODERATE-INCOME HOUSING — Housing affordable according to Federal Department of Housing and Urban Development or the standards established by the New Jersey Council on Affordable Housing for home ownership and rental costs, occupied or reserved for occupancy by households with a gross household income in excess of 50% but less than 80% of the median gross household income for households of the same size within the housing region in which the housing is located, and which is subject to affordability controls promulgated by the Council.

MOTEL — An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

MOTHER/DAUGHTER HOUSING — A single-family dwelling that offers a semi-independent living space within the principal dwelling unit for a parent(s). The living space must be located within the principal dwelling and can only be accessed through the existing dwelling and not by a separate entrance. A fully independent dwelling unit is not permitted. **[Added 9-21-2020 by Ord. No. 2314-20; amended 10-3-2022 by Ord. No. 2377-22]**

MULTIPLE OCCUPANCY AND TENANCY SIGN — A single sign relating to a use or facility, such as a shopping center, industrial park or office complex, where there is more than one occupancy and/or tenancy of uses, where the multiple occupancy and tenancy use a common parking facility and/or common private drive or roadway and where the names and professions or business names of the various tenants and/or occupants are displayed.

MUNICIPAL LAND USE LAW — N.J.S. 40:55D-1 et seq.

NONCONFORMING LOT — A lot, the area or dimensions of which was lawful prior to the adoption, revision or amendment of the zoning ordinance but that fails by reason of such adoption to conform to the requirements of this chapter.

NONCONFORMING SIGN — Any sign lawfully existing on the effective date of an ordinance or any amendment thereto, that renders such sign nonconforming because it does not conform to all the standards and regulations of this chapter.

NONCONFORMING STRUCTURE — A structure or building, the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to the zoning ordinance but that fails by reason of such adoption, revision or amendment to conform to the requirements of this chapter.

NONCONFORMING USE — A use or activity that was lawful prior to the adoption, revision

or amendment of the zoning ordinance but that fails by reason of such adoption, revision or amendment to conform to the requirements of this chapter.

NURSERY SCHOOL — A school designed to provide daytime care or instruction for two or more children from two to six years of age, inclusive, and operated on a regular basis and licensed by the State of New Jersey.

NURSING HOME — A building providing shelter and/or supplemental health care for the elderly or infirm and meeting the standards of the New Jersey State Department of Institutions and Agencies to operate as a "nursing home."

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

OFF-TRACT — Not located on the property that is the subject of a development application nor on a contiguous portion of a street or other right-of-way.

OFFICIAL MAP — A map adopted in accordance with the Official Map and Building Permit Act, N.J.S. 46:24-5 et seq. only to the extent that it is consistent with the provisions of N.J.S. 40:55D-32 et seq. and to the extent that it has not been supplanted by an official map adopted pursuant to N.J.S. 40:55D-32 et seq. A map so adopted shall be deemed conclusive with respect to the location and width of streets, drainage rights-of-way, and flood control basins.

ON-SITE — Located on the lot that is the subject of an application for development.

ON-TRACT — Located on the property that is the subject of a development application or on a contiguous portion of a street or other right-of-way.

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

OUTBUILDING — A separate accessory building or structure not physically connected to the principal building and located on the same lot.

OUTDOOR STORAGE — The keeping, in an unroofed area, of any items including, but not limited to, goods, junk, material, trailers, merchandise and vehicles in the same place for more than 24 hours.

OWNER — An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

PARKING LOT — An off-street area, usually improved, for the temporary storage and circulation of motor vehicles.

PARKING SPACE — A space for the parking of one motor vehicle within a public or private parking area, but not within a dedicated street.

PATIO — A level, impervious surfaced area directly adjacent to a principal building at or within three feet of the finished grade, not covered by a permanent roof and used primarily for passive recreation.

PERFORMANCE GUARANTY — Any security, including but not limited to letters of credit,

surety bond that may be accepted by the Borough to ensure that improvement required as part of an application for development are satisfactorily completed.

PERSONAL SERVICE ESTABLISHMENT — Any establishment primarily engaged in providing services involving the care of a person or a person's goods or apparel, such as cleaning, laundry, beauty shops, barbershops, shoe repair, nail shops, physical therapists, eye glass sales and examination, and similar uses, but excluding tattoo parlors and body piercing establishments.

PIER — A structure extending over land or water for use as a landing place or promenade. A pier may also act as the support for other structures.

PLANNED DEVELOPMENT — An area of a minimum contiguous size as specified by this chapter, to be planned, developed, operated and maintained as a single entity according to a plan and containing one or more structures with appurtenant common areas.

PLAT — A map of a subdivision or site plan.

PORCH — A roofed open area, which may be screened, usually attached to or part of and with direct access to or from a building.

PRELIMINARY APPROVAL — The conferral of certain rights pursuant to the MLUL 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 SUBDIVISION PLAT — A map indicating the proposed layout of a development and related information that is submitted for preliminary approval.

PRINCIPAL BUILDING — A building in which is conducted the main use of the lot.

PRINCIPAL BUILDING, STRUCTURE OR USE — A building, structure or use which is the main or primary building, structure or use on the lot.

PROFESSIONAL OFFICE — The office of a member of a recognized profession maintained for the conduct of that profession.

PROJECTING SIGN — A sign, other than a wall sign, which is attached to and projects more than 12 inches from a wall of a building.

PUBLIC BEACHFRONT — The lands of the Borough of Manasquan which lie along the Atlantic Ocean and are as indicated on the Tax Map of the Borough of Manasquan. The public beachfront area includes the public walkways, beach accessways and steps, dunes, storm protection jetties, and all appurtenant and accessory public purpose structures.

PUBLIC DRAINAGE WAY — 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 biological as well as drainage function of the channel and providing for the flow of water to safeguard the public against flood damage, sedimentation and erosion and to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, and to lessen nonpoint pollution.

PUBLIC IMPROVEMENTS — Improvements which the Board may deem necessary or appropriate, including but not limited to streets, grading, pavement, gutters, curbs, sidewalks,

street lighting, shade trees, surveyors monuments, water mains, culverts, storm sewers, sanitary sewers, drainage structures, erosion control and sedimentation control devices, public improvements of open space and, in the case of site plans, other on-site improvements and landscaping.

QUORUM — A majority of the full authorized membership of a board or agency.

RECREATIONAL VEHICLE — A vehicular-type portable structure without permanent foundation that can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use, and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

RESTAURANT — Any establishment, however designated, at which food is sold for consumption on the premises, normally to patrons seated within an enclosed building, which building complies with the restaurant requirements as to restroom facilities under the Uniform Construction Code, unless exempt therefrom. A restaurant shall not be deemed to include any retail food establishment that sells food primarily for take-out or consumption on the premises but outside the confines of the principal building, or in automobiles parked upon the premises. A restaurant also shall not be deemed to include any snack bar at a public or community playground, playfield, park.

RESTAURANT, DRIVE-IN — Any restaurant or retail food establishment with a drive-in window.

RESTAURANT, FAST-FOOD — A business establishment whose principal business is the sale of prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, in cars on the premises, or off the premises.

RESUBDIVISION — (1) the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law or (2) the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, but does not include conveyances so as to combine existing lots by deed or by other instrument as long as only one use exists on the combined lot.

RETAIL FOOD ESTABLISHMENT — An establishment where the majority of the patrons purchase prepared foods, soft drinks, ice cream, and similar confections for take-out or consumption off-premises or on the premises but outside the confines of the principal building, or in automobiles parked upon the premises, regardless of whether or not, in addition thereto, seats or other accommodations are provided for the patrons.

RETAINING WALL — A structure more than 18 inches high erected between lands of different elevation to protect structures and/or to prevent the washing down or erosion of earth from the upper slope level.

RIGHT-OF-WAY — A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use.

RIGHT-OF-WAY LINES — The lines that form the boundaries of a right-of-way.

ROOMING HOUSE — A building with not more than five guest rooms where lodging is provided for compensation pursuant to previous arrangement, but not open to the public or transients.

SATELLITE DISH ANTENNA — Any apparatus or structure constructed or installed out of doors consistent with Section 35-44 with the purpose of receiving television, radio or similar

waves, but distinguished from conventional radio or television antennae.

SATELLITE EARTH STATION — Any apparatus capable of transmitting and/or receiving signals from geostationary orbital satellites.

SCHOOL — Any building or part thereof which is designed, constructed or used for education of students up to and through the secondary level.

SCREEN — Any structure or planting consisting of fencing, berms, evergreen trees or shrubs providing a continuous view obstruction within a site or property.

SELF-STORAGE FACILITY — A facility providing individual rental units for the temporary storage of furniture, household goods, office equipment, files and similar items and including not more than one residential unit for a resident manager and family.

SENIOR CITIZEN — A person who is 55 years or older.

SENIOR CITIZEN HOUSING — Housing within which residency shall be restricted to a person 55 years or older. A person under the age of 55 may reside in a Senior Citizen Housing Complex provided that his or her spouse is 55 years or older.

SETBACK — The distance between the street right-of-way line and the front line of a building or any projection thereof, excluding uncovered steps.

SETBACK LINE — A line parallel to any street line, beyond which no building or portion thereof may be erected except as provided in this chapter.

SIGN, GROUND — Any sign, other than a pole sign, in which the entire bottom is in contact with or is close to the ground and is independent of any other structure.

SIGN, HOME OCCUPATION — A sign containing only the name and occupation of a permitted home occupation.

SIGN, ILLUMINATED — A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed towards the sign.

SIGN, PROJECTING — A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.

SIGN, REAL ESTATE — A sign pertaining to the sale or lease of the premises or a portion of the premises on which the sign is located.

SIGN, ROOF — A sign that is mounted on the roof of a building or that is wholly dependent upon a building for support and that projects above the top walk or edge of a building with a flat roof, the eave line of a building with a gambrel, gable or hip roof or the deck line of a building with a mansard roof.

SIGN, TEMPORARY — A sign or advertising display constructed of cloth, canvas fabric, plywood or other light material and designed or intended to be displayed for a period of time not to exceed 10 days.

SIGN, WALL — A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not project more than 12 inches from such building or structure.

SIGN, WINDOW — A sign that is applied or attached to the exterior or interior of a window or located in such a manner within a building that it can be seen from the exterior of the structure through a window.

SITE PLAN — 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, screening devices; and any other information that may be reasonably required in order to make an informed determination pursuant to the Planning Board, adopted pursuant to N.J.S. 40:55D-37 et seq.

SKETCH PLAT — A concept, informal map of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion and classification.

STAIRWELL DORMER — A dormer which encloses the stairwell and is not required to be set back a minimum of two feet from the exterior vertical building wall beneath the dormer.

STANDARDS OF PERFORMANCE — Standards.

- a. Adopted by ordinance, pursuant to N.J.S. 40:55D-65, regulating noise levels, glare, earthborne or sonic vibrations, heat, electronic radiation, noxious odors, toxic matters, explosive and inflammable matters, smoke and airborne particles, waste discharge, screening of unsightly objects or conditions and other similar matters as may be reasonably required by the Board; or
- b. Required by applicable Federal or State laws or municipal ordinances.

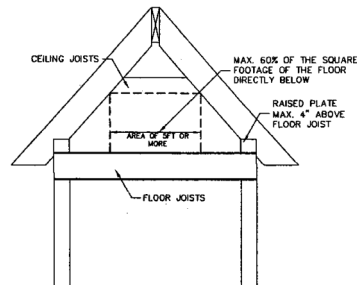
STORAGE SHED — An accessory building used for the storage of items such as, but not limited to, tools, lawn and garden equipment, furniture, and similar items of personal property belonging to the occupant of the principal structure.

STORMWATER DETENTION — A provision for storage of stormwater runoff and the controlled release of the runoff during and after a flood or storm.

STORY — That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it and including those basements used for the principal use.

STORY, HALF — The finished area of an attic where the intersection of the roof rafters and the exterior wall occurs within four inches of the floor/ceiling system, and in which space the maximum floor area at a ceiling height of five feet or more, inclusive of stairwells and roofed over porches, does not exceed 60% of the square footage of the floor directly below, inclusive of roofed over porches.

All dormers, except stairwells, must be stepped back a minimum of 24 inches from the exterior wall face beneath it, except for stairwell dormers located on residential principal buildings located in Flood Hazard Zone V as reflected on the most current FEMA Flood Insurance Rate Map (FIRM) as released on December 15, 2012.



THE FINISHED AREA OF AN ATTIC WHERE THE INTERSECTION OF THE ROOF RAFTERS AND THE EXTERIOR WALL OCCURS WITHIN, NOT TO EXCEED FOUR (4') INCHES OF THE FLOOR/CEILING SYSTEM, AND IN WHICH SPACE THE MAXIMUM FLOOR AREA AT A CEILING HEIGHT OF FIVE (5') FEET OR MORE, INCLUSIVE OF STAIRWELLS AND ROOFED OVER PORCHES, DOES NOT EXCEED SIXTY (60%) OF THE SQUARE FOOTAGE OF THE FLOOR DIRECTLY BELOW, INCLUSIVE OF ROOFED OVER PORCHES.

ALL DORMERS, EXCEPT STAIRWELLS, MUST BE STEPPED BACK A MINIMUM OF TWENTY FOUR (24") FROM THE EXTERIOR WALL FACE BENEATH IT.

STREAM — A watercourse having a source and terminus, banks and channel through which waters flow at least periodically.

STREET — Any vehicular way that is: (1) an existing State, County or Municipal road; (2) shown upon a plat approved pursuant to law; (3) approved by other official action; or (4) shown on a plat duly filed and recorded in the office of the County Clerk prior to the appointment of a Planning Board and the grant to such Board of the power to review plats. A "street" includes the land between the street right-of-way lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas.

STREET LINE — See Right-of-Way Lines.

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

STRUCTURE — A combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above or below the surface of land or water.

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:

- a. 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;
- b. Divisions of property by testamentary or intestate provisions;
- c. Divisions of property upon court order, including but not limited to judgments of foreclosure;
- d. Consolidation of existing lots by deed or other recorded instrument; and
- e. 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 Code Enforcement Officer to conform to the requirements of the municipal development and zoning regulations of the Borough of Manasquan and are shown and designated as separate lots, tracts or parcels on the Tax Map of the Borough.

The term "subdivision" shall also include the term "resubdivision."

SWIMMING POOL, PRIVATE — Any artificially manufactured or constructed swimming pool or wading pool permanently or temporarily constructed, installed or maintained upon any premises for the use by occupants of the premises or their household guests, whether maintained above or below ground level.

TRACT — A parcel, property or area of land comprised of one or more lots adjacent to one another established by a plat or otherwise as permitted by law to be used, developed or built upon as a unit.

TRANSIENT GUEST — Persons staying not more than 30 days during any sixty-day period.

TRANSITION BUFFER — A landscaped area intended to act as a visual separation between two land uses of different intensity.

TWO-FAMILY — A building on a single lot containing two dwellings, each of which is separated from the other by an unpierced fire resistant wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

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

USE, PRINCIPAL — The main or primary activity of any lot or parcel.

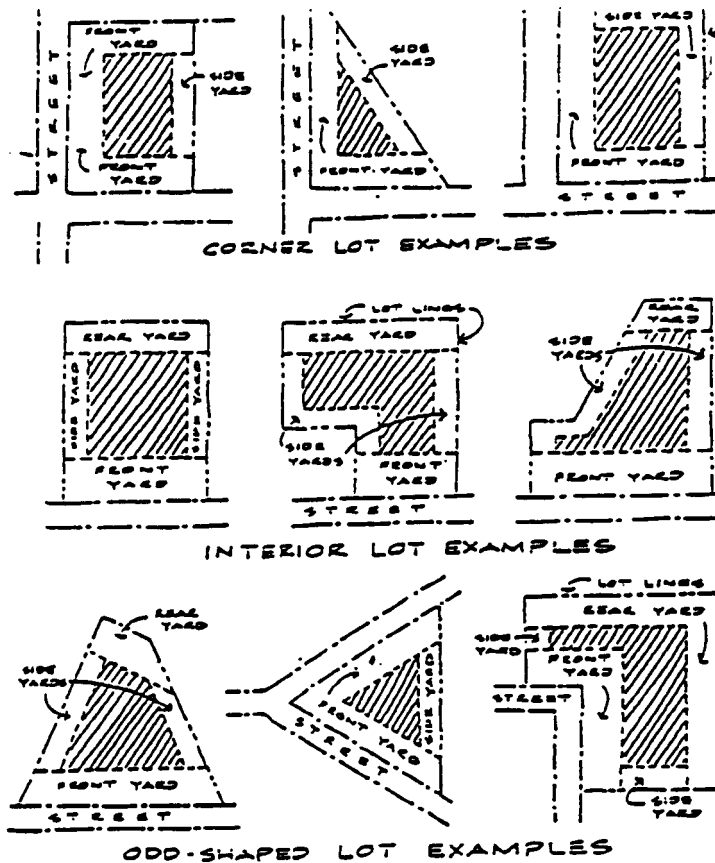
WAREHOUSE — A building used primarily for the storage of goods and materials.

WELL — On-site subsurface source of water supply, including pumping and treatment equipment to provide irrigation or potable water service to a lot or lots in accordance with regulations of the New Jersey Department of Environmental Protection and Energy and the Monmouth County Health Department.

WHOLESALE SALES AND SERVICES — Establishments or places of business primarily engaged in selling merchandise to retailers; industrial, commercial, institutional or professional business users; other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies, but excluding lumber and building material sales.

YARD — An open space that lies between the principal building or buildings and the nearest lot line. The minimum required yard as set forth in the ordinance is unoccupied and unobstructed from the ground upward except as may be specifically provided in the zoning ordinance.

YARD LINE — a line drawn parallel to a lot line at a distance therefrom equal to the depth of the required yard. See Figure below.



YARD, FRONT — A space extending across the full width of the lot between any building and the front lot line and measured perpendicularly to the building at the closest point to the front lot line.

YARD, REAR — A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line.

YARD, SIDE — A space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building.

ZONE — A specifically delineated area or district within which uniform regulations govern the use, placement, spacing and size of land and buildings.

ZONING MAP — The map annexed to and made a part of this chapter, indicating zone boundaries.

ZONING PERMIT — A document, signed by the Zoning Officer, or in his absence, by either the Construction Official or the Code Enforcement Officer, which either 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 or which acknowledges that such use, structure or building complies with the provisions of the Municipal Zoning Ordinance or variance therefrom duly authorized by the appropriate agency of the Borough of Manasquan pursuant to N.J.S. 40:55D-60 and 70.

Establishment of Zones**§ 35-4. ZONES ESTABLISHED.**

§ 35-4.1. Zones or Districts Established. [1972 Code § 107-4; Ord. No. 1097; Ord. No. 1657-95; Ord. No. 1957-05 § 1; Ord. No. 1997-07 §§ 1, 2; amended 3-18-2019 by Ord. No. 2285-19; 5-6-2019 by Ord. No. 2286-19; 5-6-2019 by Ord. No. 2287-19; 6-12-2023 by Ord. No. 2399-23]

For the purpose of this chapter, the Borough of Manasquan is hereby divided into the following zones or districts:

R-1	One-Family Residential
R-2	One-Family Residential
R-2A	One- and Two-Family Residential [Added 6-12-2023 by Ord. No. 2399-23]
R-3	One-Family Residential
R-4	Beachfront One-Family Residential
R-5	One-Family Residential
R-M	Multifamily Residential
R-PM	Planned Multifamily Residential
B-1	Business
B-2	Marine Business
B-3	General Business
BR-1	Business Retail
O	Office
I	Industrial
P	Public Parking
CON	Conservation
PR	Public Recreation
AH-O	Affordable Housing Overlay
AR-1	Affordable Housing AR-1
AR-2	Affordable Housing AR-2

§ 35-4.2. Zoning Map. [1972 Code § 107-5; Ord. No. 1097; Ord. No. 1657-95; Ord. No. 1796-99 § 1; Ord. No. 1925-04 § 1; Ord. No. 1947-05 §§ 1, 2; Ord. No. 1957-05 § 2; Ord. No. 1997-07 § 3; Ord. No. 2015-07 § 1; Ord. No. 2033-08 §§ 1 — 3; Ord. No. 2047-09; Ord. No. 2383-22; amended 6-12-2023 by Ord. No. 2400-23]

The boundaries of the zoning districts are established on the Zoning Map of the Borough of Manasquan, dated May 10, 2023 which is made a part of this chapter.

The Zoning Map is included as an attachment to this chapter as Attachment 2: Zoning Map.

§ 35-4.3. Designation of Zones of Streets, Highways and Rights-of-Way. [1972 Code § 107-6; Ord. No. 1097]

All streets, highways and rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting them. Where the center line of a street, highway or right-of-way serves as a zone boundary, the zoning of such street or highway, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting properties up to such center line.

Use Regulations

§ 35-5. USE REGULATIONS APPLICABLE TO EACH ZONE.

§ 35-5.1. Applicability. [1972 Code § 107-7; Ord. No. 1097]

The use regulations applicable to each zone within the Borough of Manasquan are as provided for in Section 35-5. Section references following each use specify the specific regulations governing such use.

§ 35-5.2. R-1 One-Family Residential Zone. [1972 Code § 107-8; Ord. No. 1097; Ord. No. 1657-95; Ord. No. 1743-98 § 1; Ord. No. 1783-99 § 1; Ord. No. 1914-03 §§ 1 — 4; Ord. No. 2057-09 § 2; Ord. No. 2180-15; Ord. No. 2232-2017; amended 6-12-2023 by Ord. No. 2402-23]

In the R-1 Zone, the following uses are permitted:

- a. Principal Permitted Uses:
 - 1. Single-family detached dwellings.
 - 2. Municipal buildings, parks, playgrounds, public open space and other facilities.
 - 3. Privately owned conservation/open space areas.
 - 4. (Reserved)
 - 5. (Reserved)
 - 6. (Reserved)
 - 7. Family day care home as defined in N.J.S.A. 40:55D-66.5.
- b. Accessory Uses:
 - 1. Private residential swimming pools subject to Section 35-5 and subsection 35-11.6.
 - 2. Off-street parking.
 - 3. Private garages and carports which meet all of the following requirements:
 - (a) Maximum building coverage - 600 square feet.

- (b) Maximum height - 15 feet.
 - (c) Minimum side yard setback - five feet.
 - (d) Minimum rear yard setback - five feet.
 - (e) Detached garages shall be located only in the side or rear yard area.
 - (f) Private garages and carports shall be included when calculating building coverage.
 - (g) Private garages and carports shall conform architecturally to the principal building on the lot.
 - (h) Not more than one private garage or carport shall be constructed on a building lot.
 - (i) Compliance with the setback regulations of subsection 35-9.4 as applicable to the zone district in which the property is located.
4. Private residential tool sheds, storage buildings, greenhouses, gazebos or pool cabanas which meet all of the following requirements:
- (a) Maximum building area - 100 square feet.
 - (b) Maximum height - 10 feet.
 - (c) Minimum side yard setback - three feet.
 - (d) Structures shall be located in the rear yard only.
 - (e) Minimum rear yard setback - three feet.
 - (f) Not more than one tool shed, storage building, greenhouse, gazebo or pool cabana shall be constructed on a building lot.
 - (g) Tool sheds, storage buildings, greenhouses, gazebos and pool cabanas will not be counted in calculating building coverage unless such building is constructed on a slab or permanent foundation.
 - (h) A private storage building not to exceed 200 square feet may be constructed on a lot under the following conditions:
 - (1) There is not an attached or detached garage, storage building, tool shed, detached greenhouse, gazebo or pool cabana on the property.
 - (2) Maximum height - 10 feet.
 - (3) Minimum side setback - five feet.
 - (4) Minimum rear yard setback - five feet.
 - (5) Structure shall be located in the rear yard only.
 - (6) The storage building will not be counted in calculation of building coverage unless such building is constructed on a slab or permanent

foundation.

- (i) A temporary vinyl storage unit not to exceed 200 square feet may be installed or constructed on a building lot under the following conditions:
 - (1) There is not an attached or detached garage, storage building, tool shed, detached greenhouse, gazebo or pool cabana on the property.
 - (2) Maximum height - 10 feet.
 - (3) Minimum side yard setback - five feet.
 - (4) Minimum rear yard setback - five feet.
 - (5) Unit must be maintained in a state of good repair.
 - (6) Temporary unit permitted a maximum of six months in any calendar year.
 - (j) A temporary storage unit, trailer or personal on demand storage unit (PODS®) may be located on a building lot after payment of the application fee as stated in Chapter 16, Fees, under the following conditions:
 - (1) Maximum height - eight feet.
 - (2) Maximum length - 16 feet.
 - (3) Temporary storage unit is permitted for a maximum of 30 days within any calendar year, measured from the date of zoning approval.
 - (4) Placement of the temporary storage unit on the lot must not impair the visibility from adjacent properties.
 - (5) The temporary storage unit is permitted on single-family residential properties only.
5. Animal shelters to house resident domestic pets which meet all of the following requirements:
- (a) Maximum building area - 30 square feet.
 - (b) Maximum height - five feet.
 - (c) Minimum side yard setback - three feet.
 - (d) Minimum rear yard setback - three feet.
 - (e) Animal shelters shall be located only in the side or rear yard area.
 - (f) Not more than one animal shelter shall be constructed on a building lot.
 - (g) Animal shelters will not be counted in calculating building coverage unless such building is constructed on a slab or permanent foundation.
6. Signs in accordance with the standards of Section 35-25.
7. Fences and walls in accordance with the standards or subsection 35-7.5.

8. Radio, television and satellite dish antennas in accordance with the standards of Section 35-34.
9. Parking or storage of boats, boat trailers, motor homes, recreational vehicles and utility trailers in the rear yard area only; provided that the location does not encroach within five feet of the side yard and five feet of the rear yard. Beginning November 1 through April 1, boat parking and/or storage is permitted on the side yard of the following streets (east of Ocean Avenue Bridge, Main Street Bridge, and Glimmerglass Bridge on Brielle Road) with a 5' side yard setback that shall be measured from the widest part of the hull of the boat:

Riverside Drive

Perch Avenue

Whiting Avenue

Pike Avenue

Trout Avenue

Salmon Avenue

Pompano Avenue

Marlin Avenue

Tarpon Avenue

Timber Lane

1st Avenue

2nd Avenue

3rd Avenue

4th Avenue

Brielle Road

Long Avenue

Captains Court

Deep Creek Drive

Glimmer Glass Circle

Riddle Way

Pickell Alley

Stockton Avenue

Pearce Court - right before Main Bridge

Beachfront

Ocean Avenue

East Main Street

Drawbridge Lane

Annexed hereto is a Map Dated May 10, 2023 Entitled "Zone Map, Borough of Manasquan, Monmouth County, New Jersey," prepared by Leon S. Avakian, Inc. (Editor's Note: The Zoning Map may be found at subsection 35-4.2.)

c. Conditional Uses:

1. Home occupation subject to the provisions in the definition contained in Section 35-3.
2. Home professional office subject to the provisions in the definition contained in Section 35-3.
3. Community residences for the developmentally disabled, community shelters for victims of domestic violence, community residences for the terminally ill, community residences for persons with head injuries, adult family care homes for elderly persons and physically disabled adults and all other entities described in N.J.S.A. 40:55D-66.1 and 40:55D-66.2 which provide services to not more than 15 persons subject to these uses conforming with the provisions of the aforesaid statutes. The requirements for these uses shall be the same as for single-family dwelling units.

§ 35-5.3. R-2 One-Family Residential Zone. [1972 Code § 107-9; Ord. No. 1097; Ord. No. 1170; Ord. No. 1657-95; Ord. No. 2235-2017]

The permitted uses, permitted accessory structure use and conditional uses are the same as those in the R-1 Residential Zone, except churches and church related facilities which are subject to the provisions of subsection 35-14.6.

§ 35-5.4. R-3 One-Family Residential Zone. [1972 Code § 107-10; Ord. No. 1097; Ord. No. 2236-2017]

The principal permitted uses, permitted accessory uses and conditional uses in this zone are the same as those in the R-1 One-Family Residential Zone, except churches and church related facilities which are subject to the provisions of subsection 35-14.6.

§ 35-5.5. R-4 One-Family Residential Zone. [1972 Code § 107-11; Ord. No. 1097; Ord. No. 2237-2017]

The principal permitted uses, permitted accessory uses and conditional uses in this zone are the same as those in the R-1 One-Family Residential Zone, except churches and church related facilities which are subject to the provisions of subsection 35-14.6.

§ 35-5.6. R-5 One-Family Residential Zone. [1972 Code § 107-12; Ord. No. 1097; Ord. No. 2238-2017]

The principal permitted uses, permitted accessory uses and conditional uses in this zone are the same as those in the R-1 One-Family Residential Zone, except churches and church related

facilities which are subject to the provisions of subsection 35-14.6.

§ 35-5.7. R-M Residential Multifamily Zone. [1972 Code § 107-12.1; Ord. No. 1657-95; Ord. No. 1783-99 § 2; Ord. No. 2239-2017].

a. Principal Permitted Uses:

1. Townhouses.
2. Multiple family residential buildings for three families or more.
3. All R-1 Zone permitted uses.

b. Accessory Uses:

1. Off-street parking facilities including garages which do not exceed 15 feet in height and meet setback regulations of subsection 35-9.4.
2. Signs in accordance with the standards of Section 35-25.
3. Fences and walls in accordance with the standards of subsection 35-7.5.
4. Radio, television and satellite dish antennas in accordance with the standards of Section 35-34.
5. Parking or storage of boats, boat trailers, motor homes, recreational vehicles and utility trailers in the rear yard area only; provided that the location does not encroach within the side yard setback area as required by zone district regulations.
6. Common facilities and amenities serving the residents of multifamily developments including swimming pools and other on-site recreational facilities, common walkways, sitting areas and gardens, and other similar uses.

c. Conditional Uses:

1. All conditional uses permitted in the R-1 Residential Zone (except churches and church related facilities subject to the provisions of subsection 35-14.6).
2. Senior Citizen Housing.

§ 35-5.8. R-PM Planned Multifamily Residential Zone. [1972 Code § 107-12.2; Ord. No. 1657-95; Ord. No. 1783-99 § 3; Ord. No. 1811-2000 § 1; Ord. No. 2240-2017]

a. Principal Permitted Uses:

1. Single-family detached dwellings.
2. Planned Multifamily Residential Development, including accessory commercial uses as permitted in subsection 35-5.8, paragraph b5.

b. Accessory Uses:

1. Off-street parking facilities including garages which do not exceed 15 feet in height.
2. Common facilities and amenities serving the residents of multifamily developments

including swimming pools and other on-site recreational facilities, common walkways, sitting areas and gardens, and other similar uses.

3. Signs in accordance with the standards of Section 35-25.
4. Fences and walls in accordance with the standards of subsection 35-7.5.
5. Retail and business service and personal service establishments; restaurants and other eating establishments, but excluding any drive-in establishments; medical offices; and commercial recreational businesses subject to the following standards:
 - (a) The uses shall serve beach area residents and visitors.
 - (b) The uses shall be developed integral to and accessory to any multiple family residential development.
 - (c) The maximum floor area for such uses shall not exceed 10% of the area of the site.
 - (d) All such uses shall be single story uses with apartments above or with roof areas being developed with common facilities serving the planned multifamily development.
 - (e) Ingress and egress to accessory commercial uses shall be from public streets, the public boardwalk or from other public ways and shall be separate from any ingress or egress to or from the multifamily residential units.
 - (f) Off-street parking shall be required, but calculated at 50% of the requirements of subsection 35-13.4, Schedule II, Minimum Off-Street Parking Spaces.
 - (g) Loading and refuse areas shall be independent from the residential developments and shall be screened from view.
 - (h) All fumes, odors, smoke or other similar discharges shall be vented vertically to minimize any adverse effect on site and area residents.

c. Conditional Uses:

1. All conditional uses permitted in the R-1 Residential Zone (except churches and church related facilities subject to the provisions of subsection 35-14.6).
2. Senior Citizen Housing.

§ 35-5.9. B-1 Business Zone. [1972 Code § 107-13; Ord. No. 1097; Ord. No. 1139; Ord. No. 1768-98 § 1; Ord. No. 1783-99 § 4; Ord. No. 1840-00 § 1; Ord. No. 2057-09 § 3; Ord. No. 2242-2017]

a. Principal Permitted Uses:

1. Stores and shops for the conduct of any retail trade or business service use.
2. Personal service establishments.
3. Banks and financial institutions.

4. Newspaper offices.
5. Business and professional offices.
6. Taxi stands, bus and railroad passenger stations, and facilities for bicycles.
7. Telephone, telegraph and other communications facilities.
8. Restaurant establishments, but not including fast food drive-in facilities.
9. Indoor theaters for movies and the performing arts, bowling alleys, billiard parlors, gymnasiums, physical culture and health clubs and similar recreational and cultural facilities situated wholly within a structure.
10. Day care centers, child care centers and nursery schools.
11. Apartments over stores. Apartments developed as an upper floor use provided that each apartment has a separate access from the business use; has a gross floor area of not less than 800 square feet; and meets all other applicable municipal and State requirements, including requirements in this chapter for off-street parking.
12. Municipal buildings, parks, playgrounds and other governmental facilities, as necessary and appropriate.
13. Mortuaries and funeral homes:
 - (a) Restrictions on Uses in Subsections a1 through a13. In any such establishments, no wholesale merchandising or distributing shall be permitted and no merchandise shall be carried or stored in or about the building, structure, enclosure or land, other than that intended to be sold at retail within such building, structure, enclosure or land. No business or use shall be carried on in connection with any merchandising establishments or permitted in any building, structure or upon any land which is or is likely to be injurious, obnoxious, offensive or dangerous by reason of noise, smoke, odor, gas, dust or other objectionable or hazardous features or which for any reason would hinder, interfere with or detrimentally affect the health, safety, comfort or general welfare of the Borough.
 - b. Permitted Accessory Uses:
 1. Other uses and structures customarily incidental to a principal permitted use. All accessory structures shall be located in side or rear yard areas and set back in accordance with zoning district regulations in Schedule I.² Garages and similar storage buildings shall not exceed 15 feet in height; sheds and similar structures shall not exceed 10 feet in height or exceed 100 square feet in size.
 2. Public and private parking.
 3. Signs in accordance with the standards of Section 35-25.
 - c. Conditional Uses:

2. Editor's Note: Schedule I, referred to herein, may be found as an attachment to this chapter.

1. Lodges, fraternal organizations and similar nonprofit organizations in accordance with the standards of subsection 35-14.4.
2. Automobile service stations in accordance with the standards of subsection 35-14.3.
3. Senior Citizen Housing.
4. Bed and Breakfast Guest House.
5. Churches and church related facilities subject to the provisions of subsection 35-14.6.

§ 35-5.10. B-2 Marine Business Zone. [1972 Code § 107-14; Ord. No. 1097; Ord. No. 1657-95; Ord. No. 1733-97 § 1; Ord. No. 1746-98 § 1; Ord. No. 1783-99 § 5; Ord. No. 2243-2017]

a. Principal Permitted Uses:

1. Marinas.
2. Stores and shops for the conduct of any retail trade or business service use.
3. Personal service establishments.
4. Business and professional offices.
5. Restaurant establishment, but not including fast food drive-in facilities.
6. Apartments over stores. Apartments developed as an upper floor use provided that each apartment has a separate access from the business use; has a gross floor area of not less than 800 square feet; and meets all other applicable municipal and State requirements, including requirements in this chapter for off-street parking.
7. Boat sales, boat rentals and boat servicing establishments.
8. Boat storage facilities.
9. Planned multifamily residential development as permitted in subsection 35-5.8a2, including accessory commercial uses as permitted in subsection 35-5.8b5.
10. Senior Citizen Housing.

b. Permitted Accessory Uses:

1. Other uses and structures customarily incidental to a principal permitted use. All accessory structures shall be located in side or rear yard areas and set back in accordance with zoning district regulations in Schedule I.³ Garages and similar storage buildings shall not exceed 15 feet in height; sheds and similar structures shall not exceed 10 feet in height or exceed 100 square feet in size.
2. Public and private parking.
3. Signs in accordance with the standards of Section 35-25.

3. Editor's Note: Schedule I, referred to herein, may be found as an attachment to this chapter.

c. Conditional Uses:

1. Churches and church related facilities subject to the provisions of subsection 35-14.6.

§ 35-5.11. B-3 General Business Zone. [1972 Code § 107-14.1; Ord. No. 1097; Ord. No. 1734-98 § 1; Ord. No. 1768-98 § 2; Ord. No. 1783-99 § 6; Ord. No. 2057-09 § 4; Ord. No. 2244-2017]

a. Principal Permitted Uses:

1. All permitted B-1 zone uses.
2. Wholesale purchasing and distribution facilities subject to all goods being stored and displayed wholly within structures.
3. (Reserved)
4. Automobile repair and towing facilities in accordance with the standards of subsection 35-14.3.
5. Electrical, plumbing, carpentry, and masonry contractor shops with only incidental outdoor storage restricted to the rear yard area.

b. Permitted Accessory Uses:

1. Other uses and structures customarily incidental to a principal permitted use. All accessory structures shall be located in side or rear yard areas and set back in accordance with zoning district regulations in Schedule I.⁴ Garages and similar storage buildings shall not exceed 15 feet in height; sheds and similar structures shall not exceed 10 feet in height or exceed 100 square feet in size.
2. Public and private parking
3. Signs in accordance with the standards of Section 35-25.

c. Conditional Uses:

1. Conditional uses permitted in the B-1 Zone.
2. Fast food drive-in establishments in accordance with the requirements of subsection 35-14.7.
3. Car washing establishments in accordance with the requirements of subsection 35-14.3.
4. Senior Citizen Housing.
5. Bed and Breakfast Guest House.
6. Churches and church related facilities subject to the provisions of subsection 35-14.6.

§ 35-5.12. O Office Zone. [1972 Code § 107-15; Ord. No. 1097; Ord. No. 1657-95; Ord. No. 1768-98 § 3; Ord. No. 1783-99 § 7; Ord. No. 2241-2017; amended 6-12-2023 by Ord. No.

4. Editor's Note: Schedule I, referred to herein, may be found as an attachment to this chapter.

2401-23]

a. Principal Permitted Uses:

1. Single family detached dwellings.
2. Professional offices of doctors, dentists, lawyers, accountants, licensed professional engineers, licensed land surveyors and architects.
3. Business offices, including banks, fiduciary institutions, brokerage offices and real estate and insurance offices, provided that no office shall be used in whole or in part for the sale of retail goods, nor shall any such office be used for voice instruction to groups, tearooms, beauty parlors, hairdressing and manicuring establishments, barbershops or mortuary establishments.
4. Residential use on the second floor only for professional offices and business offices.
5. Such municipal buildings, parks, playgrounds or other municipal facilities deemed necessary and appropriate by the Governing Body.

b. Permitted Accessory Uses:

1. Other uses and structures customarily incidental to a principal permitted use. All accessory structures shall be located inside or rear yard areas and set back in accordance with zoning district regulations in Schedule I. Garages and similar storage buildings shall not exceed 15 feet in height; sheds and similar structures shall not exceed 10 feet in height or exceed 100 square feet in size.
2. Public and private parking.
3. Signs in accordance with the standards of Section 35-25.

c. Conditional Uses:

1. Lodges, fraternal organizations, nonprofit corporations and associations organized for civil, social, cultural, religious, literary, educational or recreational purposes.
2. Senior Citizen Housing.
3. Bed and Breakfast Guest House.

§ 35-5.13. I Industrial Zone. [1972 Code § 107-16; Ord. No. 1097; Ord. No. 1925-04 § 2,3; Ord. No. 2245-2017]

a. Principal Permitted Uses:

1. Warehouses, lumberyards, wholesale distributors and terminal facilities.
2. All principal permitted B-1 Business Zone uses.
3. Such municipal buildings, parks, playgrounds or other municipal facilities deemed necessary and appropriate by the Governing Body.

b. Permitted Accessory Uses:

1. Other uses and structures customarily incidental to a principal permitted use. All accessory structures shall be located in side or rear yard areas and set back in accordance with zoning district regulations in Schedule I.⁵ Garages and similar storage buildings shall not exceed 15 feet in height; sheds and similar structures shall not exceed 10 feet in height or exceed 100 square feet in size.
 2. Public and private parking.
 3. Signs in accordance with the standards of Section 35-25.
- c. Conditional Uses:
1. Churches and church related facilities subject to the provisions of subsection 35-14.6.

§ 35-5.14. P Public Parking Zone. [1972 Code § 107-17; Ord No. 1097]

The permitted use is limited to public municipal parking.

§ 35-5.15. (Reserved)⁶

§ 35-5.16. CON Conservation Zone. [1972 Code § 107-19; Ord. No. 1097]

The permitted use is restricted to open space for these designated wetlands areas.

§ 35-5.17. PR Affordable Housing Overlay Zone. [Amended 3-18-2019 by Ord. No. 2281-19]

- a. Purpose. The purpose of the PR Affordable Housing Overlay Zone is to provide an opportunity to develop affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing, in conformance with the Fair Housing Act (N.J.S.A. 52-27D-301), New Jersey Council on Affordable Housing ("COAH") Prior Round regulations, and the Housing Element and Fair Share Plan prepared by the Borough to address its Third Round affordable housing obligations. Permitted and conditional uses within this zone shall include all permitted and conditional uses in the RM Zoning District, and affordable housing development in accordance with the provisions of this section.
- b. Affordable Housing Overlay Zone. The following parcels or tracts are designated as part of the Affordable Housing Overlay Zone:

Block 82, Lot 56.01		C0001	35A Euclid Avenue
		C0002	35B Euclid Avenue
		C0003	35C Euclid Avenue
Block 73, Lots	78		142 Morris Avenue
	81		140 Morris Avenue

5. Editor's Note: Schedule I, referred to herein, may be found as an attachment to this chapter.

6. Editor's Note: Former subsection 35-5.15, PUD Planned Unit Development Zone previously codified herein and containing portions of 1972 Code § 107-18 and Ordinance Nos. 1097 and 1783-99 was repealed in its entirety by Ordinance No. 1997-07.

	83		138 Morris Avenue
	85		136 Morris Avenue
	87		134 Morris Avenue
	89		132 Morris Avenue
	91		130 Morris Avenue
	93		128 Morris Avenue

c. Principal Permitted Uses:

1. All uses permitted within the zoning district in which the overlay zone is located.
2. Affordable housing development for sale or rental housing in accordance with the R-M Residential Multi-Family Zone including the following:
 - (a) Townhouses.
 - (b) Multiple-family residential buildings for three or more families.

d. Accessory Uses:

1. Off-street parking facilities including garages which do not exceed 15 feet in height and meet setback regulations of Subsection 35-9.4.
 2. Signs in accordance with the standards of § 35-25.
 3. Fences and walls in accordance with the standards of Subsection 35-7.5.
 4. Radio, television and satellite dish antennas in accordance with the standards of § 35-34.
 5. Common facilities and amenities serving the residents of multifamily developments including swimming pools and other on-site recreational facilities, common walkways, sitting areas and gardens, and other similar uses.
- e. Area, yard and building requirements. The requirements for affordable housing development shall be the same as provided for in the R-M Residential Multi-Family Zone; provided, however, that the minimum lot size shall be a minimum of 20,000 square feet and the maximum permitted density for the overlay zone is 10 units/acre.
- f. Affordable housing requirements. All affordable housing developments shall provide a minimum of 20% affordable housing units for low- and moderate-income families in accordance with affordable housing requirements of this chapter.⁷

§ 35-5.18. BR-1 Business Retail Zone. [Ord. No. 1957-05 § I]

In the BR-1 Business Retail Zone, the following uses are permitted:

a. Principal Permitted Uses.

7. Editor's Note: See §§ 35-35 and 35-36 for affordable housing requirements.

1. Stores and shops for the conduct of any retail trade.
 2. Personal service establishments primarily engaged in providing services involving the care of a person or the person's goods or apparel, such as cleaning, laundry, beauty shops, barbershops, shoe repair, nail shops, physical therapists, eye glass sales and examination and similar uses, but excluding tattoo parlors and body piercing establishments.
 3. Banks and financial institutions.
 4. Restaurant establishments, but not including fast food drive-in facilities.
 5. Business and professional offices developed as an upper floor use provided that such offices have a separate access from the business use on the first floor.
 6. Apartments developed as an upper floor use provided that each apartment has a separate access from the business use; has a gross floor area of not less than 800 square feet; and meets all other applicable municipal and State requirements, including requirements in this chapter for off-street parking.
 7. Municipal buildings, parks, playgrounds and other governmental facilities, as necessary and appropriate.
- b. Restrictions on Uses in a1 through a7. In any such establishments, no wholesale merchandising or distributing shall be permitted and no merchandise shall be carried or stored in or about the building, structure, enclosure or land, other than that intended to be sold at retail within such building, structure, enclosure or land. No business or use shall be carried on in connection with any merchandising establishments or permitted in any building, structure or upon any land which is or is likely to be injurious, obnoxious, offensive or dangerous by reason of noise, smoke, odor, gas, dust or other objectionable or hazardous features or which for any reason would hinder, interfere with or detrimentally affect the health, safety, comfort, or general welfare of the Borough.
- c. Permitted Accessory Uses.
1. Other uses and structures customarily incidental to a principal permitted use. All accessory structures shall be located in side or rear yard areas and set back in accordance with zoning district regulations in Schedule I.⁸ Garages and similar storage buildings shall not exceed 15 feet in height; sheds and similar structures shall not exceed 10 feet in height nor exceed 100 square feet in size.
 2. Public and private parking.
 3. Signs in accordance with the standards of Section 35-25.

§ 35-5.19. PR Public Recreation Zone. [Ord. No. 1997-07 § 2]

- a. Permitted Uses. The permitted uses in this zone are public parks, playgrounds, open space, recreation facilities and parking.

§ 35-5.20. AH-O Affordable Housing Overlay Zone. [Added 3-18-2019 by Ord. No.

8. Editor's Note: Schedule I, referred to herein, may be found as an attachment to this chapter.

2285-19]

- a. Purpose: The purpose of the Affordable Housing Overlay Zone is to provide an opportunity to develop affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing, in conformance with the requirements of the Court, the Fair Housing Act,⁹ and the Housing Element and Fair Share Plan of Manasquan Borough. Permitted and conditional uses within the designated overlay zone shall include all permitted and conditional uses in the underlying zoning district in which the overlay zone is located and allow for affordable housing development within the provisions of this subsection.
- b. Affordable Housing Overlay Zone: Tax lots with frontage on portions of Route 71 and Main Street within the Borough of Manasquan will be included in the overlay zone and allow for affordable housing development with no affect to any existing zoning district regulations or standards. A map is attached to this subsection that delineates the overlay zone. Additionally, a list of all tax lots to be included in the Affordable Housing Overlay Zone is provided below.¹⁰
- c. Density: The maximum density permitted for all affordable housing development in the overlay zone fronting on Main Street is 14 units per acre. The maximum density permitted for all affordable housing development in the overlay zone fronting on Route 71 is 10 units per acre.
- d. Principal Permitted Uses:
 1. All uses permitted within the underlying zoning district in which the overlay zone is located.
 2. Affordable housing development for sale or rental housing may include the following uses:
 - (a) Mixed uses with ground floor retail;
 - (b) Townhouses;
 - (c) Age-restricted units, however, age-restricted units shall be permitted to satisfy up to 25% of the Borough's unmet need. Any age-restricted units beyond 25% of the Borough's unmet need shall not be permitted to count as an affordable housing credit against unmet need for the Third Round, but may count towards future affordable housing obligations, should future laws or court orders so permit;
 - (d) Supportive and special needs housing; and
 - (e) Multiple-family residential buildings with five or more units.
 3. Accessory Uses:
 - (a) Off-street parking facilities in conformance with RSIS standards;
 - (b) Signs in accordance with the ordinance requirements;

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

10. Editor's Note: Said map and list are available for review in the Borough offices.

- (c) Fences, walls, and other accessory uses of the underlying zoning in accordance with the Borough Zoning Ordinance.
- 4. Common facilities and amenities serving residents of multifamily developments including swimming pools or other on-site recreational facilities, common walkways, sitting areas and gardens, and other similar accessory uses.
- 5. Affordable Housing Requirements: All affordable housing developments within the overlay zone, for projects consisting of five or more units only, shall provide a minimum of 20% affordable housing units for very-low, low- and moderate-income households in accordance with Manasquan Borough affordable housing requirements. All affordable housing developments shall conform to the standards and requirements found in the Borough of Manasquan's Affordable Housing Ordinance (§ 35-36), including provisions for affordability, very-low-income units, and UHAC standards.
- e. Repealer. The remainder of all other sections and subsections of the aforementioned subsection not specifically amended by this subsection shall remain in full force and effect.
- f. Inconsistent ordinances. All other ordinances or parts thereof inconsistent with the provisions of this subsection are hereby repealed as to such inconsistency.
- g. Severability. If any section, paragraph, subdivision, clause, or provision of this subsection shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of this subsection shall be deemed valid and effective.
- h. Effective Date. This subsection shall take effect upon its passage and publication according to law.

§ 35-5.21. AR-1 Affordable Housing Zone. [Added 5-6-2019 by Ord. No. 2286-19]

The purpose of the Affordable Housing AR-1 Zone ("AR-1 Zone") is to provide for the development of a multifamily inclusionary development designed to assist the Borough in satisfying its combined Prior Round and Round 3 (1999-2025) Realistic Development Potential ("RDP") affordable housing obligation through construction of affordable units set aside for low- and moderate-income households. The AR-1 Zone shall comprise the following tax lots: Lots 25.01, 25.02, 26, and 27, Block 64. This section is adopted in furtherance of the Settlement Agreement entered into between the Borough and Fair Share Housing Center ("FSHC") on July 2, 2018 (hereinafter the "FSHC Settlement Agreement"), the Settlement Agreement entered into between the Borough and Broad Street 44, LLC, and Union Avenue 33, LLC (hereinafter the "Sepe Settlement Agreement"), and in connection with the Borough's Mount Laurel litigation captioned at MON-L-2508-15.

- a. Permitted principal uses: residential within a single multifamily building. A maximum of 22 units are permitted, and all units shall be market rate. The affordable housing obligation generated by this development shall be provided off-site pursuant to the terms of the Sepe Settlement Agreement, which provides that COs shall not be issued for units in this zone until overall affordable unit/market unit phasing requirements are complied with for the Broad Street site and the Union Avenue site.
- b. Permitted accessory uses.

1. Off-street parking facilities.
 2. Other uses that are customarily incidental to a permitted principal use. No sheds are permitted on the property.
 3. Common facilities and amenities serving the residents of the multifamily developments, including swimming pools and other on-site recreational areas and facilities, common walkways, sitting areas and gardens, and other similar uses.
 4. Fences and walls erected, maintained or planted no greater than six feet above ground level within a side or rear yard, and no greater than four feet within a front yard, and otherwise in accordance with the standards of § 35-7.5.
 5. Bike racks.
 6. Solid waste and recycling area, set back at least five feet from any rear yard or side yard. No setback from the parking area is required. The area shall be screened from view from a public right-of-way by a combination of block and chain-link fence and shall have gated access.
 7. Site lighting. The arrangement of exterior lighting shall adequately illuminate parking areas and prevent glare to adjoining residential areas.
- c. Prohibited uses.
1. Parking or storage of boats, boat trailers, motor homes, taxicabs, limousines, construction equipment, commercial vehicles and recreational vehicles.
- d. Bulk, area and building requirements.
1. Minimum lot size: 36,000 square feet.
 2. Minimum lot frontage: 190 feet.
 3. Minimum lot depth: 180 feet.
 4. Minimum front yard setback: five feet.
 5. Minimum one side yard setback: six feet.
 6. Minimum both side yard setback: 20 feet.
 7. Minimum rear yard setback: 50 feet.
 8. Maximum building height: 40 feet/3.5 stories.¹¹
 9. Maximum building coverage: 50%.
 10. Maximum floor area ratio: 1.5.
 11. Maximum lot coverage: 80%.
 12. Maximum building width: 160 feet.

11. Editor's Note: Chimneys and cupolas are not counted towards building height.

13. Minimum parking setback from side lot line: five feet.
 14. Minimum parking setback rear from lot line: 15 feet.
 15. Minimum drive aisle setback from a side lot line: four feet.
- e. Site access, off-street parking, and loading requirements.
1. One site access driveway shall be provided with a minimum width of 22 feet.
 2. Number of spaces, and parking space dimensions, as required by New Jersey Residential Site Improvement Standards at N.J.A.C. 5:21-1.1 et seq., shall apply, notwithstanding any standards to the contrary in the Zoning Ordinance.
 3. Parking shall be in the rear yard, and may also be provided beneath the principal building, without setback from a principal or accessory building.
 4. No loading space is required.
- f. Landscape buffer. Adjacent to a residential zone, a fifteen-foot buffer, a five-foot portion of which must be planted, landscaped and provides irrigation. Landscaping along the public right-of-way is not required.
- g. Identification sign. One wall-mounted, nonilluminated address sign is permitted with a maximum sign area of five square feet.
- h. Design standards. A multifamily building should have a unified theme, displayed through the application of common building materials consistent with the rendering attached to the Sepe Settlement Agreement as Exhibit A, and materials list as Exhibit E,¹² or as may be modified as permitted by the Settlement Agreement. If the rendering conflicts with design standards or regulations within the zoning ordinance the rendering shall control.
- i. Miscellaneous. The standards of § 35-7.9b and e shall not apply.

§ 35-5.22. AR-2 Affordable Housing Zone. [Added 5-6-2019 by Ord. No. 2287-19; amended 7-20-2020 by Ord. No. 2321-20]

The purpose of the Affordable Housing AR-2 Zone ("AR-2 Zone") is to provide for the development of a multifamily inclusionary development designed to assist the Borough in satisfying its combined Prior Round and Round 3 (1999-2025) Realistic Development Potential ("RDP") affordable housing obligation through construction of affordable units set aside for low- and moderate-income households. The AR-2 Zone shall comprise the following tax lots: Lot 31.01, Block 66.02. This section is adopted in furtherance of the Settlement Agreement entered into between the Borough and Fair Share Housing Center ("FSHC") on July 2, 2018 (hereinafter "FSHC Settlement Agreement"), the Settlement Agreement entered into between the Borough and Broad Street 33, LLC and Union Avenue 33, LLC (hereinafter the "Sepe Settlement Agreement"), and in connection with the Borough's Mount Laurel litigation captioned at MON-L-2508-15.

- a. Permitted principal uses: market rate and affordable residential housing within a multifamily building. A maximum of 23 units are permitted, with an on-site affordable

12. Editor's Note: The settlement and exhibits may be found in the Borough offices.

housing set-aside provided. The required affordable housing set-aside shall be 20% of the total number of units developed at this site (Lot 31.01, Block 66.02), and the site known as Lots 25.01, 25.02, 26 & 27, Block 64 (the "Broad Street Site"). For example, it is anticipated that a total of 45 residential units will be developed at both sites, which will require a 20% affordable housing set-aside of nine total affordable family rental housing units to be developed on the Union Avenue site. In addition, the affordable housing phasing requirement in the Sepe Settlement Agreement will apply to both the Broad Street Site and the Union Avenue Site.

b. Permitted accessory uses.

1. Off-street parking facilities.
2. Other uses that are customarily incidental to a permitted principal use.
3. Common facilities and amenities serving the residents of the multifamily developments including swimming pools and other on-site recreational areas and facilities, common walkways, sitting areas and gardens, and other similar uses.
4. Fences and walls erected, maintained or planted no greater than six feet above ground level within a side or rear yard, and no greater than four feet within a front yard, and otherwise in accordance with the standards of § 35-7.5.
5. Bike racks.
6. Solid waste and recycling area, setback at least five feet from any rear or side yard. No setback from the parking area is required. The area shall be screened from view from a public right-of-way by either an enclosed by six-foot chain link fence with vinyl strips, or a combination of block and chain link fence, and shall have gated access.
7. Site lighting. The arrangement of exterior lighting shall adequately illuminate parking areas and prevent glare to adjoining residential areas.

c. Prohibited uses.

1. Parking or storage of boats, boat trailers, motor homes, and recreational vehicles.

d. Bulk, area and building requirements.

1. Minimum lot size: 24,000 square feet.
2. Minimum lot frontage: 130 feet.
3. Minimum lot depth: 240 feet.
4. Minimum front yard setback: 10 feet.
5. Minimum one side yard setback: four feet.
6. Minimum both side yard setback: nine feet.
7. Minimum rear yard setback: 20 feet.
8. Maximum building height: 40 feet/3.5 stories.^{13, 14}

9. Maximum building coverage: 60%.
10. Maximum lot coverage: 60%.
11. Maximum building width: 100 feet.
12. Maximum building length: 200 feet.
13. Minimum parking setback from side lot line: five feet.
14. Minimum parking setback rear from lot line: 20 feet.
- e. Site access, off-street parking, and loading requirements.
 1. One site access driveway shall be provided with a minimum width of 24 feet.
 2. Number of parking spaces = 0.6/ unit.¹⁵
 3. Parking shall be in the rear yard, and may also be provided beneath the principal building, without setback from a principal or accessory building.
 4. No loading space is required.
- f. Identification sign. One wall-mounted, nonilluminated address sign is permitted with a maximum sign area of five square feet.
- g. Design standards. A multifamily building should have a unified theme, displayed through the application of common building materials consistent with the rendering attached to the Sepe Settlement Agreement as Exhibit B, and the material list as Exhibit E,¹⁶ or as may be modified as permitted by the Settlement Agreement. If the rendering conflicts with design standards or regulations within the zoning ordinance the rendering shall control.
- h. Miscellaneous. The standards of § 35-7.9b shall not apply.

§ 35-5.23. R-2A One- and Two-Family Residential Zone. [Added 6-12-2023 by Ord. No. 2399-23]

In the R-2A Zone, the following uses are permitted:

- a. Principal Permitted Uses:
 1. Single-family detached dwellings.
 2. Duplexes.
 3. Municipal buildings, parks, playgrounds, public open space and other facilities.
 4. Privately owned conservation/open space areas.
 5. (Reserved)

13. Chimneys and cupolas are not counted towards building height.

14. Building Height will be measured from one foot above the Base Flood Elevation as established by the NJDEP.

15. The off-street parking requirement can be met through use of available on-street parking. Shared parking arrangements with properties within 1/2 mile of the site shall also be permitted.

16. Editor's Note: The settlement and exhibits may be found in the Borough offices.

6. (Reserved)
 7. (Reserved)
 8. Family day care home as defined in N.J.S.A. 40:55D-66.5.
- b. Accessory Uses:
1. Private residential swimming pools subject to Section 35-5 and subsection 35-11.6.
 2. Off-street parking.
 3. Private garages and carports which meet all of the following requirements:
 - (a) Maximum building coverage - 600 square feet.
 - (b) Maximum height - 15 feet.
 - (c) Minimum side yard setback - five feet.
 - (d) Minimum rear yard setback - five feet.
 - (e) Detached garages shall be located only in the side or rear yard area.
 - (f) Private garages and carports shall be included when calculating building coverage.
 - (g) Private garages and carports shall conform architecturally to the principal building on the lot.
 - (h) Not more than one private garage or carport shall be constructed on a building lot.
 - (i) Compliance with the setback regulations of subsection 35-9.4 as applicable to the zone district in which the property is located.
 4. Private residential tool sheds, storage buildings, greenhouses, gazebos or pool cabanas which meet all of the following requirements:
 - (a) Maximum building area - 100 square feet.
 - (b) Maximum height - 10 feet.
 - (c) Minimum side yard setback - three feet.
 - (d) Structures shall be located in the rear yard only.
 - (e) Minimum rear yard setback - three feet.
 - (f) Not more than one tool shed, storage building, greenhouse, gazebo or pool cabana shall be constructed on a building lot.
 - (g) Tool sheds, storage buildings, greenhouses, gazebos and pool cabanas will not be counted in calculating building coverage unless such building is constructed on a slab or permanent foundation.
 - (h) A private storage building not to exceed 200 square feet may be constructed on

a lot under the following conditions:

- (1) There is not an attached or detached garage, storage building, tool shed, detached greenhouse, gazebo or pool cabana on the property.
 - (2) Maximum height - 10 feet.
 - (3) Minimum side setback - five feet.
 - (4) Minimum rear yard setback - five feet.
 - (5) Structure shall be located in the rear yard only.
 - (6) The storage building will not be counted in calculation of building coverage unless such building is constructed on a slab or permanent foundation.
- (i) A temporary vinyl storage unit not to exceed 200 square feet may be installed or constructed on a building lot under the following conditions:
- (1) There is not an attached or detached garage, storage building, tool shed, detached greenhouse, gazebo or pool cabana on the property.
 - (2) Maximum height - 10 feet.
 - (3) Minimum side yard setback - five feet.
 - (4) Minimum rear yard setback - five feet.
 - (5) Unit must be maintained in a state of good repair.
 - (6) Temporary unit permitted a maximum of six months in any calendar year.
- (j) A temporary storage unit, trailer or personal on demand storage unit (PODS[®]) may be located on a building lot after payment of the application fee as stated in Chapter 16, Fees, under the following conditions:
- (1) Maximum height - eight feet.
 - (2) Maximum length - 16 feet.
 - (3) Temporary storage unit is permitted for a maximum of 30 days within any calendar year, measured from the date of zoning approval.
 - (4) Placement of the temporary storage unit on the lot must not impair the visibility from adjacent properties.
 - (5) The temporary storage unit is permitted on single-family residential properties only.
5. Animal shelters to house resident domestic pets which meet all of the following requirements:
- (a) Maximum building area - 30 square feet.
 - (b) Maximum height - five feet.

- (c) Minimum side yard setback - three feet.
 - (d) Minimum rear yard setback - three feet.
 - (e) Animal shelters shall be located only in the side or rear yard area.
 - (f) Not more than one animal shelter shall be constructed on a building lot.
 - (g) Animal shelters will not be counted in calculating building coverage unless such building is constructed on a slab or permanent foundation.
- 6. Signs in accordance with the standards of Section 35-25.
 - 7. Fences and walls in accordance with the standards or subsection 35-7.5.
 - 8. Radio, television and satellite dish antennas in accordance with the standards of Section 35-34.
- c. Conditional Uses:
- 1. Home occupation subject to the provisions in the definition contained in Section 35-3.
 - 2. Home professional office subject to the provisions in the definition contained in Section 35-3.
 - 3. Community residences for the developmentally disabled, community shelters for victims of domestic violence, community residences for the terminally ill, community residences for persons with head injuries, adult family care homes for elderly persons and physically disabled adults and all other entities described in N.J.S.A. 40:55D-66.1 and 40:55D-66.2 which provide services to not more than 15 persons subject to these uses conforming with the provisions of the aforesaid statutes. The requirements for these uses shall be the same as for single-family dwelling units.
 - 4. Houses of Worship which are subject to the provisions of subsection 35-14.6.

§ 35-6. (RESERVED)**Supplementary Use Regulations****§ 35-7. USE REGULATIONS.****§ 35-7.1. Dwellings to Comply with Standards of Other Legislation. [1972 Code § 107-20; Ord. No. 1097; Ord. No. 1657-95]**

No house, dwelling, building, structure or enclosure, or ship, boat or vessel, or any part of a house, dwelling, building, structure or enclosure or ship, boat or vessel, within the Borough of Manasquan shall be used or permitted to be used or rented to for use or rented by for use as living quarters or sleeping quarters or for living purposes or sleeping purposes unless same complies with applicable municipal, County and State housing standards.

§ 35-7.2. Restriction on Use of Boats. [1972 Code § 107-21; Ord. No. 1097; Ord. No. 1657-95]

The following shall restrict the use of boats in all residential zones:

- a. No ship, boat or vessel of any kind shall be used for any business or commercial purpose, nor shall the owner, agent, charterer, master or person in charge of any such vessel permit the same to be used for business or commercial purposes while such vessel is moored, docked or located within the Borough of Manasquan, except for vessels while engaged in dredging or in the construction, repair or improvement of waterfront facilities.
- b. No ship, boat or vessel of any kind shall embark or disembark passengers or parties of persons within the Borough of Manasquan if such passengers or parties of persons are carried on such vessel for consideration, nor shall the owner, agent, charterer, master or person in charge of any such vessel permit the embarkation or disembarkation of such passengers or parties within this Borough.
- c. No ship, boat or vessel of any kind shall be permanently beached, grounded or so enclosed or located as to become a permanent structure on any parcel of land or real estate within the Borough of Manasquan.
- d. Nothing herein contained shall be construed to prohibit or restrict the mooring, docking and servicing of yachts or pleasure craft of any kind within the Borough of Manasquan while same are used as private pleasure craft or to prevent or restrict the dry-docking and storage of such private yachts and pleasure craft on a temporary or seasonal basis within this Borough.

§ 35-7.3. Use of Automobiles, Trailers, Motor-Drawn Vehicles, Recreational Vehicles and Portable Objects. [1972 Code § 107-22; Ord. No. 1097; Ord. No. 1525-90]

- a. No trailer, motor-drawn vehicle, recreational vehicle or portable object which can be used for dwelling or sleeping purposes shall be parked or placed on any street or public property in the Borough of Manasquan. No person shall occupy or use an automobile, trailer, motor-drawn vehicle, recreational vehicle or portable object while parked or placed anywhere within the Borough of Manasquan, either on public or private property, for living or sleeping purposes.
- b. No automobile, trailer, motor-drawn vehicle, recreational vehicle or portable object shall be used for business or commercial purposes while parked or placed anywhere within the Borough of Manasquan, either on public or private property, except for temporary use at construction and building sites where the same are occupied by contractors or engineers engaged in building or construction projects. Any such vehicle or object shall be removed immediately upon completion of the project for which it is being used.

§ 35-7.4. Auto-Wrecking Yards or Junkyards. [1972 Code § 107-23; Ord. No. 1097]

No land within the Borough of Manasquan shall be used as an auto-wrecking yard or junkyard or for any business which involves the outdoor storage of waste, secondhand or salvaged material.

§ 35-7.5. Walls and Fences. [1972 Code § 107-23.1; Ord. No. 1115; Ord. No. 1973-06 §§ 1, 2; Ord. No. 2057-09 § 5; Ord. No. 2180-15; amended 10-3-2022 by Ord. No. 2376-22]

- a. No wall/fence shall be erected, maintained to a height greater than six feet above the existing grade of the property, provided that the same is more than 25 feet from any street line. No wall/fence shall be erected, maintained to a height greater than four feet within 25 feet of any street line.
- b. No fence/wall shall be erected, maintained or equipped with or having barbed wire, spikes, broken glass, sharp or dangerous devices or any electrical charge sufficient to cause a shock, except that business and public properties within the Borough may be enclosed with fences having barbed wire barriers, provided that all such barbed wire is kept at least six feet above ground level.
- c. The finished side of any fence shall face the outside of the property it encloses.
- d. No wall/fence shall be erected, maintained or planted on any lot which unreasonably obstructs or interferes with traffic visibility on a curve or at any street intersection.
- e. No fence/wall shall be constructed unless the owner or the person in possession of the lands on which the fence is to be constructed shall first obtain a zoning permit from the Zoning Officer prior to the commencement of construction. An application for the permit must be submitted in writing to the Zoning Officer, together with a plan, and must be accompanied by a fee in the amount as stated in Chapter 16, Fees.
- f. No fence/wall shall be erected, maintained in the front yard on property located in the R-4 Beachfront One Family Residential Zone. A fence not more than six feet in height may be located in the side and rear yards provided the fence does not extend beyond the front of the building line of the adjacent properties. A solid fence is prohibited.

§ 35-7.6. Prohibited Uses. [1972 Code § 107-23.2; Ord. No. 1152; amended 4-5-2021 by Ord. No. 2345-21]

- a. The following are prohibited uses:
 1. Adult book or film store, which is defined as a store selling, offering for sale, displaying or in any manner exhibiting obscene material, as that term is defined in N.J.S.A. 2C:34-3a.
 2. All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service. **[Added 4-5-2021 by Ord. No. 2345-21]**
- b. All uses not expressly permitted in this chapter shall be deemed to be prohibited uses.

§ 35-7.7. Driveways and Curb Cuts in Residential Zone Districts. [Ord. No. 1852-01 § 6; Ord. No. 2174-15 § 3; Ord. No. 2208-2016; Ord. No. 2227-2017 § 2; amended 9-21-2020 by Ord. No. 2311-20]

- a. A driveway exclusive of curb return radii shall not exceed 12 feet in width at the curbline; provided, however, if a property contains a two-car garage facing a street, the driveway exclusive of curb return radii shall not exceed 20 feet in width at the curbline.
 1. Notwithstanding the above provision, an existing driveway exclusive of curb return radii may be replaced or reconstructed for its existing width; provided however, no

repaired or reconstructed driveway exclusive of curb return radii shall exceed 20 feet in width at the curbline.

- b. A curb return radius from a driveway at its entrance to a public street shall be a minimum of five feet.
- c. The width of a driveway exclusive of curb return radii shall not exceed 20 feet.
- d. A maximum of one curb cut is permitted for each building lot.
- e. The outer edge of the driveway must be set back at least one foot from the side property line.
- f. In the R-1 and R-2 Zones a driveway may be expanded to the width of the two-car garage provided that the maximum width of the driveway at the property line does not exceed 20 feet.

§ 35-7.8. Additional Requirements for Single-Family Residential Dwellings in All Zones. [Ord. No. 1982-06 § 1]

- a. An enclosed storage area, having a minimum of 80 square feet and 400 cubic feet, shall be provided for the storage of household personal items. The storage area may be an interior utility closet, interior storage room, attached garage, unattached garage or an exterior shed.
- b. An exterior deck, porch, patio or similar facility, having a minimum area of 80 square feet or 10% of the first floor area of the dwelling, whichever is greater, shall be provided for exterior living purposes. Front yard decks and porches are encouraged to fulfill this requirement.
- c. A landscaping plan showing planting, shrubbery and lawn area shall be provided for the front yard.
- d. Off-street parking shall be provided in the rear yard area of the lot in conformance with Section 35-13. If there is insufficient space to provide parking in the rear yard area, parking may be provided in the front or side yards provided that:
 - 1. If lot width is 40 feet or less, the driveway width shall not exceed 50% of the actual lot width.
 - 2. If the parking area is located in the front yard, the balance of the front yard area cannot be improved with concrete, macadam, pavers or similar material except to provide a four foot walkway between the street and the front of the dwelling.
 - 3. The above driveway requirements are not applicable in the R-4 Beachfront One-Family Residential Zone.

§ 35-7.9. Additional Requirements for Structures Containing Multiple Family Units or Mixed Residential and Commercial Uses. [Ord. No. 1982-06 § 1]

- a. An enclosed storage area, having a minimum of 80 square feet and 400 cubic feet, shall be provided for the storage of household personal items. The storage area may be an interior utility closet, interior storage room, attached garage, unattached garage or an exterior shed.
- b. An exterior deck, porch, patio or similar facility, having a minimum area of 80 square feet

or 10% of the first floor area of the living unit, whichever is greater, shall be provided for exterior living purposes. Front yard decks and porches are encouraged to fulfill this requirement.

- c. In R-3, R-4 and R-5 Zones, an exterior shower area or washing station shall be provided.
- d. An enclosed common area for the temporary storage of solid waste and recyclable materials shall be provided. This area shall be shielded from view of neighboring properties and the street, and be sized to accommodate the required number of solid waste and recyclable material containers or a dumpster for the storage of such materials.
- e. Off-street parking shall be provided in the rear of the structure. Vehicle egress shall be designed to prevent backing out onto a street.
- f. A landscaping plan showing planting, shrubbery and lawn area for the front, side and rear yards shall be provided.
- g. Interior walls shall be soundproofed between all residential and commercial units to meet a Sound Transmission Class (STC) rating of 50 or higher.

§ 35-8. (RESERVED)

Zone Regulations

§ 35-9. APPLICABILITY.

§ 35-9.1. Scope. [1972 Code § 107-24; Ord. No. 1097]

The restrictions and controls intended to regulate development in each zone as set forth in the Schedule of Area, Yard and Building Requirements which is supplemented by other sections of this chapter.

§ 35-9.2. Application of Regulations. [1972 Code § 107-25; Ord. No. 1097]

Except as hereinafter otherwise provided:

- a. No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used, for any purpose other than that which is permitted in the district in which the building or land is located.
- b. No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit herein established for the district in which the building is located.
- c. No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulations of the district in which the building is located.
- d. No space which, for the purpose of a building or dwelling group, has been counted or calculated as part of a side yard, rear yard, front yard, court or other open space required by this chapter may, by reason of change in ownership or otherwise, be counted or calculated to satisfy or comply with a yard, court or other open space requirement of or for any other

building.

- e. The minimum yards or other open spaces, including lot areas per family required by this chapter for each and every building existing at the time of passage of this chapter or for any building hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other building.

§ 35-9.3. Application to Existing Construction. [1972 Code § 107-26; Ord. No. 1097]

Nothing in this chapter shall be deemed to require any change in the plans, construction or designated use of any building upon which actual construction was lawfully begun prior to the adoption of this chapter and upon which building actual construction has been diligently carried on, and provided further that such building shall be completed within two years from the date of passage and publication of this chapter.

§ 35-9.4. Schedule of Area, Yard and Building Requirements. [1972 Code § 107-27; Ord. No. 1097; Ord. No. 1385; Ord. No. 1657-95; Ord. No. 1702-96; Ord. No. 1711-96; Ord. No. 1957-05 § 4; Ord. No. 1983-06 § 1; Ord. No. 1997-07 §§ 1, 2]

The area, yard and building requirements for each zone in the municipality are as set forth in Schedule I attached to and made part of this chapter.

Editor's Note: Schedule I, referred to herein, is included as an attachment to this chapter as Attachment 1: Schedule I, Zoning Schedule of Bulk and Coverage Controls.

§ 35-10. (RESERVED)

Supplementary Lot, Height and Yard Requirements

§ 35-11. LOT, HEIGHT AND YARD REQUIREMENTS.

§ 35-11.1. Building Abutting Streets. [1972 Code § 107-29; Ord. No. 1097]

No building shall be constructed or erected upon a lot or parcel of land which does not abut upon a public street or upon the monumented line of the beach adjacent to the Atlantic Ocean.

§ 35-11.2. Principal Buildings. [1972 Code § 107-30; Ord. No. 1097; Ord. No. 1832-00 § 1; Ord. No. 1983-03 § 2; Ord. No. 2230-2017; amended 9-21-2020 by Ord. No. 2312-20; 10-4-2021 by Ord. No. 2365-21; 10-3-2022 by Ord. No. 2377-22]

- a. Only one principal building shall be permitted on each lot, except in conjunction with townhouse and planned multi-family residential development.
- b. Two principal buildings shall be permitted on a lot in the R-4 Beachfront One-Family Residential Zone provided that:
 - 1. A garage with a second floor living unit shall front on First Avenue and a single-family residential dwelling shall front on the beachfront.
 - 2. The minimum lot width shall be 30 feet.

3. The minimum lot area shall be 4,200 square feet.
4. The building facing the beachfront shall be set back a minimum distance of 15 feet from the front property line.
5. The garage apartment building facing First Avenue shall be set back a minimum distance of 10 feet from that property line.
6. The two buildings shall be separated a minimum distance of 35 feet from each building.
7. The maximum height of the garage apartment building facing First Avenue shall be 32 feet.
8. The maximum height of the single-family dwelling facing the beachfront shall be 38 feet for conforming lots and 33 feet for nonconforming lots.
9. The first-floor garage area of the building facing First Avenue shall provide an interior parking area for at least two motor vehicles. Any excess first floor area may be used for storage purposes, except vertical access to the second floor; provided, however, no living area is permitted on the first-floor garage area.
10. The garage apartment building facing First Avenue shall have a walkway, with a minimum width of three feet, to provide access to the beachfront.
11. Each building shall be serviced by separate water and sewer lines.
12. No single dormer shall exceed 10 feet in length measured along the fascia.
13. All dormers, except stairwell and/or elevator dormers must be stepped back a minimum of two feet from the exterior wall beneath it.
14. A half-story must comply with the requirements outlined in § 35-3.
15. The property shall comply with all other standards applicable in the R-4 Zone.

§ 35-11.3. Building Height Exceptions. [1972 Code § 107-32; Ord. No. 1097; Ord. No. 1657-95; Ord. No. 2130-13 § 1]

- a. The height limitations set forth on Schedule I of subsection 35-9.4 shall not apply to church spires or belfries or to receiving antennas not higher than 10 feet above the permitted height in the zone district.
- b. Maximum building height for all conforming residential principal buildings located on conforming lots in Flood Hazard Zone V and A as reflected on the most current FEMA Flood Insurance Rate Map (FIRM) as released on December 15, 2012, shall be 38 feet.
- c. Maximum building height for all nonconforming residential principal buildings or conforming residential principal buildings on nonconforming lots or both, located in Flood Hazard Zones V and A as reflected on the most current FEMA Flood Insurance Rate Map (FIRM) as released on December 15, 2012, shall be 33 feet.
- d. Maximum building height for all garage apartment buildings facing First Avenue in Flood Hazard V as reflected on the most current FEMA Flood Insurance Rate Map (FIRM) as

released on December 15, 2012, shall be 32 feet.

§ 35-11.4. Flag Lots. [Ord. No. 2118-12]

The creation of flag lots is prohibited.

§ 35-11.5. Obstructions to Traffic Visibility. [1972 Code § 107-34; Ord. No. 1097]

No wall, fence or shrubbery shall be erected, maintained or planted on any lot which unreasonably obstructs or interferes with traffic visibility on a curve or at any street intersection.

§ 35-11.6. Swimming Pools. [1972 Code § 107-35; Ord. No. 1097; Ord. No. 1825-00 § 2; amended 10-3-2022 by Ord. No. 2377-22]

A swimming pool or wading pool must be located in the rear yard only. The pool must be setback a minimum of 10 feet from the side and rear property lines on interior lots. On a corner lot, the pool must be setback to meet the minimum side setback for the principal building.

Notwithstanding the above provision, any temporary wading pool, which is not more than 12 inches in depth, may be located in the front yard provided that the pool is emptied daily no later than 7:00 p.m. and not filled before 9:00 a.m.

§ 35-11.7. (Reserved)¹⁷

§ 35-11.8. Additional Lot, Height and Yard Requirements. [Ord. No. 1784-99 § 3; Ord. No. 2057-09 § 7; Ord. No. 2130-13 § 3; Ord. No. 2139-13; Ord. No. 2228-2017; amended 9-21-2020 by Ord. No. 2313-20; 10-3-2022 by Ord. No. 2377-22]

- a. No deck shall be constructed above the highest finished floor of any building or structure;
- b. A widow's walk having a maximum floor area of 50 square feet is permitted provided that it is uncovered and that the sole access to the widow's walk is from within the interior of the building;
- c. No steps, stairs, entry porch, platform, landing, shower enclosure, standby generators, pool equipment, air conditioning condensing units, or mechanical equipment shall be constructed, located or maintained in any required side yard setback area. Note: Standby generators must be screened so that it is not visible from the adjacent properties. Note: Outdoor showers are prohibited in the front yard. Refer to Subsection 35-11.9.1.;
- d. An uncovered and unscreened entry porch, platform or landing leading to a basement, cellar or first floor which is not more than five feet wide may project not more than three feet (not including steps) into the required front or rear yard setback area, provided the floor of the porch is within three feet of ground level;
- e. Entry steps or stairs may be located in the required front and rear setback areas;
- f. An open terrace, deck or patio, but not including a roofed over porch or terrace and not more than three feet above the surrounding grade may be located in the front yard provided

17. Editor's Note: Former subsection 35-11.7, Nonconforming Buildings and Lots, previously codified herein and containing portions of 1972 Code § 107-35.1 and Ordinance Nos. 1685-96, 1741-98 and 1985-99 was repealed in its entirety by Ordinance No. 1956-05. See Section 35-12 for regulations pertaining to nonconforming buildings and lots.

that the unoccupied portion of the front yard has a depth of at least 10 feet;

- g. A one-story bay window may project into a front yard not more than three feet;
- h. Roof overhangs and chimneys may project not more than 18 inches into the required side setback area;
- i. For existing residential principal buildings located in Flood Hazard Zones V and A as reflected on the most current FEMA Flood Insurance Rate Map (FIRM) as released on December 15, 2012, steps and/or stairs required to be extended as a result of the building being raised shall be permitted to extend into any required front, rear or side yard setback, but not into the public right-of-way. For new residential construction located in Flood Hazard Zones V and A as reflected on the most current FEMA Flood Insurance Rate Map (FIRM) as released on December 15, 2012, steps and/or stairs may be located in the front and rear setback areas;
- j. Ground level decks, freestanding decks and/or patios not more than eight inches above the surrounding grade must be setback a minimum of five feet from the side and rear property lines on interior lots. On corner lots, the deck or patio must meet the side setback for the principal building. Properties located on a lagoon, the rear deck can be extended to the bulkhead;
- k. Notwithstanding the provisions of paragraphs a and f above, residential principal buildings located in Flood Hazard Zones V and A as reflected on the most current FEMA Flood Insurance Rate Map (FIRM), as released on December 12, 2012, may construct first-floor decks in the front and rear yards at a height not to exceed the level of the first floor of the structure.
- l. Maximum building height for all garage apartment buildings facing First Avenue in Flood Hazard Zone V as reflected on the most current FEMA Flood Insurance Rate Map (FIRM) as released on December 15, 2012, shall be in accordance with Subsection 35-9.4.

§ 35-11.9. Hot Tubs/Spas. [Ord. No. 1976-06 § 2]

No hot tub/spa shall be:

- a. Located in the front yard of any lot.
- b. Located in the side yard of any lot.
- c. Located nearer than five feet to any lot line.
- d. Located nearer to the side yard than the principal building on the lot.

An enclosure for a hot tub/spa shall not exceed 10 feet in height, measured from the average grade of the lot.

§ 35-11.9.1. Outdoor Showers.

- a. No outdoor shower shall be located in the front yard. [Added 10-3-2022 by Ord. No. 2378-22]

§ 35-11.10. Architectural Design. [Ord. No. 2145-13 § 2; Ord. No. 2150-14 § 2]

- a. Elevation of an existing building or construction of a new building on the existing foundation, the exterior siding must extend down over the foundation to a point not less than 2 1/2 feet above the existing grade of the property surrounding the building.
- b. Elevation of an existing building or construction of a new building:
 1. Any open area between the lowest finished floor and the existing grade may be enclosed with a breakaway wall or screening all exposed pilings must be enclosed.
 2. The exterior siding must extend down over the foundation to a point not less than 2 1/2 feet above the existing grade surrounding the building.
 3. Any exposed ground area under the building must be covered with either concrete or stone.
 4. Any storage area under the building must be enclosed.

§ 35-12. NONCONFORMING BUILDINGS AND LOTS.

§ 35-12.1. Nonconforming Buildings and Conforming Buildings on Nonconforming Lots. [Ord. No. 1956-05 § 2]

An existing nonconforming building or a conforming building on a nonconforming lot may be repaired, altered, enlarged or extended provided that there is compliance with the following requirements:

- a. The building is used exclusively for residential purposes.
- b. The use of the building is permitted in the zone.
- c. The nonconforming lot is separately designated on the current municipal tax map or has been established by a subdivision approved by a Municipal Land Use Board.
- d. The proposed new building addition complies with subsection 35-9.4 (Schedule of Area Yard and Building Requirements) for the zone in which it is located.
- e. The proposed building height does not exceed 30 feet as measured from: the top of an existing curb; or in the absence of an existing curb, from the crown of the road; or in the case of beachfront lots, from the elevation of the monumented beachfront line.
- f. If the new building addition does not comply with paragraph d above, then the individual front, side and rear yard setback distances of the existing nonconforming building must be equal to or greater than 90% of the required setback distances in the zone.
- g. If the new building addition does not comply with paragraph d above, then existing building and lot coverage cannot exceed 110% of the maximum building and lot coverage permitted in the zone.
- h. This provision may be invoked only once during any five-year period. Any subsequent application to repair, alter, enlarge or extend a building shall be based upon the size and location of the building at the time of the first repair, alteration, enlargement or extension.

§ 35-12.2. New Conforming Buildings on Nonconforming Lots. [Ord. No. 1956-05 § 3]

A new conforming building may be built on a nonconforming lot provided there is compliance with the following requirements:

- a. The building is used exclusively for residential purposes.
- b. The use of the building is permitted in the zone.
- c. The nonconforming lot is separately designated on the current municipal tax map or has been established by a subdivision approved by a Municipal Land Use Board.
- d. The proposed new building complies with subsection 35-9.4 (Schedule of Area Yard and Building Requirements) for the zone in which it is located.
- e. Building height does not exceed 30 feet as measured from: the top of an existing curb; or in the absence of an existing curb, from the crown of the road; or in the case of beachfront lots, from the elevation of the monumented beachfront line.

§ 35-12.3. Nonconforming Buildings on Conforming Lots. [Ord. No. 1956-05 § 4; Ord. No. 2057-09 § 8]

An existing nonconforming building on a conforming lot may be repaired, altered, enlarged or extended provided that there is compliance with the following requirements:

- a. The building is used exclusively for residential purposes.
- b. The use of the building is permitted in the zone.
- c. The conforming lot is separately designated on the current municipal tax map or has been established by a subdivision approved by a Municipal Land Use Board.
- d. The proposed new building addition complies with subsection 35-9.4 (Schedule of Area Yard and Building Requirements) for the zone in which it is located.
- e. If the new building addition does not comply with paragraph d above, then the following shall apply:
 1. The proposed building height does not exceed 30 feet as measured from: the top of the existing curb; or in the absence of a curb, from the crown of the road; or in the case of beachfront lots, from the elevation of the monumented beachfront line.
 2. The individual front, side and rear yard setback distances of the existing nonconforming building must be equal to or greater than 90% of the required setback distances in the zone.
 3. The existing building and lot coverage cannot exceed 110% of the maximum building and lot coverage permitted in the zone.
- f. This provision may be invoked only once during any five-year period. Any subsequent application to repair, alter, enlarge or extend a building shall be based upon the size and location of the building at the time of the first repair, alteration, enlargement or extension.
- g. (Reserved)

- h. This provision may be invoked only once during any five-year period. Any subsequent application to repair, alter, enlarge or extend a building shall be based upon the size and location of the building at the time of the first repair, alteration, enlargement or extension.

§ 35-12.4. Structural Alterations to the Interior of Nonconforming Structures. [Ord. No. 2119-12]

Structural alterations to the interior of nonconforming structures shall be permitted provided that the structural alterations do not expand or extend the footprint or height of the nonconforming structure.

Parking and Loading Regulations

§ 35-13. GENERAL REQUIREMENTS, PARKING AND LOADING.

§ 35-13.1. Proposed New Uses. [1972 Code § 107-36A; Ord. No. 1097]

All proposed new uses shall satisfy the off-street parking and loading requirements contained in the following subsection 35-13.4, Schedule II, Minimum Off-Street Parking Requirements, and Schedule III, subsection 35-13.5, Minimum Off-Street Loading Requirements.

§ 35-13.2. Parking Spaces. [1972 Code § 107-36B, C, D.; Ord. No. 1657-95]

- a. Parking spaces shall be on the same lot or parcel of land as the building to be served.
- b. Dimension of Spaces; Aisle Width. Parking spaces shall have a minimum width of nine feet and a minimum length of 19 feet. The minimum width of access aisles shall conform to the following requirements:

Parking Angle	Aisle Width	
	One-Way	Two-Way
0 Degrees	12'	24'
30 Degrees	14'	24'
45 Degrees	14'	24'
60 Degrees	18'	24'
90 Degrees	24'	24'

- c. Residential Zones. In residential zones, all off-street parking spaces shall be located within the property lines. In nonresidential zones, off-street parking facilities shall be set back at least four feet from side and rear yard lines and at least five feet from any right-of-way line. All setback areas shall be appropriately landscaped to provide continuous year round screening. If a fence is provided, the fence shall only supplement required landscaping, not be provided in lieu of landscaping. The landscape strip along any right-of-way shall be landscaped with shrubbery not exceeding 30 inches in height, street trees, and other suitable landscape improvements.

§ 35-13.3. Off-Street Parking and Loading Facilities for Nonresidential Uses. [1972 Code

§ 107-36; Ord. No. 1657-95]

- a. For nonresidential uses located in a residential zone and for nonresidential uses abutting residential zone lines, off-street parking and loading facilities shall be set back at least 15 feet from the residential property or zone line. The setback area shall be landscaped to create a year round landscaped visual buffer area. The buffer area may contain a fence, but only as a complement to provided landscaping.
- b. Off-street loading spaces shall be not less than 10 feet in width, 45 feet in length, exclusive of access and turning lanes, and have a minimum vertical clearance of 14 feet. Off-street loading areas shall be set back at least five feet from side and rear property lines and shall not be permitted in front yard areas. Such facilities are subject to paragraph a of this subsection.

§ 35-13.4. Schedule of Minimum Off-Street Parking Spaces.

SCHEDULE II MINIMUM OFF-STREET PARKING SPACES [1972 Code § 107-36; Ord. No. 1097; Ord. No. 1657-95]	
Use	Required Number of Spaces
Residential Uses	
Single and two-family dwellings	2 for every dwelling unit
Townhouses (1)	2 for every dwelling unit
Garden apartments and other multifamily developments (1)	1.75 for every zero-bedroom unit; 2 for every other unit
Senior citizen developments	1 for every dwelling unit
Rooming houses and boarding houses	1 for every occupant
Nonresidential Uses	
Governmental offices	1 for every 400 square feet of gross floor area
Banks, financial institutions	1 for every 300 square feet of gross floor area
Libraries	1 for every 400 square feet of gross floor area
Offices, retail stores, and businesses providing personal services	1 for every 300 square feet of gross floor area for employee and patron use
Restaurants, taverns and cafes, other than fast-service or drive-in establishments	1 for every 200 square feet of gross floor area or 1 for every 3 seats, whichever is greater
Fast-service and drive-in restaurants	1 for every 2 seats, 1 for every 2 employees and 1 for every 3 take-out-service patrons estimated for peak-hour periods
Medical and dental clinics	1 for every 200 square feet of gross floor area or 5 for each doctor or dentist, whichever is greater

SCHEDULE II MINIMUM OFF-STREET PARKING SPACES [1972 Code § 107-36; Ord. No. 1097; Ord. No. 1657-95]	
Use	Required Number of Spaces
Medical practitioners in other than office buildings or clinics	5 for every doctor, plus 1 for each employee
Marinas	2 for every berth, plus 1 for every employee
Nursing and convalescent homes	1 for every 3 beds
Hotels and motels	1 for every sleeping room and 1 for every 2 employees on the maximum shift
Theaters	1 for every 3 seats
Churches, auditoriums and other places of assembly	1 for every 4 seats
Bowling establishment	4 for every bowling lane; if additional facilities such as bar or restaurant are provided, additional parking shall be provided for separate uses in accordance with this subsection
Elementary schools and day-care centers	1 for every 2 teachers or employees, plus 1 for every 6 seats in the assembly hall
Secondary schools	1 for every 2 teachers and employees, plus 1 for every 10 students
Social halls, clubs and lodges	1 for every 200 square feet of gross floor area
Manufacturing plants	1 for every 2 employees or 1 for every 400 square feet of gross floor area, whichever is greater
Funeral homes, mortuaries	1 for every 100 square feet of gross floor area in parlors or service rooms
Wholesale establishments	1 for every 2 employees or 1 for every 400 square feet of gross floor space, whichever is greater
Billiard parlor	2 for every billiard table plus the sum of other provided uses, or, 1 for every 2 persons allowed by law to occupy the premises, whichever is greater
Handball and racquetball courts	2.5 for every court
Gymnasiums, physical culture and health clubs	1 for every 1.5 persons allowed by law to occupy the premises
Miniature golf course	1 for every tee
Tennis courts	2 for every court for outdoor courts; 2.5 for every court for indoor courts
Skating rinks	1 for each 1,000 square feet of lot area for outdoor rinks. For indoor rinks, 1 for each 3 persons allowed by law to occupy the premises

SCHEDULE II MINIMUM OFF-STREET PARKING SPACES [1972 Code § 107-36; Ord. No. 1097; Ord. No. 1657-95]	
Use	Required Number of Spaces
Swimming pools	1 for each 50 square feet of surface water area
Neighborhood convenience shopping center under 49,000 square feet	1 for each 250 square feet of gross floor area
Day care centers, child care centers, nursery schools	1 for each employee plus 2 for each classroom
Community residences for the developmentally disabled or for victims of domestic violence	5 plus 1 for each employee
Warehousing	1 for every 1,000 square feet of gross floor area, or 1 for every employee on the maximum shift, whichever is greater
Mixed uses	The cumulative sum of individual requirements
Uses not specified	To be determined considering parking requirements for similar uses, maximum employees, visitors anticipated, occupancy codes and other appropriate factors

Note:

- (1) 1 additional parking space for every 4 dwelling units must be provided in all multi-family developments containing 16 or more dwelling units to provide for overflow guest parking. Such spaces may be provided in guest lots, as part of the overall parking scheme, or along interior roads if the pavement widths are shown to be sufficient to accommodate moving traffic in addition to the parking in accordance with criteria established by the Borough's subdivision ordinance.

§ 35-13.5. Schedule of Off-Street Loading and Unloading Requirements.

SCHEDULE III OFF-STREET LOADING AND UNLOADING REQUIREMENTS [1972 Code § 107-36; Ord. No. 1097; Ord. No. 1657-94]		
Uses	Square Feet of Total Floor Area	Required Off-Street (1) Loading Berths
Schools	15,000 or more	1
Undertakers and funeral parlors	5,000 For each additional 5,000 or major fraction thereof	1 1 additional
Offices; hotels;	From 10,000-25,000	1
retail, commercial,	From 25,000-40,000	2

SCHEDULE III OFF-STREET LOADING AND UNLOADING REQUIREMENTS [1972 Code § 107-36; Ord. No. 1097; Ord. No. 1657-94]		
Uses	Square Feet of Total Floor Area	Required Off-Street (1) Loading Berths
wholesale	From 40,000-60,000	3
manufacturing;	From 60,000-100,000	4
storage and miscellaneous uses	For each additional 50,000 or major fraction thereof	1 additional
Marinas		1

Conditional Uses

§ 35-14. REGULATIONS FOR CONDITIONAL USES.

§ 35-14.1. General Provisions. [1972 Code § 107-37; Ord. No. 1097]

- a. A conditional use is one listed as a conditional use in the particular zoning district. All such uses shall meet the site plan review regulations in addition to specific conditions and standards set forth in this Section 35-14.
- b. The standards for review have been established in order to protect the health, safety and general welfare of the Borough residents. Any conditional use found to be detrimental to the public health, safety and general welfare shall be denied.
- c. The Planning Board shall take into consideration the character and type of development in the area surrounding the location for which the request is made and determine that the proposed conditional use, as permitted, will constitute an appropriate use in the area and will not substantially injure or detract from the use of surrounding property or from the character of the neighborhood.
- d. The Planning Board may impose conditions in addition to those required to ensure that the intent of this chapter and the site plan review regulations are satisfied. These may include, but are not limited to, harmonious design of buildings, aesthetics, planting and its maintenance as a sight or sound screen, landscaping, hours of operation, lighting, numbers of persons involved, noise, sanitation, safety, smoke and fume control and the minimizing of noxious, offensive or hazardous elements.

§ 35-14.2. Senior Citizen Housing. [1972 Code § 107-38; Ord. No. 1657-95; Ord. No. 1783-99 § 9; Ord. No. 1977-06 § 1]

- a. Permitted Uses: planned multifamily housing for senior citizens.
- b. Minimum Lot Area: 22,000 square feet.
- c. Minimum Frontage: 100 feet.

- d. Front Yard Setback: 30 feet.
- e. Rear Yard Setback: 35 feet.
- f. Side Yard Setback: five feet.
- g. Perimeter Landscape Setback: 15 feet landscaped with a variety of plantings to create a year-round buffer.
- h. Maximum Building Coverage Area: 30%.
- i. Maximum Lot Coverage Area: 45%.
- j. Building Height: two stories not to exceed 28 feet.
- k. Maximum Density: one unit per 4,000 square feet.
- l. Off-Street Parking: to be in accordance with site improvement standards promulgated by the State of New Jersey.
- m. Senior Citizen means a person 55 years or older. A person under the age of 55 may reside in a Senior Citizen Housing Complex provided that his or her spouse is 55 years of age or older.

§ 35-14.3. Servicing and Selling of Automobiles. [1972 Code § 107-39; Ord. No. 1097]

- a. In no district shall a gasoline or other motor fuel service or filling station, automatic automobile cleaning station, public garage or commercial garage accommodating more than five motor vehicles be erected, constructed, established, maintained or operated within 500 feet of any of the following:
 - 1. A public school or playground or lands owned by the Board of Education for school or playground purposes.
 - 2. A duly organized school giving regular instruction at least five days a week (holidays excepted) for eight or more months a year.
 - 3. A hospital.
 - 4. A church.
 - 5. An orphan asylum.
 - 6. A nursing or rest home.
 - 7. A public library.
 - 8. A theater or opera house or other building used for theatrical or operatic purposes or for public entertainment.
 - 9. A municipal building housing the public offices of the municipality.
 - 10. Any public playground or athletic field.
- b. No gasoline or other motor fuel filling appliance shall be located within 10 feet of a street line or within five feet of any adjacent property line.

- c. No gasoline or other motor fuel service or filling station shall be erected, constructed, maintained or operated within 1,000 feet of any other such service or filling station.
- d. No gasoline or other motor fuel service or filling station shall be erected, constructed, maintained or operated in that part of the Borough of Manasquan lying east of Watson's Creek.
- e. No existing garage accommodating or designed to accommodate more than five motor vehicles or a gasoline or other motor fuel service or filling station shall be deemed to become a nonconforming use through the subsequent erection of such school or schools, hospital, church, orphan asylum, nursing or rest home, public library, theater or opera house or other building used for theatrical or operatic purposes or for public entertainment, a municipal building or any public playground or athletic field, as defined above, within the aforesaid prescribed area.
- f. Plot Plans and Specifications. All applications for building permits and all applications for exceptions or variances shall be accompanied by a plan in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the size of the buildings to be erected or any addition thereto and any existing buildings, the location of any building upon the lot, the dimensions of all open spaces, the established building lines within the block, specifications for or of any buildings to be erected or any addition to any existing buildings or any other work to be done and such other information as may be necessary to provide for the enforcement of this Section 35-14.
- g. No business for the sale of, or otherwise dealing in, secondhand or used motor vehicles shall be conducted, operated, maintained or carried on within the Borough of Manasquan, unless such business is conducted, operated, maintained and carried on by a franchised dealer actually engaged in the business of the sale of new motor vehicles and licensed to do so by the State of New Jersey.

§ 35-14.4. Lodges, Fraternal Organizations, Nonprofit Corporations and Associations.
[1972 Code § 107-40; Ord. No. 1097]

- a. The facilities involved shall consist of halls, meeting places or clubhouses belonging to an association of persons formed for mutual aid and benefit, but not for profit, providing social, recreational or cultural opportunities for members.
- b. All applications for such a permit shall furnish the following:
 - 1. A complete list of the organization's current officers, including their names and addresses, and the total number of members.
 - 2. The full particulars on the operation of the proposed use.
 - 3. Sufficient information to enable the Board to determine that the proposed use is a bona fide nonprofit organization operated solely for the recreation, enjoyment and use of the members of the organization.
 - 4. Proof that the proposed use and the proposed location will not adversely affect the safety and comfortable enjoyment of property rights or otherwise adversely affect the value of adjacent properties; that the design of any structures erected in connection with such use are in keeping with the general character of the surrounding area; and

that sufficient landscaping, including trees, shrubs and lawn, are provided to serve as a buffer between the use and adjoining residential properties and to ensure an attractive appearance for the use.

5. A site plan shall be submitted showing the information required in this subsection as well as adequate off-street parking for the use involved and the location of all utility and service areas, which shall be adequately screened.
6. No living quarters or sleeping accommodations of any kind shall be permitted on premises occupied by organizations specified in this subsection.

§ 35-14.5. Motels. [1972 Code § 107-41; Ord. No. 1097]

- a. Conditions and standards applicable to motel use include:
 1. Area of plot: minimum of 22,500 square feet.
 2. Width of plot: minimum of 150 feet.
 3. Front yard: Every lot shall have a setback of not less than 10 feet from the street line.
 4. Rear yard: minimum of 20 feet.
 5. Side yards: minimum of 10 feet each where the same abut private property, and a minimum of 15 feet where the same abuts a public street or road.
 6. Height: maximum of 35 feet or 2 1/2 stories, whichever is less.
 7. Lot coverage by buildings: maximum of 50%.
 8. Off-street parking: See Schedule II (subsection 358-13.4).
- b. No buildings shall be erected and no permits shall be issued in connection with the use set forth in this subsection unless a site plan for the building lot shall first have been approved by a resolution of the Planning Board of the Borough of Manasquan. In acting upon any such site plan, the Planning Board shall base its decision on the following:
 1. The layout of the site plan in respect to the standards and conditions set forth in this Section 35-14.
 2. The arrangement of exterior lighting to adequately illuminate parking areas, so located and shaded as to prevent glare in adjoining residential areas.
 3. The grading, surfacing and installation of drainage structure and landscaping of all improvements to parking areas, surface roadways, loading and unloading areas, lawns, gardens and courtyards.
- c. Prohibited Activities.
 1. Motels shall not maintain or permit upon their premises any amusement devices, cabaret, nightclub or public entertainment of any kind. Nothing herein contained shall be deemed to prevent a motel from maintaining a coffee shop or dining room, provided that same are a part of or are attached to the main structure of the motel.

§ 35-14.6. Houses of Worship and Schools. [1972 Code § 107-42; Ord. No. 1097; Ord. No. 2246-2017]

Schools, (as defined in § 35-3.1 Definitions) churches and similar places of worship, parish houses, convents, church schools and libraries that are owned and operated by duly incorporated religious organizations shall be permitted in all zones of the Borough of Manasquan, subject to the following limitations and requirements:

- a. The minimum building lot size shall be one acre for each building and accessory buildings. One parish house, convent, church school and church library may be constructed as part of a building used as a church or similar place of worship or in combination or singly as accessory buildings.
- b. The minimum front yard depth shall be 25 feet.
- c. The minimum side yard shall be 25 feet on either side.
- d. The minimum rear yard depth shall be 50 feet.
- e. The minimum street frontage shall be 200 feet.
- f. The maximum building height shall be two stories, not to exceed 50 feet to the highest point of any building, exclusive of chimneys, steeples and similar items.
- g. Parking areas shall be located only in the side yards and rear yard and not in the buffer strips required by paragraph h below.
- h. Buffer strips 10 feet in width with planting, as indicated by the location and existing trees and undergrowth, shall be maintained all along the side lines and rear line. No trees shall be removed in the buffer strips unless approved by the Planning Board.
- i. There shall be a minimum of one separate entrance and one separate exit from and to a public street, collector road, and arterial road.
- j. No building permit shall be issued unless a site plan has been approved in writing by the Planning Board.
- k. The Planning Board, in making its determination, shall be guided by the following standards in order that such uses may be properly related to the orderly and harmonious development of the community.
 1. The proper relationship of the particular structures and other features shown on the site plan to one another and to present and proposed structures and other features in the area.
 2. The proper relationship of parking areas, driveways and approaches to roadways and traffic flow on roadways and on private or public property in the area.
 3. The proper relationship of structures and other features to the contours of the land.
 4. The proper maintenance of natural features, trees and foliage.
 5. The proper development of buffer strips as required by paragraph h above.
 6. Such matters as relate to the planning and physical development of the Borough of

Manasquan.

- l. The Planning Board may require reasonable performance and maintenance guaranties, in a form satisfactory to the Board, for the completion and maintenance of those items shown on the site plan.

§ 35-14.7. Fast-Service and Drive-in Restaurants. [1972 Code § 107-43; Ord. No. 1097]

- a. Area, yard and building requirements shall be the same as the zone in which it is situated.
- b. Other conditions:
 1. No conditional use as set forth herein shall be located closer than 500 feet, measured from the nearest point on the property line, to any public or parochial school or closer than 150 feet from the boundary line of any residential zone.
 2. Satisfaction of site plan requirements.
 3. Determine that there is appropriate provision for access facilities adequate for the estimated traffic from public streets and sidewalks so as to assure the public safety and to avoid traffic congestion. Vehicular entrances and exits shall be clearly visible from the street.
 4. Determine that there are full adequate parking areas and off-street truck loading spaces, in conformity with this chapter and all other pertinent ordinances, for the anticipated number of occupants, employees and patrons and that the layout of the parking is convenient and conducive to safe operation.

§ 35-14.8. Bed and Breakfast Guest House. [Ord. No. 1768-98 § 4]

- a. Bed And Breakfast Guest House shall mean a facility providing sleeping or dwelling accommodations to transient guests which:
 1. Consists of an existing or newly constructed structure to be utilized for residential purposes.
 2. Provides individual sleeping accommodations for six to 12 guests.
 3. Contains at least one living unit occupied by the owner of the facility as a place of residence during the time when the facility is being used for the lodging of guests.
 4. Has at least 300 square feet of common area for the exclusive use of guests, including, but not limited to, parlors, dining rooms and libraries.
 5. Prohibits cooking or smoking in guest rooms.
 6. Provides guests with breakfast before noon each day. Individual kitchen facilities and service to the general public are prohibited.
 7. Does not operate as a rooming house or boarding house as defined by N.J.S.A. 55:138-3.
 8. Guest stays may not exceed 30 days during any 60 successive day period.

- b. Every Bed and Breakfast Guest House shall maintain a guest register listing the name and permanent address of all guests, dates of arrival and departure, and the license plate identification number of any motor vehicle utilized by a guest.
- c. Two off-street parking spaces are required for each owner living unit plus one parking space for each guest room.
 - 1. Off-street parking spaces shall be located in side and/or rear yard.
 - 2. All parking areas and driveways shall be set back at least five feet from side property lines and at least 10 feet from the rear property line. The yard areas adjacent to parking spaces and driveways shall be landscaped to provide natural year-round screening from adjacent properties.
- d. Signs shall conform with the requirements of Section 35-25, Signs, provided however, the maximum height of any free-standing sign shall be three feet from ground level and no sign shall contain a telephone number or the words "full" or "vacancy."
- e. Bed and Breakfast Guest House facilities shall comply with applicable fire safety requirements of the New Jersey Uniform Construction Code.
- f. Bed and Breakfast Guest House facilities shall be registered with the Bureau of Housing Inspection in the Department of Community Affairs of the State of New Jersey.
- g. No Bed and Breakfast Guest House facility shall be permitted without obtaining site plan approval pursuant to Section 35-19, Site Plan Approval Procedure, of this chapter.
- h. The minimum lot size for a Bed and Breakfast Guest House facility shall be 7,500 square feet and the minimum lot frontage shall be 75 feet.
- i. Bed and Breakfast Guest House facilities shall comply with Schedule I (Zoning Schedule of Bulk and Coverage Controls) applicable to the zone in which the facility is located.

§ 35-15. (RESERVED)**§ 35-16. (RESERVED)¹⁸****§ 35-17. (RESERVED)****Site Plan Review: Title; Application; Exemption****§ 35-18. SITE PLAN REGULATIONS.¹⁹****§ 35-18.1. Title. [1972 Code § 107-50; Ord. No. 1097]**

Sections 35-18 through 35-23 of this chapter of the Code of the Borough of Manasquan may be cited and referred to as the "Site Plan Ordinance."

18. Editor's Note: Former Section 35-16, Regulations for Planned Unit Development, previously codified herein and containing portions of 1972 Code §§ 107-45 — 107-49 and Ordinance Nos. 1097 and 1109 was repealed in its entirety.

19. Editor's Note: Site Plan Regulations include Section 35-18 through Section 35-23.

§ 35-18.2. Purpose. [1972 Code § 107-51; Ord. No. 1097]

Sections 35-18 through 35-23 establishes a site plan review process by the Planning Board for proposed construction in the Borough. The purpose of the review is to ensure new development will enhance the general appearance of Manasquan, promote the harmonious use of land and provide for a pleasing and efficient design of structures.

§ 35-18.3. Approval Required. [1972 Code § 107-52; Ord. No. 1097]

No development shall take place within the Borough, nor shall any land be cleared or altered, nor shall any watercourse be diverted or its channel or floodplain dredged or filled, nor shall any parking areas, accessory or otherwise, be constructed, installed or enlarged, nor shall any building permit, zoning 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 Sections 35-18 through 35-23, unless exempted in accordance with subsection 35-18.4.

§ 35-18.4. Exemptions. [1972 Code § 107-53; Ord. No. 1097; Ord. No. 1657-95]

- a. Single-family and two-family residential structures and structures and uses incidental thereto, permitted as a right under applicable zoning regulations, are exempt from the requirements of this Sections 35-18 through 35-23; however, a site plan will be required if, at the discretion of the Building Officer, there exist soil and drainage conditions or traffic factors which may result in environmental problems.
- b. No site plan shall be required for any repairs or alterations to a building or installation of equipment in any buildings, as such terms are defined by the Building Code of the Borough of Manasquan.²⁰
- c. Signs which are not part of an application under subsection 35-18.3 and are in accordance with the standards of Section 35-25.

§ 35-18.5. Interpretation; Variances. [1972 Code § 107-54; Ord. No. 1097]

The rules, regulations and standards set forth in Sections 35-18 through 35-23 shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the Borough. Any action taken by the Planning Board under the terms of Sections 35-18 through 35-23 shall give primary consideration to such matters and to the welfare of the entire community. However, if the applicant can clearly demonstrate that, because of peculiar conditions pertaining to his land, the literal enforcement of Sections 35-18 through 35-23 is impracticable or will exact undue hardship, the Planning Board may permit such variances as may be reasonable, within the general purpose and intent of the rules, regulations and standards established by Sections 35-18 through 35-23.

§ 35-18.6. Waiver of Requirements. [1972 Code § 107-55; Ord. No. 1097]

The Planning Board may waive the requirements of Sections 35-18 through 35-23 if the proposed development:

- a. Secured previous site plan approval under the terms of Sections 35-18 through 35-23.

20. Editor's Note: See Ch. 14, Building and Housing, Section 14-1, State Uniform Construction Code Enforcing Agency.

- b. Does not affect existing circulation, drainage, building arrangements, landscaping, buffering, lighting and other considerations of site plan review.

§ 35-18.7. Reservation of Public Areas. [1972 Code § 107-56; Ord. No. 1097]

- a. If the Master Plan or the Official Map provides for the reservation of designated streets, public drainageways, flood control basins, parks or other public areas within the proposed development, before approving a site plan, the Planning Board may further require that such streets, drainageways, basins or areas be shown on the plan in locations and sizes suitable to their intended uses. The Planning Board may reserve the location and extent of such streets, drainageways, basins or areas shown on the plan for a period of one year after the approval of the final plan or within such further time as may be agreed to by the developer. Unless during such period or extension thereof the Borough shall have entered into a contract to purchase or instituted condemnation proceedings according to law for the fee or a lesser interest in the land comprising such streets, drainageways, basins or areas, the developer shall not be bound by such reservations shown on the plan and may proceed to use such land for private use in accordance with applicable development regulations. The provisions of this section shall not apply to the streets and roads, flood control basins or public drainageways necessitated by the land development and required for final approval.²¹
- b. The developer shall be entitled to just compensation for actual loss found to be caused by such temporary reservation and deprivation of use. In such instance, unless a lesser amount has previously been mutually agreed upon, just compensation shall be deemed to be the fair market value of an option to purchase the land reserved for the period of reservation, provided that determination of such fair market value shall include but not be limited to consideration of the real property taxes apportioned to the land reserved and prorated for the period of reservation. The developer shall be compensated for the reasonable increased cost of legal, engineering or other professional services incurred in connection with obtaining site plan approval caused by the reservation.

Site Plan Approval Procedure

§ 35-19. SITE PLAN APPROVAL.

§ 35-19.1. Notification of Hearing Date; Submission of Application to other Agencies. [1972 Code § 107-57; Ord. No. 1097]

The Secretary of the Planning Board shall, after an applicant for preliminary or final approval has submitted an application in proper form with the requisite fees, notify the applicant of the hearing date so that he can comply with the notice requirements and refer the site plan and exhibits to the Borough Planning Board and the County Planning Board. The Planning Board may also designate other local, County, State or other governmental officials or agencies to receive copies of any application for review and recommendations.

§ 35-19.2. Sketch Site Plans. [1972 Code § 107-58; Ord. No. 1097]

Applicants for preliminary approval shall be encouraged to submit for review by the Planning Board sketch site plans for informal discussions and recommendations. Said sketch site plans

21. Editor's Note: See Ch. 1, Section 1-12, Official Map.

shall be used as a basis for changes and redesign and to avoid undue expense and delay in preparing more detailed plans and specifications. The Planning Board shall not be governed by any statutory time limits in its review of sketch site plans, and it is expressly understood that compliance with the Planning Board recommendations shall not bind the Planning Board in subsequent deliberations.

§ 35-19.3. Preliminary Approval. [1972 Code § 107-59; Ord. No. 1097; Ord. No. 1584-92]

- a. The Planning Board shall act upon, at a hearing within the time periods provided in this chapter, every application for preliminary approval of a site plan.
- b. Public notice shall be required for every application for preliminary site plan approval in accordance with the procedure set forth in Section 31-21, Notice Requirements for Hearing, in Chapter 31, Planning Board.

§ 35-19.4. Decision on Preliminary Approval to Be in Writing; Contents. [1972 Code § 107-60; Ord. No. 1097]

Each decision of a municipal agency on any application for development shall be in writing and shall include findings of fact and conclusions based thereon.

§ 35-19.5. Effect of Preliminary Approval. [1972 Code § 107-61; Ord. No. 1097]

Preliminary approval of a site plan shall, except as provided in subsection 35-19.6, confer upon the applicant the following rights for a three-year period from the date of the preliminary approval:

- a. That 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 site plan. The Borough may modify by ordinance such general terms and conditions of a preliminary approval as they may relate to public health and safety, provided that such modifications are in accord with amendments adopted by ordinance subsequent to approval.
- b. That 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 site plan.

§ 35-19.6. Extension of Preliminary Approval. [1972 Code § 107-62]

- a. The applicant may apply for and the Planning Board may grant extensions of 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 shall govern.
- b. In the case of a site plan for a planned unit development, 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 of 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 sections awaiting final approval, economic conditions and the comprehensiveness of the development, provided that if the design standards have been revised, such revised standards shall govern.

§ 35-19.7. Variances. [1972 Code § 107-63; Ord. No. 1097]

The Planning Board may, when exercising its powers pursuant to this section, grant variances as provided in N.J.S.A. 40:55D-60 et seq.

§ 35-19.8. Action on Final Site Plan Approval. [1972 Code § 107-64; Ord. No. 1097]

The Planning Board shall, within the applicable time period set forth in this Section 35-19, after a public hearing, approve the application for final site plan approval with or without conditions, provided that 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 site plans.
- c. All improvements have been installed or bonds posted to ensure the installation of improvements.
- d. The applicant agrees in writing to all conditions of final approval.
- e. Proof has been submitted that all taxes and assessments for local improvements on the property have been paid.

§ 35-19.9. Notice of Final Approval. [1972 Code § 107-65; Ord. No. 1097]

- a. No public notice of applications for final site plan approval shall be required.
- b. Public notice shall be required for every application for final site plan approval in accordance with the procedure set forth in Section 31-21, Notice Requirements for Hearing, in Chapter 31, Planning Board.

§ 35-19.10. Decision of Final Approval to Be in Writing; Contents. [1972 Code § 107-66; Ord. No. 1097]

The decision of the Planning Board shall be in writing and shall include findings of fact and conclusions based thereon.

§ 35-19.11. Effect of Final Approval. [1972 Code § 207-67; Ord. No. 1097]

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

§ 35-19.12. Time Limit on Final Approval; Extensions. [1972 Code § 107-68; Ord. No. 1097]

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 35-19.5 for one year. No more than three such extensions may be granted. Applicants shall be required, as a condition of any extension, to reestimate improvement costs and to resubmit revised bonds in accordance therewith.

§ 35-19.13. Conditions on Final Approval. [1972 Code § 107-69; Ord. No. 1097]

The Planning Board may, as a condition of final approval:

- a. Grant final approval only for designated geographic sections of the development.
- b. Grant final approval for certain work but require resubmission for final approval for designated elements such as, but not limited to, landscaping, signs, street furniture, etc., and require approval of these elements as a prerequisite for a certificate of occupancy or zoning permit.
- c. Condition the granting of a temporary certificate of occupancy or zoning permit on the applicant's or developer's or subsequent heirs' or assignees' meeting certain requirements within a designated period of time, not to exceed six months, from the date of issuance of the certificate of occupancy or zoning permit. This may include but is not limited to the installation of improvements, reevaluation of circulation patterns, etc.
- d. Require the furnishing of a performance guaranty in favor of the Borough in an amount not to exceed 120% of the cost of installation for improvements it may deem necessary or appropriate, including streets, grading, pavement, gutters, curbs, sidewalks, streetlighting, shade trees, surveyor's monuments, as shown on the final map and required by the Map Filing Law, P.L. 1960, c. 141 (N.J.S.A. 46:23-9.9 et seq.), water mains, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage structures, erosion control and sedimentation control devices, public improvements of open space and, in the case of site plans only, other on-site improvements and landscaping.
- e. Require provision for a maintenance guaranty to be posted with the Governing Body for a period not to exceed two years after final acceptance of the improvement, in an amount not to exceed 15% of the cost of the improvement. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guaranty to another governmental agency, no performance or maintenance guaranty, as the case may be, shall be required by the municipality for such utilities or improvements.

Site Plan Details**§ 35-20. SITE PLAN INFORMATION REQUIREMENTS.****§ 35-20.1. Required Information. [1972 Code § 107-70; Ord. No. 1097]**

The site plan shall be prepared by a professional engineer, land surveyor, architect, landscape architect or professional planner at an appropriate scale recommended by the Borough Engineer. The site plan shall be based on the latest Tax Map information and shall be of a standard size as

required by the Map Filing Act.

a. Site Plan Contents. The site plan shall contain the following information:

1. Key map drawn at a scale of not more than one inch equals on 100 feet, showing the location of the property, all streets and property lines within 500 feet of the affected property and all buildings or structures which are within 300 feet of the building or structure proposed by the applicant.
2. The name and address of the owner and site plan applicant, together with the names of the owners of all contiguous land and of property directly across the street and within 200 feet of the property, as shown by the most recent tax records of the Borough.
3. North point, scale and date on which plan was prepared and date of every revision.
4. Tax Map lot and block number of the property affected.
5. Zoning district in which the property is located.
6. Complete metes and bounds survey of the property, signed, sealed and certified by a licensed land surveyor.
7. Location of all existing buildings, culverts, storm sewers, sanitary sewers, water, fire protection, electric and telephone lines, both above and below ground, and poles, gas and underground heating systems, pipe lines, artesian wells and other man-made features.
8. Location of all existing streets and highways on or adjacent to the property affected, including names, right-of-way width, pavement width, curb or curb width.
9. Location of all existing easements and rights-of-way and the purpose for which they have been established.
10. Location of existing high points, watercourses, depressions, ponds, marshes, wooded areas, underground streams, single trees not in wooded areas with a diameter of six inches or more as measured three feet above the base of the trunk and other significant existing features, including previous flood elevations of watercourses, marsh and wetlands areas as determined by survey and by the State of New Jersey.
11. A topographical map showing existing elevations or contours at vertical intervals of two feet for slopes of less than 10% and such lesser intervals as may be necessary for the satisfactory study and planning of relatively level tracts.
12. Datum to which contour elevations refer, preferably United States Coast and Geodetic Survey.
13. The topography of the site after development.
14. All proposed streets with profiles indicating grading, and cross sections showing width of roadway, location and width of sidewalk and specifications of the Borough of Manasquan.
15. Location of proposed buildings and structures and all accessory structures, if any,

including setback, sidelines and rear yard distances, with dimensions showing present and future grade elevations at all corners and entrances of the structures, and floor plans thereof.

16. Design view of the proposed structure's or structures' front, side and rear view elevations. Design view elevations are to be shown where proposed additions or alterations affect such elevations.
17. Proposed design and location of signs and outdoor lighting.
18. The location, type and size of proposed culverts, storm sewers, sanitary sewers, fire protection, electric and telephone lines and poles, gas and underground heating systems, pipe lines and all other utilities both above and below ground, including the connection of such proposed facilities with the existing facilities according to the standard specifications of the Borough of Manasquan.
19. All means of vehicular access for ingress and egress to and from the site onto public streets, showing the size and location of driveways and curb cuts, including the possible organization of traffic channels, acceleration and deceleration lanes, additional width and any other advice necessary to prevent a difficult traffic situation. Also all pedestrian walkways and bike paths.
20. The location and design of any off-street parking areas or loading areas, showing size and location of bays, aisles and barriers.
21. Proposed screening and landscaping, including a plant plan, in conformance with Shade Tree Commission policies of the Borough of Manasquan, and proposed shade trees. If provided, all recreation areas shall be indicated.
22. Landscaping and buffering plan showing what will remain and what will be planted, indicating botanical and common names of plants and trees, dimensions, approximate time of planting and maintenance plans.
23. Such additional information as may be required by the Borough Engineer.
24. The following legends shall be on the site plan map:

(a) Site plan of

Lot _____ Block _____ Zone _____

Date _____ Scale _____

Applicant _____

(b) I consent to the filing of this site plan with the Planning Board of

(Owner)

(Date)

(c) I hereby certify that I have prepared this site plan and that all dimensions and information are correct.

(Name)_____
(Title and License No.)

- (d) I have reviewed this site plan and certify that it meets all codes and ordinances under my jurisdiction.

(Date)_____
(Borough Engineer)

- (e) To be signed before issuance of a building permit: I hereby certify that all the required improvements have been installed or a bond posted in compliance with all applicable codes and ordinances.

(If improvements installed)

(Borough Engineer)
(If bond posted)_____
(Date)_____
(Borough Clerk)_____
(Date)Building permit issued _____
(Date)

- (f) Approved by the Planning Board

(Preliminary

(Final _____)

_____) _____

(Chairman)_____
(Date)

25. A statement as to the type of proposed business or activity intended in the building and the hours of operation.
26. The applicant shall submit to the Planning Board a proposed sequence of development with projected time schedule for completion of each of the several elements. Such projection shall include, where applicable, the removal of structures, trees and brush, temporary drainage considerations, utilities, road and sidewalk improvements and provisions for the protection of topsoil.
27. If applicable, review and approval by the Subdivision and Site Plan Committee of the Monmouth County Planning Board in accordance with the Site Plan Review Resolution of the County of Monmouth, New Jersey.

§ 35-20.2. Additional Information May Be Required. [1972 Code § 107-71; Ord. No. 1097]

The Planning Board may require other information and data for specific site plans. This data may include but is not limited to geologic information, water yields, flood data, environmental information, traffic counts, road capacities, market information, some economic data and similar

exhibits.

§ 35-20.3. Compliance with Other Legislation. [1972 Code § 107-72; Ord. No. 1097]

Information and documents for other Borough codes and ordinances, such as environmental impact statements, soil erosion and sedimentation plans and stormwater management plans, shall be submitted as part of site plan approval and may be used to comply with site plan submission requirements where applicable.

§ 35-20.4. Waiver of Information. [1972 Code § 107-73; Ord. No. 1097]

- a. The Planning Board may waive submission of any required exhibits in appropriate cases and for specific site plans.
- b. Sketch site plans may be prepared by the applicant and contain sufficient information for discussion by the Planning Board and applicant.

§ 35-20.5. Solid Waste Disposal and Recycling. [1972 Code § 107-74.1; Ord. No. 1657-95]

Provisions for the collection, disposition and recycling of recyclable materials must be made in any development for the construction of 50 or more units of single-family residential housing and 25 or more units of multifamily housing.

Each single-family unit or units within a two-family dwelling shall provide at least 20 square feet of floor area for a two week accumulation of materials. Such an area may be within the laundry, basement or garage. Each multifamily unit or accessory dwelling unit shall provide at least 10 square feet of area conveniently arranged and located to hold a one week accumulation of recyclable materials. Each multifamily complex shall also provide bins in a convenient location or locations in a common area as drop-offs for storing recyclables in addition to other solid waste until collection occurs. The holding area shall provide for truck access and loading and shall be suitably screened from view and set back from property lines.

Each application for a nonresidential use which utilizes 1,000 square feet or more of land must include provisions for the collection, disposition and recycling of recyclable materials. The application shall provide a storage area sized to contain a two week accumulation of recyclable material. The storage area shall be designed for truck access for pick-up of materials and be suitably screened from view if located outside of the building.

Principles and Standards for Site Plan Review

§ 35-21. CRITERIA FOR EVALUATING PROPOSED DEVELOPMENT.

§ 35-21.1. Criteria. [1972 Code § 107-73; Ord. No. 1097]

- a. The following criteria have been set forth as a guide for evaluating the adequacy of proposed development in the Borough. The Planning Board shall review the site plan for compliance with all applicable ordinances and the comprehensive plan for harmony with surrounding uses and the overall plan for development of the municipality; for the promotion of the health, safety, order, efficiency and economy of the municipality; and for the maintenance of property values and the general welfare. Based upon its review and the

degree which it can make positive findings, the Board may approve, conditionally approve, request modifications or deny approval of the site plan based on the following:

1. The site plan's compliance with all provisions of this chapter, including but not limited to off-street parking and loading, signs, lighting, open space and the generation of objectionable smoke, fumes, noise, odors, dust, glare, vibration or heat.
 2. The site plan's compliance with all requirements and standards of the Subdivision Ordinance, including but not limited to standards for construction, layout, dimensions and materials.²²
 3. The environmental impact of the development relating to the preservation of existing natural resources on the site and the impact on the natural resources of the surrounding properties and neighborhood.
 4. The relationship of the development to adjacent uses in terms of harmonious use and design, setbacks, maintenance of property values and negative impacts.
 5. The provision of a safe and efficient vehicular and pedestrian circulation system.
 6. The sufficient width and suitable grade and location of streets designed to accommodate prospective traffic and to provide access for fire-fighting and emergency equipment to buildings.
 7. The coordination of streets so as to compose a convenient system consistent with the Official Map, if any, and the circulation element of the Master Plan.
 8. The design and location of off-street parking and loading facilities.
 9. The design and location of buildings in an efficient and aesthetically pleasing manner.
 10. The adequacy of the screening and landscaping plan.
 11. The location of exterior lighting in terms of safety needs, intensity and glare.
 12. The adequacy of facilities serving the development.
 13. The location, size and configuration of open space areas.
 14. Protection and conservation of soils from erosion by wind or water or from excavation or grading.
- b. The Planning Board may waive those requirements or details specified to be shown on the site plan in any given application if it is determined that said requirements or specifications are not necessary to be shown in order to ensure that the said site plan conforms to the standards of good planning, will have no deleterious effect on the neighboring properties and indicates sufficient information to assure adequate protection to health, welfare and safety of the people of the Borough of Manasquan.

Off-Tract Improvements

§ 35-22. IMPROVEMENTS REQUIRED.

22. Editor's Note: See Ch. 32, Land. Subdivision.

§ 35-22.1. Improvements. [1972 Code § 107-75; Ord. No. 1097]

Developers shall be required, as a condition for approval of a site plan, to pay their pro rata share of the cost of providing reasonable and necessary street improvements and water, sewerage and drainage facilities and easements therefor located outside the property limits of the tract but necessitated or required by construction or improvements within the tract. The following criteria shall be utilized in determining a developer's proportionate or pro rata share of necessary off-tract improvements.

§ 35-22.2. Certain Improvements to Be Constructed at Sole Expense of Developer. [1972 Code § 107-76; Ord. No. 1097]

In cases where the reasonable and necessary need for an off-tract improvement or improvements is necessitated or required by the proposed development application 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.

§ 35-22.3. Determination of Expenses to Be Paid by Developer. [1972 Code § 107-75; Ord. No. 1097]

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 the development will also be benefited by the improvement, the following criteria shall be utilized in determining the developer's proportionate share of such improvements:

- 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, and all Manasquan Borough sewer design standards, including infiltration standards, and all other Manasquan Borough water drain standards.
 2. Developer's pro rata share.
 - (a) 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 costs 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:

$$\frac{\text{Total enlargement or improvement cost}}{\text{Developer's cost}} = \frac{\text{Total tributary gallons per day}}{\text{Development gallons}}$$

- (b) If it is necessary to construct a new system in order to develop the subdivision,

the enlargement share to the developer shall be computed as follows:

$$\frac{\text{Total project cost}}{\text{Developer's cost}} = \frac{\text{Total tributary gallons per day to new system}}{\text{Development tributary gallons per day}}$$

- (c) 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 Borough Engineer.
- b. Roadways. For street widening, alignment channelization of intersections, construction of barriers, new or improved traffic signalization, signs, curbs, sidewalks, trees, utility improvement uncovered elsewhere, the construction or reconstruction of new or existing streets and other associated streets or traffic improvements, the applicant's proportionate cost shall be determined as follows:
1. The Borough Engineer shall provide the applicant's engineer with the existing and anticipated 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 peak-hour traffic shall form the basis of the proportionate share. The prorated share shall be computed as follows:

$$\frac{\text{Total cost of the roadway improvement and/or extension}}{\text{Developer's cost}} = \frac{\text{Future peak-hour traffic}}{\text{Future peak-hour traffic generated by the development}}$$

- c. Drainage Improvements. For stormwater and drainage improvements, including the installation, relocation or replacement of storm drains, culverts, catch basins, manholes, riprap or improved drainage ditches and appurtenances thereto and the 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 design of the drainage system to accommodate stormwater runoff shall be based on a method described in Urban Hydrology for Small Watershed Technical Release 55, Soil Conservation Service, United States Department of Agriculture, January 1975, as amended, and shall be computed by the developer's engineer and approved by the Borough 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 Borough Engineer. The plans for the improved system shall be prepared by the developer's engineer and the estimated cost of the enlarged system calculated by the Borough Engineer.
- (a) The prorated share for the proposed improvement shall be computed as follows:

$$\frac{\text{Total enlargement or improvement cost of drainage facilities}}{\text{Developer's cost}} = \frac{\text{Total tributary cubic feet per second}}{\text{Development cubic feet per second}}$$

- (b) Escrow accounts. Where the proposed off-tract improvement is to be undertaken at some future date, the moneys required for the improvement shall be deposited to the credit of the Borough in a separate account until such time as the improvement is constructed. If the off-tract improvement is not begun within 10 years of deposit, all moneys and interest shall be returned to the applicant.
- (c) Computation of pro rata share. In any case in which an applicant shall not provide the approving authority with the estimates of a traffic consultant engineer with regard to estimated improvement costs and all other information necessary to proportion costs, the approving authority may rely on the estimates of the Borough Engineer in order to prorate costs.

Site Plan Fees

§ 35-23. SITE PLAN FEES ESTABLISHED. [1972 Code § 107-78; Ord. No. 1097; Ord. No. 1280]

Fees, charges and regulations for the review of site plan applications are established under Chapter 31, Planning Board, of the Code of the Borough of Manasquan.

§ 35-24. (RESERVED)

Signs

§ 35-25. SIGN REGULATIONS.

§ 35-25.1. Restrictions on Signs. [1972 Code § 107-79; Ord. No. 1097; Ord. No. 1273]

Except as hereinafter provided, no publicly displayed sign, symbol or notice, with the exception of street traffic and directional signs of the Borough and the State of New Jersey, shall be erected within the Borough of Manasquan.

§ 35-25.2. Permitted Signs. [1972 Code § 107-80; Ord. No. 1097; Ord. No. 1273; Ord. No. 1981-006 § 1; amended 10-3-2022 by Ord. No. 2380-22]

- a. The following signs shall be permitted in the R-1, R-2, R-3, R-4 and R-5 zones:
 - 1. For each dwelling unit, one unlighted nameplate not exceeding one square foot in area and bearing the name of the occupant.
 - 2. For any structure other than a dwelling unit, one identification sign not exceeding eight square feet, except a church bulletin board, which shall not exceed 18 square feet. Signs erected for use under this section may be illuminated with a constant source of light, provided that the light is shielded to prevent glare and annoyance to adjacent residential uses.

3. A sign advertising the premises upon which it is located "for sale" or "for rent," not exceeding four square feet in area. Not more than one sign shall be permitted.
 4. Signs designating entrances or exits to or from a parking area are permitted and shall not exceed two square feet each.
 5. Development signs designed for advertising the sale or development of the premises upon which they are erected, when erected in connection with the development of the premises by a builder, contractor, developer or other persons interested in such sale or development, may be erected and maintained, provided that:
 - (a) The size of any sign is not in excess of six square feet; and
 - (b) Not more than one sign is placed upon any property; and
 - (c) Any such sign shall be removed by the developer within three weeks of the final sale of the property; and
 - (d) Any freestanding sign shall not exceed four feet in height and shall not be closer than three feet from any property line and shall not be located in any manner which will impede full vehicular visibility at street intersections, driveways or exits. A sign permit is not required for such temporary contractor signs.
 6. Directional signs indicating the location and direction of premises in the Borough available for or in process of development in the Borough, but not erected upon such premises, and having inscribed thereon the name of the owner, developer, builder or agent may be erected, by permit, and maintained, provided that:
 - (a) The size of any such sign is not in excess of six square feet and not in excess of four feet in length; and
 - (b) Not more than one such sign is erected for each development; and
 - (c) Any such sign shall be removed by developer within three weeks of the final sale of the property.
 7. Private driveway signs indicating the private nature of a driveway or trespassing signs, provided that the size of any such sign shall not exceed two square feet.
- b. The following signs shall be permitted in B-1, B-2, C and I zones:
1. Any sign displayed flat against the wall of a building and which does not project above the roof line. Only one sign per face of a building for each business occupying that building shall be permitted and the total sign area on any building face shall not exceed two square feet for each foot of building frontage.
 2. Free-standing signs supported by one or more columns or uprights which are firmly embedded in the ground, subject to the following restrictions:
 - (a) Exposed guide wires, chains or other connections shall not be made a permanent support of a free-standing sign.
 - (b) The total aggregate surface area of the sign shall not exceed nine square feet. The maximum height of the sign shall not exceed 10 feet nor shall the sign be

closer than six inches to the ground.

- (c) The sign shall be in conformity with the character of the zone and other signs in the zone so that it blends in with the overall architectural scheme.
 - (d) The sign shall be set back at least 10 feet from the curbline.
- 3. A sign advertising the premises upon which it is located "for sale" or "for rent," not exceeding four square feet in area. Not more than one sign shall be permitted.
 - 4. Development signs designed for advertising the sale or development of the premises upon which they are erected, when erected in connection with the development of the premises by a builder, contractor, developer or other persons interested in such sale or development, may be erected and maintained, provided that:
 - (a) The size of any sign is not in excess of six square feet; and
 - (b) Not more than one sign is placed upon any property; and
 - (c) Any such sign shall be removed by the developer within three weeks of the final sale of the property; and
 - (d) Any freestanding sign shall not exceed four feet in height and shall not be closer than three feet from any property line and shall not be located in any manner which will impede full vehicular visibility at street intersections, driveways or exits. A sign permit is not required for such temporary contract signs.
 - 5. The total aggregate surface area of all signs on a lot in the B-1, B-2, B-3, C and I zones shall not exceed 100 square feet.

§ 35-25.3. Regulations Applicable in All Zones. [1972 code § 107-81; Ord. No. 1097; Ord. No. 1273; Ord. No. 1657-95; Ord. No. 1981-06 §§ 2, 3; Ord. No. 2057-09 § 9; Ord. No. 2100-11; amended 10-3-2022 by Ord. No. 2380-22]

- a. No sign shall be placed in or extend over the line of any public street, right-of-way, curb or sidewalk area.
- b. Billboards are prohibited throughout the Borough of Manasquan.
- c. A permit shall not be required for the erection, alteration or maintenance of any signs permitted in a residential district.
- d. Signs must be constructed of durable materials, maintained in good condition and not allowed to become dilapidated.
- e. All signs, together with all supports, braces, anchors, etc., shall be kept in continual repair, including the replacement of defective parts, repainting, cleaning and otherwise in a presentable condition.
- f. No sign shall be served by overhead utility service.
- g. No sign shall be maintained at any location where, by reason of color, illumination, position, size or shape, may obstruct, impair, obscure or be confused with any traffic control sign, signal or device, or where it may interfere with, mislead or confuse vehicular

traffic.

- h. Signs shall not obstruct any window, door or other opening used as a means of regular ingress and egress or for required legal light and ventilation or fire escapes and other openings for emergency access and escape.
- i. Signs attached to or placed on a vehicle, including trailers, that are parked on public or private property shall be prohibited. This provision is not to be construed as prohibiting the identification of a firm or its principal products on a vehicle during normal hours of business; provided, however, that no such vehicle shall be parked on public or private property with signs attached or placed on the vehicle for the purpose of advertising a business or firm or calling attention to the location of a business or firm.
- j. No sign may be placed on or attached to a building or erected independently for any purpose other than to advertise a permitted business or use conducted on the same premises.
- k. No sign shall be attached to trees, fence posts, stumps, utility poles or other signs. No flags, pennants or similar objects may be attached or displayed on signs.
- l. No sign shall project beyond the building in a manner placing it above an area traversed by motor vehicles, such as but not limited to, driveway and parking areas.
- m. Illuminated signs shall be arranged as to reflect the light and glare away from adjoining premises and away from adjoining highways.
- n. No sign with red, green or blue illumination in a beam, beacon or flashing form resembling an emergency light shall be permitted.
- o. The area of a sign shall be measured around the outside edges of a framed or enclosed sign or by the area utilized by isolated words and/or symbols, including the background, whether open or enclosed, but the sign area shall not include any supporting framework and bracing incidental to the display thereof.
- p. Any sign having two exposures shall be measured for area using the surface of one side of the sign only. Both sides of the sign may be used for display purposes.
- q. All fascia or attached signs shall be firmly attached to the exterior wall of the building and shall not project more than 15 inches from the building.
- r. Interior signs shall be permitted and no permit shall be required for erection and/or maintenance of such signs; provided however, that an interior sign shall not exceed 10% of the total sign area and not more than five interior signs shall be located in any structure.
- s. Street number designations, postal boxes, on-site directional and parking signs and warning signs are permitted and shall not be considered in calculating maximum permitted sign area. No such sign shall exceed two square feet in area, nor shall a permit be required for such signs.
- t. Temporary signs relating to special civic or public events may be maintained for a period not to exceed 10 days prior to the date of the event and must be removed within five days after the event has taken place. A permit shall not be required for the erection or maintenance of any temporary sign.
- u. One temporary contractor advertising sign may be erected on any lot with a structure

undergoing construction, repair or improvement. No sign shall be erected more than two days before work begins, and no sign shall remain erected for more than three days after completion of work or for a period of three weeks, whichever is less. Such signs may be erected as either a facade sign or a freestanding sign and shall not exceed six square feet in area. Any freestanding sign shall not exceed four feet in height and shall be not closer than three feet from any property line and shall not be located in any manner which will impede full vehicular visibility at street intersections, driveways or exits. A sign permit is not required for such temporary contractor signs.

- v. Temporary flags, banners or streamers, erected in conformance with the provisions of this chapter, may be maintained for a period not to exceed 14 days, four times within any calendar year. A zoning application must be approved by the Zoning Officer prior to the installation of any flag, banner or streamer.
- w. Banners advertising special sales or products on private property, erected in conformance with the provisions of this chapter, may be maintained for a period not to exceed 14 days, four times within any calendar year. A zoning application must be approved by the Zoning Officer prior to the installation of any such banner.
- x. The display or maintenance of blow-up figurines used for commercial or advertising purposes is prohibited.
- y. Neon signs are prohibited.
- z. A-frame signs are prohibited, except for the display and maintenance of one A-frame sign not to exceed four square feet utilized for directional purposes, provided that such directional sign may not be placed within a public right-of-way.
- aa. Painting or marking of buildings and structures for advertising or promotional events is prohibited.
- bb. Any sign which is designed so that characters, letters or illustrations can be changed or rearranged without altering the face or the surface of the sign shall be prohibited in all zones. This shall include all signage inclusive of billboards. Governmental signs erected or authorized by a government unit shall be exempt from this amendment.
- cc. Signs using mechanical devices, electrical devices or both to revolve, flash or display movement or the illusion of movement are prohibited in all zones. Governmental signs erected or authorized by a government unit shall be exempt from this amendment.

§ 35-26. NONCONFORMING USES; CONTINUANCE.

§ 35-26.1. Permitted Continuance; Exceptions. [1972 Code § 107-82; Ord. No. 1097; Ord. No. 1115 ; Ord. No. 1784-99 § 2]

- a. The lawful use of land or buildings existing at the time of the adoption of this chapter may continue although such use does not conform to the regulations specified by this chapter for the district in which such land or building is located, subject to the following conditions and specifications:
 - 1. Any nonconforming use of land or building which has ceased by discontinuance or abandonment for a period of one year shall thereafter conform to the provisions of

this chapter.

2. Any nonconforming building which has been destroyed or damaged by fire, explosion, act of God or by a public enemy to the extent of 70% or more of its assessed valuation shall thereafter conform to the provisions of this chapter. Where more than 30% of the assessed value of the building remains after such damage, such structure may be restored to the same nonconforming use as existed before such damage.
 3. No nonconforming use of a building may be moved to any other part or parcel of land upon which same was conducted at the time of the adoption of this chapter.
 4. No nonconforming building shall be enlarged or structurally altered except to make it a conforming building or except enlargement or structural alteration in compliance with Ordinance No. 1685-96.
- b. The use of a nonconforming building may be changed only to a use of like or similar character, or to a use conforming to the district in which the property is located.

§ 35-26.2. Structural Alterations to the Interior of a Nonconforming Use. [Ord. No. 2122-12]

Structural alterations to the interior of nonconforming use shall be permitted provided that the structural alterations do not expand or extend the footprint or height of the structure.

§ 35-26.3. Applicability. [1972 Code § 107-83; Ord. No. 1097]

The foregoing provisions shall also apply to nonconforming uses in districts hereafter changed by amendment to this chapter.

Administration and Enforcement

§ 35-27. ENFORCEMENT AND INSPECTIONS.

§ 35-27.1. Enforcement Officials. [1972 Code § 107-84; Ord. No. 1097]

It shall be the duty of the Construction Official, Code Enforcement Officer, the Chief of Police and any Police Officer of the Borough of Manasquan to enforce the provisions of this chapter against any persons found to be violating the same.

§ 35-27.2. Inspections. [1972 Code 107-85; Ord. No. 1097]

The Construction Official and Code Enforcement Officer shall be empowered to cause any building, structure or land to be inspected and examined and to order in writing the remedying of any violation of any provision of this chapter.

§ 35-27.3. Issuance of Permits. [1972 Code § 107-86; Ord. No. 1097]

In no case shall a construction permit be granted for the construction or alteration of any building where the proposed construction, alteration or use thereof would be in violation of any provision

of this chapter. It shall be the duty of the Construction Official to cause any building, plans or premises to be inspected or examined and to order in writing the remedying of any conditions found to exist in violation of any provision of this chapter, and he shall have the right to enter any building or premises during the daytime in the course of his duties.

Enforcement; Applications for Development

§ 35-28. APPLICATION FOR DEVELOPMENT.

§ 35-28.1. Definition. [1972 Code § 107-86.1; Ord. No. 1240]

For the purposes of this Section 35-28, "Application for Development" shall have the same meaning as that set forth in N.J.S.A. 40:55D-3.

§ 35-28.2. Enforcement of Conditions. [1972 Code § 107-86.2; Ord. No. 1240]

In the event that the Construction Official or the Zoning Officer of the Borough shall determine that any condition contained in any resolution or court order approving an application for development is being violated, he shall notify the owner in writing of his findings and order that any such violation be corrected within 30 days of the notice. Any condition contained in a resolution approving an application for development shall be deemed to be a continuing condition, and the owner or subsequent transferees of the premises in question shall be responsible for the maintenance, replacement and repair of any improvements required by such condition, including but not limited to, the replacement of any required plantings which fail to survive.

§ 35-28.3. Appeal. [1972 Code § 107-86.3; Ord. No. 1240]

The owner shall have the right to appeal the determination of the Construction Official or Zoning Officer to the Borough Council by requesting such appeal in writing to the Borough Clerk no later than the expiration of the thirty-day period provided in the notice. Upon receipt of such request for appeal, the Borough Council shall establish a date for the hearing of such appeal. The thirty-day period provided in the notice shall be tolled from the date of receipt of the notice of appeal by the Borough Clerk until the date of determination of the appeal by the Borough Council. The Borough Council may, as part of its determination of such appeal, allow a greater number of days for correction of the violation from the date of its determination than the number of days remaining unexpired in the original period of the notice.

§ 35-28.4. Failure to Comply. [1972 Code § 107-86.4; Ord. No. 1240]

If the owner fails to correct the violations noted within the time provided in the notice, or within such further time as may be allowed by the Borough Council in the event of an appeal, the Borough Council may order that the violation be corrected at the owner's expense or may revoke any certificate of occupancy granted and require that the property be vacated.

§ 35-28.5. Fines. [1972 Code § 107-86.5; Ord. No. 1240]

Any person who shall fail to correct a violation after written notice thereof, as provided in this Section 35-28, shall be subject to a fine not exceeding \$500.

Violations and Penalties

§ 35-29. PENALTIES FOR VIOLATIONS.

§ 35-29.1. Violations and Penalties. [1972 Code § 107-87; Ord. No. 1097; Ord. No. 1304; New]

In addition to the penalties stated in Chapter 1, Section 1-5, other remedies will include:

- a. The owner of any building or structure, lot or land, or part thereof, and/or the tenant or occupant of any building or structure, lot or land, or part thereof, where anything in violation of this chapter shall be placed or shall exist or be suffered, allowed or permitted to exist, and any architect, builder, developer, contractor, agent, person or corporation engaged in connection therewith and who assists in the commission of any such violation shall each be guilty of a separate violation, and, upon conviction thereof, shall each be liable to the fine or imprisonment, or both, specified above.

§ 35-29.2. Additional Actions. [1972 Code § 107-88; Ord. No. 1097]

In case any building or structure is erected, constructed, reconstructed, altered, moved or converted or any building, structure or land is used in violation of or contrary to the provisions of this chapter, the Borough may institute an action to enjoin or any other appropriate action or proceeding to prevent such erection, construction, reconstruction, alteration, conversion or use.

Conflict with Other Legislation

§ 35-30. APPLICABILITY OF CONFLICTING PROVISIONS. [1972 Code § 107-89; Ord. No. 1097]¹

In the event of a conflict between this chapter and any other ordinance, such as a Construction Code, Housing Code or Licensing Ordinance, the ordinance requiring the more restrictive regulation or the one requiring the higher set of standards shall apply.²³

Pending Applications

§ 35-31. PENDING APPLICATIONS NOT AFFECTED. [1972 Code § 107-90; Ord. No. 1097]

Nothing in this chapter shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which any construction permit has been granted before the enactment of this chapter, provided that construction for such plans shall have been started within 60 days of enactment of this chapter and shall be diligently pursued to completion.

23. Editor's Note: See Chapter 14, Building and Housing.

Repealer**§ 35-32. REPEALER. [1972 Code § 107-91; Ord. No. 1097]**

Chapter 107, Zoning, of the Code of the Borough of Manasquan²⁴ is hereby repealed. All other ordinances or parts of ordinances which are inconsistent herewith are repealed, but only to the extent of such inconsistency.

Inclusion in Code**§ 35-33. INCLUSION IN CODE. [1972 Code § 107-92; Ord. No. 1092]**

This chapter shall be codified as Chapter 35 of the Code of the Borough of Manasquan.

Satellite Dish Antennas**§ 35-34. REQUIREMENTS FOR USE OF SATELLITE DISH ANTENNAS. [1972 Code § 107-93; Ord. No. 1097; Ord. No. 2180-15]**

A satellite earth station, commonly referred to as dish antenna, including any structural supports, is permitted in all zoning districts established in this chapter providing the following conditions or requirements are met:

- a. A dish antenna is permitted only as an accessory use on a lot that contains a principal structure.
- b. A dish antenna is only permitted in a rear yard and must be located in accordance with the rear yard setback requirements established in the zoning district in which the property is located.
- c. A dish antenna shall not be located in the front, rear or side yard areas established in the zoning district in which the property is located.
- d. A dish antenna is only permitted as a ground level free-standing structure.
- e. The surface receiving area of the dish antenna shall not exceed 12 feet in diameter.
- f. No dish antennas shall exceed a height of eight feet.
- g. A dish antenna shall be designed and used only to serve the inhabitants or patrons of the principal structure on the lot on which it is located.
- h. No lot may contain more than one dish antenna.
- i. All power control and signal cables from the dish antenna shall be installed below the ground surface in accordance with applicable provisions of the Uniform Construction

24. Editor's Note: This reference is to former Ch. 107, as adopted 10-23-1967 as Ord. No. 799, as amended. The 1997 Code recodifies this chapter as Chapter 35.

Code.

- j. The dish antenna shall be located and screened to minimize motor noise and visual impact from the street and adjacent properties. The dish antenna must be surrounded by an enclosure which shall be a natural or artificial buffer or fence having a height of six feet, which is planted or constructed so as to conceal the dish antenna from view at ground level at all property lines. If a natural buffer is utilized, it shall be planted with such trees or plants to maintain the buffer quality during the entire year.
- k. The dish antenna shall be of open-mesh material or construction and must be maintained to function in an environmentally safe manner.
- l. Prior to the construction or erection of a dish antenna, a permit application must be filed with the Construction Official and a permit fee as stated in Chapter 16, Fees, shall be paid to the municipality. The Construction Official shall review the permit application to insure that the above regulations are complied with and that the dish antenna is constructed in accordance with such regulations.

Affordable Housing

§ 35-35. MANDATORY AFFORDABLE HOUSING DEVELOPMENT FEES.²⁵

§ 35-35.1. Findings and Purpose. [Ord. No. 2042-08 § 2]

- a. In *Holmdel Builder's Association v. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27D-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- b. Pursuant to P.L. 2008, c. 46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from nonresidential development.
- c. This section establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L. 2008, c. 46, Sections 8 and 32-38. Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing. This section shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

§ 35-35.2. Basic Requirements. [Ord. No. 2042-08 § 2]

- a. This section shall not be effective until approved by COAH pursuant to N.J.A.C. 5:96-5.1.
- b. The Borough of Manasquan shall not spend development fees until COAH has approved a

25. Editor's Note: Prior ordinance history includes portions of Ordinance Nos. 1821-00 and 1833-00.

plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

§ 35-35.3. Definitions. [Ord. No. 2042-08 § 2]

- a. The following terms, as used in this section, shall have the following meanings:

AFFORDABLE HOUSING DEVELOPMENT — Shall mean a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a Borough construction project or a 100% affordable development.

COAH or the COUNCIL — Shall mean the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

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

DEVELOPMENT FEE — Shall mean money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

EQUALIZED ASSESSED VALUE — Shall mean the assessed value of a property divided by the current average ratio of assessed to true value for the Borough of Manasquan, as determined in accordance with sections 1, 5, and 6 of P.L. 1973, c. 123 (C. 54:1-35a through C. 54:1-35c).

GREEN BUILDING STRATEGIES — Shall mean those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

§ 35-35.4. Residential Development Fees. [Ord. No. 2042-08 § 2]

- a. Imposed Fees. Within the zoning districts specified, residential developers, except for developers of the types of development specifically exempted, shall pay a fee of 0.5% of the equalized assessed value, provided no increased density is permitted.

1. In the R-1, R-2, and R-3 One-Family Residential, R-4 Beachfront One-Family Residential, R-5 One-Family, R-M Multi-Family Residential, and R-PM Planned Multi-Family Residential Zones, where a developer develops land for residential purposes and receives no right to increased density, the developer shall pay a development fee of 0.5% of the equalized assessed value.

2. In those circumstances where a developer secures the right to increased density resulting from a variance granted pursuant to N.J.S.A. 40:55D-70d (a "d" or "use" variance), then the additional residential units realized (above what is permitted by right under the existing zoning), the developer will incur a bonus development fee. The developer shall pay a fee of 0.5% of equalized assessed value for all base units and 6% of equalized value for all bonus units. If there has been an ordinance adopted within two years prior to the filing of the "d" variance application that decreases the density permitted on the subject property, the base density, for the purpose of calculating the 6% bonus shall be the highest density permitted by right during the

two years preceding the filing of the "d" variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 0.5% of the equalized assessed value on the first two units; and 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

3. Sites in the R-PM Planned Multi-Family Residential Zone that require a percentage of housing units to be set aside for low and moderate income households and that the Borough elects to allow the developer to pay a fee in lieu of constructing some or all of the number of low and moderate units otherwise required, the developer and Borough shall enter into an agreement allowing the developer to pay a fee in an amount equal to the cost of subsidizing the affordable units. The fee amount shall be not less than the subsidy required payment in lieu amount as determined by COAH for the applicable housing region pursuant to N.J.S.A. 5:97-6.4(c).
- b. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Development.
1. Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
 2. Developments that have received preliminary or final site plan approval prior to the adoption of the Borough of Manasquan development fee ordinance shall be exempt from the development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
 3. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, provided the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure subject to the following provision for residential expansions and additions.
 - (a) Residential additions and expansions that result in an increase in equalized assessed value (EAV) that are equal to, or less than, 50% of the EAV of the original structure shall not be subject to a fee, provided that the expansion does not increase the number of dwelling units. However, if a property owner applies for two or more construction permits within a five-year period, then the cumulative increase in EAV compared to the EAV of the original structure shall be used to determine the percentage increase in the EAV.

Example: If in Year One, the EAV is \$200,000, and the property owner constructs an addition which increases the EAV to \$300,000, then the addition is exempt from the payment of a development fee since the increase in equalized assessed value of \$100,000 is 50% of the EAV of the original structure.

$(\$300,000 - \$200,000 = \$100,000)$ which is equal to 50% of the EAV of the original structure $(\$100,000/\$200,000 = 0.50 \text{ or } 50\%)$.

If in Year Three, the property owner seeks to construct a second addition that increases the EAV by an additional \$50,000, then the property owner would have to pay a development fee because the cumulative increase to the original EAV is more than 50%. In that case, the fee would be based on the total cumulative increase in EAV of \$150,000.

(Original EAV (\$200,000) + EAV increase of Year One addition (\$100,000) + EAV increase of Year Three (\$50,000) = New EAV (\$350,000). New EAV (\$350,000) - Original EAV (\$200,000) = Cumulative EAV Increase (\$150,000) which is equal to 75% of the EAV of the original structure (\$150,000/\$200,000 = 0.75 or 75%).

4. The Borough exempts the following types of development from residential development fees:
 - (a) Nonprofit organizations, which have received tax exempt status pursuant to Section 501(c) 3 of the Internal Revenue Code, providing evidence of that status is submitted to the Borough Clerk and the Borough Tax Assessor together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay such charges.
 - (b) Federal, State, County, and local governments.
 - (c) Reconstruction of existing owner occupied residential structures as a result of fire, flood or natural disaster.

§ 35-35.5. Nonresidential Development Fees. [Ord. No. 2042-08 § 2]

a. Imposed Fees.

1. Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
2. Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
3. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final Certificate of Occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.
4. Eligible Exactions, Ineligible Exactions and Exemptions for Nonresidential Development.
 - (a) The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the 2.5% development fee, unless otherwise

exempted below.

- (b) The 2.5% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- (c) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L. 2008, c. 46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
- (d) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c. 46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final Certificate of Occupancy of the nonresidential development, whichever is later.
- (e) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances shall be enforceable by the Borough of Manasquan as a lien against the real property of the owner.

§ 35-35.6. Collection Procedures. [Ord. No. 2042-08 § 2]

- a. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the Construction Official responsible for the issuance of a building permit.
- b. For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Borough Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- c. The Construction Official responsible for the issuance of a building permit shall notify the Borough Tax Assessor of the issuance of the first building permit for a development, which is subject to a development fee.
- d. Within 20 days of receipt of that notice, the Borough Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e. The Construction Official responsible for the issuance of a final Certificate of Occupancy notifies the Borough Tax Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.

- f. Within 10 business days of a request for the scheduling of a final inspection, the Borough Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g. Should the Borough of Manasquan fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b of section 37 of P.L. 2008, c. 46 (C. 40:55D-8.6).
- h. 50% of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of Certificate of Occupancy.
- i. Appeal of Development Fees.
 - 1. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Borough of Manasquan. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - 2. A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough of Manasquan. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§ 35-35.7. Affordable Housing Trust Fund. [Ord. No. 2042-08 § 2]

- a. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Borough Chief Financial Officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- b. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - 1. Payments in lieu of on-site construction of affordable units;
 - 2. Developer contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - 3. Rental income from municipally operated units;
 - 4. Repayments from affordable housing program loans;

5. Recapture funds;
 6. Proceeds from the sale of affordable units; and
 7. Any other funds collected in connection with the Borough of Manasquan's affordable housing program.
- c. Within seven days from the opening of the trust fund account, the Borough of Manasquan shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- d. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

§ 35-35.8. Use of Funds. [Ord. No. 2042-08 § 2]

- a. The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Borough of Manasquan's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or State standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.
- b. Funds shall not be expended to reimburse the Borough of Manasquan for past housing activities.
- c. At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.
1. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
 2. Affordability assistance to households earning 30% or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income. The use of development fees in this manner may entitle the Borough of Manasquan to bonus credits pursuant to N.J.A.C. 5:97-3.7.

3. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d. The Borough of Manasquan may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- e. No more than 20% of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

§ 35-35.9. Monitoring. [Ord. No. 2042-08 § 2]

The Borough of Manasquan shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Borough of Manasquan housing program, as well as to the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

§ 35-35.10. Ongoing Collection of Fees. [Ord. No. 2042-08 § 2]

The ability for the Borough of Manasquan to impose, collect and expend development fees shall expire with its substantive certification unless the Borough of Manasquan has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If the Borough of Manasquan fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L. 1985, c. 222 (C. 52:27D-320). The Borough of Manasquan shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall the Borough of Manasquan retroactively impose a development fee on such a development. The Borough of Manasquan shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

§ 35-36. AFFORDABLE HOUSING REGULATIONS. [Ord. No. 1939-04 § 2; amended 3-18-2019 by Ord. No. 2282-19]

- a. Purpose.

1. This section is intended to assure that very-low, low-, and moderate-income units ("affordable units") are created with controls on affordability and that very-low, low-, and moderate-income households shall occupy these units. This section shall apply except where inconsistent with applicable law.
 2. The Borough of Manasquan Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1 et seq. (hereinafter "Fair Share Plan"). The Fair Share Plan was endorsed by the Borough Council. The Fair Share Plan describes how the Borough of Manasquan shall address its fair share of very-low, low-, and moderate-income housing as documented in the Fair Share Plan itself, the Settlement Agreement entered into between the Borough and Fair Share Housing Center ("FSHC") on July 3, 2018 (hereinafter "FSHC Settlement Agreement"), and the Superior Court Order approving same, which was entered by the Court on September 14, 2018, after a properly noticed fairness hearing was held on September 11, 2018.
 3. The Borough of Manasquan shall track the status of the implementation of the Fair Share Plan.
- b. Monitoring and Reporting Requirements. The Borough of Manasquan shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Superior Court-approved Housing Element and Fair Share Plan:
1. Beginning one year after the entry of the Borough's Round 3 Judgment of Compliance and Repose, and on every anniversary of that date through 2025, the Borough shall provide an annual report of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDCA), Council on Affordable Housing (COAH), or Local Government Services (NJLGS). The report shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
 2. Beginning one year after the entry of the Borough's Round 3 Judgment of Compliance and Repose, and on every anniversary of that date through 2025, the Borough agrees to provide an annual report of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by COAH, or any other forms endorsed by the Superior Court Appointed Special Master and FSHC.
 3. The Fair Housing Act²⁶ includes two provisions regarding action to be taken by the Borough during its ten-year repose period. The Borough will comply with those provisions as follows:
 - (a) For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as

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

to its implementation of its plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether the mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the Borough, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether the mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Superior Court regarding these issues.

- (b) For the review of very-low-income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of the entry of the Borough's Judgement of Compliance and Repose, and every third year thereafter, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very-low-income requirements, including the family very-low-income requirements referenced herein. Such posting shall invite any interested party to submit comments to the Borough and Fair Share Housing Center on the issue of whether the Borough has complied with its very-low-income housing obligation under the terms of this settlement.
- (c) In addition to the foregoing postings, the Borough may also elect to file copies of its reports with COAH or its successor agency at the state level.

c. Definitions.

The following terms when used in this section shall have the meanings given in this section:

ACCESSORY APARTMENT — A self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

ACT — The Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.), as has been subsequently amended.

ADAPTABLE — Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.²⁷

ADMINISTRATIVE AGENT — The entity designated by the Borough responsible for the administration of affordable units in accordance with this section, applicable COAH regulations and the Uniform Housing Affordability Controls (UHAC N.J.A.C. 5:80-26.1 et seq.)

AFFIRMATIVE MARKETING — A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

AFFORDABILITY AVERAGE — The average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

27. Editor's Note: See now N.J.A.C. 5:23-3.14(b).

AFFORDABLE — A sales price or rent within the means of a low- or moderate-income household as defined by COAH in its applicable regulations or an equivalent controlling New Jersey state agency; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

AFFORDABLE DEVELOPMENT — A housing development all or a portion of which consists of restricted units.

AFFORDABLE HOUSING DEVELOPMENT — A development included in the Borough's Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.

AFFORDABLE HOUSING PROGRAM(S) — Any mechanism in the Borough's Fair Share Plan prepared or implemented to address the Borough's fair share obligation.

AFFORDABLE UNIT — A housing unit proposed or created pursuant to the Act, credited pursuant to applicable COAH regulations, the FSHC Settlement Agreement, or an order of the Superior Court.

AGE-RESTRICTED UNIT — A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80% of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

AGENCY — The New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1 et seq.).

ALTERNATIVE LIVING ARRANGEMENT — A structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D, and E boardinghomes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

ASSISTED LIVING RESIDENCE — A facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on a the unit entrance.

CERTIFIED HOUSEHOLD — A household that has been certified by an administrative agent as a very-low-income household, low-income household or moderate-income household.

COAH — The New Jersey Council on Affordable Housing.

DCA — The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT — A housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load-bearing structural systems.

DEPARTMENT — The Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

DEVELOPER — Any person, partnership, association, entity, company or corporation that is 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 to contract or 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 alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

INCLUSIONARY DEVELOPMENT — A development containing both affordable units and market-rate units. This term includes, but is not necessarily limited to: new construction, the conversion of a nonresidential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

LOW-INCOME HOUSEHOLD — A household with a total gross annual household income equal to 50% or less of the median household income.

LOW-INCOME UNIT — A restricted unit that is affordable to a low-income household.

MAJOR SYSTEM — The primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building, which include but are not limited to weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load-bearing structural systems.

MARKET-RATE UNITS — Housing not restricted to low- and moderate-income households that may sell or rent at any price.

MEDIAN INCOME — The median income by household size for the applicable county, as adopted annually by the Department.

MODERATE-INCOME HOUSEHOLD — A household with a total gross annual household income in excess of 50% but less than 80% of the median household income.

MODERATE-INCOME UNIT — A restricted unit that is affordable to a moderate-income household.

MUNICIPAL HOUSING LIAISON — The employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for Manasquan.

NONEXEMPT SALE — Any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of

inheritance; the transfer of ownership through an executor's deed to a Class A beneficiary and the transfer of ownership by court order.

RANDOM SELECTION PROCESS — A process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

REGIONAL ASSET LIMIT — The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by the Department's adopted Regional Income Limits published annually by COAH, a successor entity or established by the Court.

REHABILITATION — The repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

RENT — The gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

RESTRICTED UNIT — A dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHOP or MONI.

SUPPORTIVE AND SPECIAL NEEDS HOUSING — A structure or structures in which individuals or households reside, which is also referred to as "alternative living arrangements." See definition of "alternative living arrangements" above.

UHAC — The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

VERY-LOW-INCOME HOUSEHOLD — A household with a total gross annual household income equal to 30% or less of the median household income.

VERY-LOW-INCOME UNIT — A restricted unit that is affordable to a very-low-income household.

WEATHERIZATION — Building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation.

d. Applicability.

1. The provisions of this section shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Manasquan pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.
2. This section shall apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

e. Rehabilitation Programs.

1. The Borough of Manasquan and FSHC have agreed that the Borough's Round 3 (1999-2025) indigenous need rehabilitation obligation is six units. The Borough has already fully satisfied its Round 3 rehabilitation obligation and has two additional rehabilitation credits that can be applied to Round 4, should applicable law allow such credits to be counted in the future. If the Borough chooses to continue to participate in the Monmouth County Rehabilitation Program and/or hires a separate qualified entity to rehabilitate units in the Borough, this section will apply. Any such rehabilitation programs will update and renovate deficient housing units occupied by low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.
 - (a) All rehabilitated rental and owner-occupied units shall remain affordable to low- and moderate-income households for a period of 10 years (the control period). For owner-occupied units, the control period will be enforced with a lien and for renter-occupied units the control period will be enforced with a deed restriction.
 - (b) The Borough of Manasquan shall dedicate an average of at least \$10,000 for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.
 - (c) Units in the rehabilitation programs shall be exempt from N.J.A.C. 5:93-9²⁸ and UHAC requirements, but shall be administered in accordance with the following:
 - (1) If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:93-9 and UHAC.
 - (2) If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:93-9 and UHAC.
 - (3) Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:93-9 or the standards issued by a New Jersey administrative agency with proper authority to issue such standards.
 - (4) Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:93-9 and UHAC, except that households in owner-occupied units shall be exempt from the regional asset limit.
- f. Alternative living arrangements.
 1. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5:8²⁹ and UHAC, with the following exceptions:
 - (a) Affirmative marketing (N.J.A.C. 5:80-26.15); provided, however, that the units

28. Editor's Note: In accordance with N.J.S.A. 52:14B-5.1b, Chapter 93, Substantive Rules of the New Jersey Council on Affordable Housing for the Period Beginning June 6, 1994, expired on 10-16-2016.

29. Editor's Note: In accordance with N.J.S.A. 52:14B-5.1b, Chapter 93, Substantive Rules of the New Jersey Council on Affordable Housing for the Period Beginning June 6, 1994, expired on 10-16-2016.

or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Superior Court;

- (b) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
 - 2. With the exception of units established with capital funding through a twenty-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least thirty-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Superior Court.
 - 3. The service provider for the alternative living arrangement shall act as the administrative agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.
- g. Phasing schedule for inclusionary developments.

In inclusionary developments the following schedule shall be followed:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low-and Moderate-Income Units Completed
25	0
25+1	10
50	50
75	75
90	100

- h. New construction.
 - 1. Low/moderate split and bedroom distribution of affordable housing units:
 - (a) The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least 13% of all restricted rental units shall be very-low-income units (affordable to a household earning 30% or less of regional median income by household size). The very-low-income units shall be counted as part of the required number of low-income units within the development. At least 50% of the very-low-income units must be available to families.
 - (b) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units including at least 13% of the restricted units within each bedroom distribution shall be very-low-income units.
 - (c) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - (1) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;

- (2) At least 30% of all low- and moderate-income units shall be two-bedroom units;
 - (3) At least 20% of all low- and moderate-income units shall be three-bedroom units; and
 - (4) The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer and the Borough.
- (d) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.
2. Accessibility requirements:
- (a) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.³⁰
 - (b) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - (1) An adaptable toilet and bathing facility on the first floor; and
 - (2) An adaptable kitchen on the first floor; and
 - (3) An interior accessible route of travel on the first floor; and
 - (4) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - (5) If all of the foregoing requirements in Subsection h2(b)(1) through (4) above cannot be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of Subsection h2(b)(1) through (4) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
 - (6) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7,³¹ or evidence that Manasquan has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
 - (i) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - (ii) To this end, the builder of restricted units shall deposit funds into the

30. Editor's Note: See now N.J.A.C. 5:23-3.14(b).

31. Editor's Note: See now N.J.A.C. 5:23-3.14(b).

Borough of Manasquan's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.

- (iii) The funds deposited under Subsection h2b(6) above shall be used by the Borough of Manasquan for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - (iv) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Manasquan for the conversion of adaptable to accessible entrances.
 - (v) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meets the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7,³² and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
- (7) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

3. Design:

- (a) In inclusionary developments, very-low, low- and moderate-income units shall be integrated with the market units to the extent possible.
- (b) In inclusionary developments, very-low, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

4. Maximum rents and sales prices:

- (a) In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD.
- (b) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52% of median income.
- (c) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and

32. Editor's Note: See now N.J.A.C. 5:23-3.14(b).

moderate-income units, provided that at least 13% of all low- and moderate-income rental units shall be affordable to very-low-income households, which very-low-income units shall be part of the low-income requirement.

- (d) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
- (e) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - (1) A studio shall be affordable to a one-person household;
 - (2) A one-bedroom unit shall be affordable to a one-and-one-half-person household;
 - (3) A two-bedroom unit shall be affordable to a three-person household;
 - (4) A three-bedroom unit shall be affordable to a four-and-one-half-person household; and
 - (5) A four-bedroom unit shall be affordable to a six-person household.
- (f) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
 - (1) A studio shall be affordable to a one-person household;
 - (2) A one-bedroom unit shall be affordable to a one-and-one-half-person household; and
 - (3) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- (g) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner's association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (h) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4,

as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

- (i) Income limits for all units that are part of the Borough's Housing Element and Fair Share Plan, and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1, shall be updated by the Borough annually within 30 days of the publication of determinations of median income by HUD as follows:
 - (1) The income limit for a moderate-income unit for a household of four shall be 80% of the HUD determination of the median income for COAH Region 4 for a family of four. The income limit for a low-income unit for a household of four shall be 50% of the HUD determination of the median income for COAH Region 4 for a family of four. The income limit for a very-low-income unit for a household of four shall be 30% of the HUD determination of the median income for COAH Region 4 for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than the previous year.
 - (2) The income limits are based on carrying out the process in Subsection h4(i)(1) based on HUD determination of median income for the current fiscal year, and shall be utilized by the Borough until new income limits are available.
- (j) In establishing sale prices and rents of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by the Council:
 - (1) The price of owner-occupied very-low, low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region determined pursuant to Subsection h4(i). In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
 - (2) The rents of very-low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Central New Jersey Area, upon its publication for the prior calendar year. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.

i. Utilities.

- 1. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
- 2. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by the NJDCA for its

Section 8 program.

- j. Occupancy standards. In referring certified households to specific restricted units, the administrative agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:
 - 1. Provide an occupant for each bedroom;
 - 2. Provide children of different sexes with separate bedrooms;
 - 3. Provide separate bedrooms for parents and children; and
 - 4. Prevent more than two persons from occupying a single bedroom.
- k. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.
 - 1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this section for a period of at least 30 years, until Manasquan Borough takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
 - 2. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
 - 3. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Borough's administrative agent, or an administrative agent appointed by a particular developer, shall determine the restricted price for the unit and shall also determine the nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
 - 4. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Borough's administrative agent, or an administrative agent appointed by a particular developer, a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first nonexempt sale after the unit's release from the restrictions set forth in this section, an amount equal to the difference between the unit's nonrestricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
 - 5. The affordability controls set forth in this section shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
 - 6. A restricted ownership unit shall be required to obtain a continuing certificate of occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.
- l. Price Restrictions for restricted ownership units, homeowners' association fees and resale

prices. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

1. The initial purchase price for a restricted ownership unit shall be approved by the Borough's administrative agent, or an administrative agent appointed by a particular developer.
2. The Borough's administrative agent, or an administrative agent appointed by a particular developer, shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowners' association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers, unless the master deed for the inclusionary project was executed prior to the enactment of UHAC.
4. The owners of restricted ownership units may apply to the Borough's administrative agent, or an administrative agent appointed by a particular developer, to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

m. Buyer Income Eligibility.

1. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate- income ownership units shall be reserved for households with a gross household income less than 80% of median income.
2. The administrative agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate- income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowners' association fees, as applicable) does not exceed 33% of the household's eligible monthly income.

n. Limitations on Indebtedness Secured by Ownership Unit; Subordination.

1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Borough's administrative agent, or an administrative agent appointed by a particular developer, for a determination in writing that the proposed indebtedness complies with the provisions of this section, and the Borough's administrative agent, or an administrative agent appointed by a particular developer, shall issue such determination prior to the owner incurring such indebtedness.
2. With the exception of first purchase money mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of the unit, as such price is determined by the Borough's administrative agent, or an administrative

agent appointed by a particular developer, in accordance with N.J.A.C. 5:80-26.6(b).

o. Capital Improvements to Ownership Units.

1. The owners of restricted ownership units may apply to the Borough's administrative agent, or an administrative agent appointed by a particular developer, to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
2. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Borough's administrative agent, or an administrative agent appointed by a particular developer, at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to ten-year, straight-line depreciation, has been approved by the Borough's administrative agent, or an administrative agent appointed by a particular developer. Unless otherwise approved by the Borough's administrative agent, or an administrative agent appointed by a particular developer, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

p. Control Periods for Restricted Rental Units.

1. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this section for a period of at least 30 years, until Manasquan Borough takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
2. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Monmouth. A copy of the filed document shall be provided to the Borough's administrative agent within 30 days of the receipt of a certificate of occupancy.
3. A restricted rental unit shall remain subject to the affordability controls described in this section despite the occurrence of any of the following events:
 - (a) Sublease or assignment of the lease of the unit;
 - (b) Sale or other voluntary transfer of the ownership of the unit; or

- (c) The entry and enforcement of any judgment of foreclosure on the property containing the unit.

q. Rent Restrictions for Rental Units; Leases.

1. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Borough's administrative agent, or an administrative agent appointed by a particular developer.
2. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Borough's administrative agent, or an administrative agent appointed by a particular developer.
3. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the developer and/or landlord or to the Borough's administrative agent appointed by a particular developer. If the fees are paid to the Borough's administrative agent or an administrative agent appointed by a particular developer, they are to be applied to the costs of administering the controls applicable to the unit as set forth in this section.
4. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this section.

r. Tenant Income Eligibility.

1. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 - (a) Very-low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of the regional median household income by household size.
 - (b) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of the regional median household income by household size.
 - (c) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of the regional median household income by household size.
2. The Borough's administrative agent, or a qualified administrative agent appointed by a particular developer, shall certify a household as eligible for a restricted rental unit when the household is a very-low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% 40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

- (a) The household currently pays more than 35% 40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - (b) The household has consistently paid more than 35% 40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - (c) The household is currently in substandard or overcrowded living conditions;
 - (d) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - (e) The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the administrative agent and the owner of the unit.
- 3. The applicant shall file documentation sufficient to establish the existence of the circumstances in Subsection r2(a) through (e) above with the Borough's administrative agent, or an administrative agent appointed by a particular developer, who shall counsel the household on budgeting.
- s. Municipal Housing Liaison.
 - 1. The position of Municipal Housing Liaison (MHL) for the Borough of Manasquan is established by this section. The Borough shall make the actual appointment of the MHL by means of a resolution.
 - (a) The MHL must be either a full-time or part-time employee of Manasquan.
 - (b) The person appointed as the MHL must be reported to the Superior Court and thereafter posted on the Borough's website.
 - (c) The MHL must meet all the requirements for qualifications, including initial and periodic training, if such training is made available by COAH or the DCA.
 - (d) The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Manasquan, including the following responsibilities which may not be contracted out to the administrative agent, or the administrative agent appointed by a specific developer:
 - (1) Serving as the municipality's primary point of contact for all inquiries from the state, affordable housing providers, administrative agents and interested households;
 - (2) The implementation of the Affirmative Marketing Plan and affordability controls;
 - (3) When applicable, supervising any contracting administrative agent;
 - (4) Monitoring the status of all restricted units in the Borough's Fair Share Plan;

- (5) Compiling, verifying and submitting annual reports as required;
 - (6) Coordinating meetings with affordable housing providers and administrative agents, as applicable; and
 - (7) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ), if such continuing education opportunities are made available by COAH or the DCA.
 2. Subject to the approval of the Superior Court, the Borough of Manasquan shall designate one or more administrative agent(s) to administer and to affirmatively market the affordable units constructed in the Borough in accordance with UHAC and this section.
- t. Administrative agent. An administrative agent may be either an independent entity serving under contract to and reporting to the Borough, or reporting to a specific individual developer. The fees of the administrative agent shall be paid by the owners of the affordable units for which the services of the administrative agent are required. The Borough administrative agent shall monitor and work with any individual administrative agents appointed by individual developers. The administrative agent(s) shall perform the duties and responsibilities of an administrative agent as set forth in UHAC including those set forth in N.J.A.C. 5:80-26.14, 5:80-26.16 and 5:80-26.18 thereof, which includes:
 1. Affirmative marketing:
 - (a) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Manasquan and the provisions of N.J.A.C. 5:80-26.15; and
 - (b) Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
 2. Household certification:
 - (a) Soliciting, scheduling, conducting and following up on interviews with interested households;
 - (b) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
 - (c) Providing written notification to each applicant as to the determination of eligibility or noneligibility;
 - (d) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
 - (e) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in

the housing region where the units are located;

- (f) Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Manasquan when referring households for certification to affordable units; and
 - (g) Notifying the following entities of the availability of affordable housing units in the Borough of Manasquan: FSHC, the New Jersey State Conference of the NAACP, the Latino Action Network, STEPS, OCEAN Inc., the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch, and Trenton Branches of the NAACP and the Supportive Housing Association.
3. Affordability controls:
- (a) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
 - (b) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
 - (c) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Monmouth County Register of Deeds or the Monmouth County Clerk's office after the termination of the affordability controls for each restricted unit;
 - (d) Communicating with lenders regarding foreclosures; and
 - (e) Ensuring the issuance of continuing certificates of occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
4. Resales and rentals:
- (a) Instituting and maintaining an effective means of communicating information between owners and the Borough's administrative agent, or any administrative agent appointed by a specific developer, regarding the availability of restricted units for resale or rental; and
 - (b) Instituting and maintaining an effective means of communicating information to very-low, low- and moderate-income households regarding the availability of restricted units for resale or rental.
5. Processing requests from unit owners:
- (a) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this section;
 - (b) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air-conditioning systems;

- (c) Notifying the Borough of an owner's intent to sell a restricted unit; and
 - (d) Making determinations on requests by owners of restricted units for hardship waivers.
6. Enforcement:
- (a) Securing annually from the Borough a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
 - (b) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Borough's administrative agent, or any administrative agent appointed by a specific developer;
 - (c) Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the Borough's administrative agent, or any administrative agent appointed by a specific developer, where complaints of excess rent or other charges can be made;
 - (d) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
 - (e) Establishing a program for diverting unlawful rent payments to the Borough's Affordable Housing Trust Fund; and
 - (f) Creating and publishing a written operating manual for each affordable housing program administered by the Borough's administrative agent, or any administrative agent appointed by a specific developer, to be approved by the Borough Council and the Superior Court, setting forth procedures for administering the affordability controls.
7. Additional responsibilities:
- (a) The administrative agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
 - (b) The administrative agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this section. The Borough's administrative agent will be responsible for collecting monitoring information from any administrative agents appointed by specific developers.
 - (c) The Borough's administrative agent, or any administrative agent appointed by a specific developer, shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

u. Affirmative Marketing Requirements.

1. The Borough of Manasquan shall adopt by resolution an Affirmative Marketing Plan that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 4 and is required to be followed throughout the period of restriction.
3. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 4, comprised of Mercer, Monmouth and Ocean Counties.
4. The Borough has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and rerentals. The Borough's administrative agent designated by the Borough of Manasquan, or any administrative agent appointed by a specific developer, shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
5. In implementing the Affirmative Marketing Plan, the Borough's administrative agent, or any administrative agent appointed by a specific developer, shall provide a list of counseling services to very-low, low-, and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
6. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Borough's administrative agent, or any administrative agent appointed by a specific developer, shall consider the use of language translations where appropriate.
7. The affirmative marketing process for available affordable units shall begin at least 120 days prior to the expected date of occupancy.
8. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; and the municipal building in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
9. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

v. Enforcement of Affordable Housing Regulations.

1. Upon the occurrence of a breach of any of the regulations governing an affordable

unit by an owner, developer or tenant, the Borough shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

2. After providing written notice of a violation to an owner, developer or tenant of a low- or moderate-income unit and advising the owner, developer or tenant of the penalties for such violations, the Borough may take the following action(s) against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - (a) The Borough may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the owner, developer or tenant is adjudged by the Superior Court to have violated any provision of the regulations governing affordable housing units, the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - (1) A fine of not more than \$2,000 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - (2) In the case of an owner who has rented a very-low, low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Manasquan Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (3) In the case of an owner who has rented a very-low, low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
 - (b) The Borough may file a court action in the Superior Court seeking a judgment that would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- or moderate-income unit.
 - (1) The judgment shall be enforceable, at the option of the Borough, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the Borough, including attorney's fees. The violating owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
 - (2) The proceeds of the Sheriff's sale shall first be applied to satisfy the first

purchase money mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the Borough for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the Borough in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the Borough in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the Borough for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the Borough for such. Failure of the owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the Borough. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Borough, whether such balance shall be paid to the owner or forfeited to the Borough.

- (3) Foreclosure by the Borough due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the very-low, low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (4) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the Borough may acquire title to the very-low, low- and moderate-income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the very-low, low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- (5) Failure of the very-low, low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the Borough shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the Borough, with such offer to purchase being equal to the maximum resale price of the very-low, low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- (6) The owner shall remain fully obligated, responsible and liable for

complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.

- w. Appeals. Appeals from all decisions of an administrative agent appointed pursuant to this section shall be filed in writing with the Superior Court.

§ 35-37. (RESERVED)³³

§ 35-38. (RESERVED)³⁴

Inclusionary Zoning Provisions (Affordable Housing)

§ 35-38A. AFFORDABLE HOUSING MANDATORY SET-ASIDE. [Ord. No. 2202-2016; amended 3-18-2019 by Ord. No. 2283-19]

Accessory Apartments (Affordable Housing)

§ 35-38.1. Purpose and Scope.

- a. This section amends the Borough land use ordinances by establishing regulations to ensure that any site that benefits from a rezoning, variance or redevelopment plan approved by the Borough or the Borough Planning/Zoning Board that results in multifamily residential development of five dwelling units produces affordable housing at a set-aside rate of 20%, in accordance with the Borough's Third Round Housing Element and Fair Share Plan, consistent with the terms of the Settlement Agreement reached with Fair Share Housing Center regarding compliance with the Borough's affordable housing obligations. This section will not apply to the Borough's RM, B-A, BR-1, O and B-3 Zones, as said zones already have affordable housing set-aside requirements.

§ 35-38.2. Affordable Housing Mandatory Set-Aside Requirement.

- a. If the Borough or the Borough's Planning Board permits the construction of multifamily or single-family attached residential development that is "approvable" and "developable," as defined at N.J.A.C. 5:93-1.3,³⁵ the Borough or the Borough's Planning Board shall require that an appropriate percentage of the residential units be set aside for low- and moderate-income households.
- b. This requirement shall apply beginning with the effective date the ordinance creating this section was adopted to any multifamily or single-family attached residential development, including the residential portion of a mixed-use project, which consists of five or more new residential units, whether permitted by a zoning amendment, a variance granted by the Borough's Planning Board, or adoption of a redevelopment plan or amended redevelopment

33. Editor's Note: Former § 35-37, Alternative Marking for Affordable Housing, Ord. No. 1935-04 § 2, was repealed 3-18-2019 by Ord. No. 2282-19. See now § 35-36.

34. Editor's Note: Former § 35-38, Municipal Housing Liaison, Ord. No. 2044-08, was repealed 3-18-2019 by Ord. No. 2282-19. See now § 35-36.

35. Editor's Note: In accordance with N.J.S.A. 52:14B-5.1b, Chapter 93, Substantive Rules of the New Jersey Council on Affordable Housing for the Period Beginning June 6, 1994, expired on 10-16-2016.

plan in areas in need of redevelopment or rehabilitation.

- c. For any such development for which the Borough's land use ordinances (e.g., zoning or an adopted redevelopment plan) already permitted residential development as of the effective date of the ordinance creating this section was adopted, this requirement shall only apply if the Borough or the Borough's Planning Board permits an increase in approvable and developable gross residential density up to twice the permitted approvable and developable gross residential density as of the effective date the ordinance creating this section was adopted.
- d. Nothing in this section precludes the Borough or the Borough's Planning Board from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to this subsection consistent with N.J.S.A. 52:27D-311(h) and other applicable law.
- e. For all inclusionary projects, the appropriate set-aside percentage will be 20%.
- f. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a redevelopment plan or amended redevelopment plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project.
- g. This requirement does not apply to any sites or specific zones otherwise identified in the Borough's Settlement Agreement with FSHC, which was executed by the Borough on July 3, 2018, or in the Borough's 2019 Housing Element and Fair Share Plan, for which density and set-aside standards shall be governed by the specific standards set forth therein. As such, this section will not apply to the Borough's RM, B-A, BR-1, O and B-3 Zones, as said zones already have affordable housing set-aside requirements.
- h. Furthermore, this section shall not apply to developments containing four or less dwelling units.
- i. All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section.
- j. Where a developer demolishes existing dwelling units and builds new dwelling units on the same site, the provisions of this section shall apply only if the net number of dwelling units is five or more.
- k. All inclusionary projects created under this section must comply with the affordable housing requirements in § 35-36, Affordable Housing Regulations.

§ 35-38B. ACCESSORY APARTMENTS. [Ord. No. 2203-2016; amended 3-18-2019 by Ord. No. 2284-19]

This section sets forth regulations governing an affordable accessory apartment program, which is hereby enacted for the purpose of providing the opportunity to construct affordable housing in the Borough of Manasquan.

- a. Definitions. As used in this section, the following terms shall have the meanings indicated:
ACCESSORY APARTMENT — A self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters, and a private entrance, which is created within an

existing home, or through the conversion of an existing attached accessory structure on the same site, or by an addition to an existing home or accessory building.

b. General provisions.

1. Accessory apartments shall be permitted in all zones located in the Borough and shall be subject to the bulk and yard requirements of the zone in which the unit is located.
2. There shall be water and sewer infrastructure available to serve any proposed accessory apartment.
3. An accessory apartment shall consist of no fewer than two rooms, one of which shall be a full bathroom, and shall contain a living space, sleeping space, cooking facilities, a kitchen sink, and complete sanitary facilities for the exclusive use of its occupants.
4. Each accessory apartment shall be served by a separate entrance that provides direct access to the outdoors.
5. Accessory apartments shall comply with all other applicable statutes and regulations of the State of New Jersey and shall be constructed in accordance with all applicable building codes.
6. Accessory apartments shall be exempt from the required bedroom mix governing the provision of affordable housing as permitted in N.J.A.C. 5:93-5.9.³⁶
7. Each accessory apartment shall be affirmatively marketed to the region in accordance with N.J.A.C. 5:93-11.1³⁷ and the Borough's Affirmative Marketing Plan.

c. Affordability.

1. The Borough shall provide a subsidy for accessory apartment program of \$25,000 for a moderate-income unit, \$35,000 for a low-income unit and \$50,000 for a very-low-income unit to subsidize the creation of each accessory apartment. Such subsidy may be used to fund actual construction costs or to provide compensation for the reduced rental rates needed to ensure the affordability of the unit. Prior to the grant of such subsidy, the property owner shall enter into a written agreement with the Borough to ensure that: i) the subsidy is used to create the accessory apartment; and ii) the apartment meets requirements of this section and all applicable regulations governing accessory apartments in effect at the time of creation.
2. Affordability controls shall be established for each accessory apartment created in accordance with the provisions of this section. Such affordability controls shall remain in place for a minimum of 10 years and shall be included in a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located. Such deed or declaration of covenants shall run with the land and limit the subsequent rental or sale of the unit so as to ensure the continued affordability of the unit until the expiration of affordability controls.
3. Accessory apartments shall maintain affordability for either moderate- or low-income

36. Editor's Note: In accordance with N.J.S.A. 52:14B-5.1b, Chapter 93, Substantive Rules of the New Jersey Council on Affordable Housing for the Period Beginning June 6, 1994, expired on 10-16-2016.

37. Editor's Note: In accordance with N.J.S.A. 52:14B-5.1b, Chapter 93, Substantive Rules of the New Jersey Council on Affordable Housing for the Period Beginning June 6, 1994, expired on 10-16-2016.

households in accordance with applicable regional income limits. The maximum rent for accessory apartments, inclusive of the cost of utilities, shall be affordable to households earning no more than 60% of area median income. Accessory apartments for very-low-income households shall be affordable to households earning no more than 50% of area median income. Accessory apartments for very-low-income households shall be affordable to households earning no more than 30% of area median income. The rents of accessory apartments shall be based on the number of bedrooms in accordance with N.J.A.C. 5:80-26.4.

4. The rents of all accessory apartments, inclusive of utilities, created through the Borough's accessory apartment program shall be distributed such that the average rents do not exceed 57.5% of median income. The average affordability of accessory apartments within the Borough shall be verified and maintained by the Borough's administrative agent.
5. Accessory apartments may be age-restricted provided that each age-restricted accessory apartment is applied toward the Borough's age-restricted cap. Any accessory apartment may be deemed ineligible to be age-restricted by the Borough if the Borough's age-restricted cap has been met.

d. Administration.

1. The Borough of Manasquan shall administer or designate an administrative entity to administer the Borough's accessory apartment program. The administration of the accessory apartment program shall include advertising and affirmatively marketing the accessory apartments, completing income qualification activities for prospective renters, determining monthly rents and annual rental increases, maintaining a waiting list, distributing the subsidy used to create or maintain the affordability of the accessory apartments, securing certificates of occupancy, qualifying properties for the appropriateness of accessory apartments, administering the application process, filing deed restrictions and/or covenants, ensuring the average affordability of the Borough's accessory apartment program, and preparing and filing monitoring reports as required.
2. The Borough shall only deny an application for an accessory apartment if the project does not conform to applicable state affordable housing provisions, the Borough's development ordinance, or this section. All application denials shall be in writing and shall clearly state the reason(s) for denial.

e. Application submission requirements.

1. Applicants seeking to create an accessory apartment shall submit the following to the Borough:
 - (a) A site plan prepared in accordance with the requirements of § 35-20 of the Borough Zoning Ordinance, except that the applicant may request a waiver of information pursuant to § 35-20.4, Waiver of Information, of the Borough Zoning Ordinance. Such request for waiver shall be made in writing and shall be submitted with a sketch site plan in lieu of a full site plan. The Borough Engineer shall evaluate the applicant's submission package and shall advise the applicant in writing whether the applicant's submission is sufficient or whether any additional information is required to evaluate the applicant's proposal.

- (b) Floor plan(s) showing the location and size of the proposed accessory apartment and the relationship of the unit to the primary dwelling(s) within the building or located in another structure on the same property.
 - (c) Architectural elevations depicting all modifications to the exterior building facade(s).
- f. Severability.
 - 1. If any provision of this section is determined to be invalid by a court of competent jurisdiction, then such provisions shall be severed and the remaining provisions of this section shall continue to be valid.

§ 35-39. TELECOMMUNICATIONS TOWERS AND ANTENNAS.

§ 35-39.1. Purpose. [Ord. No. 2179-15 § 35-38.1; Ord. No. 2184-15]

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

§ 35-39.2. Nonapplicability to Amateur Radio Stations and to Receive-Only Antennas. [Ord. No. 2179-15 § 35-38.2; Ord. No. 2184-15]

The provisions of this section shall not govern any antenna that is owned and operated by a Federally licensed amateur radio station operator or is used exclusively as a receive-only antenna

in accordance with Federal Communications Commission (FCC) regulations.

§ 35-39.3. Telecommunications Towers and Antennas on Borough Property. [Ord. No. 2179-15 § 35-38.3; Ord. No. 2184-15]

Telecommunications towers and antennas that are located on property owned, leased or otherwise controlled by the Borough of Manasquan and that are approved by the Mayor and Borough Council shall be deemed to be a permitted use as a municipal facility in any zone district and will not require site plan approval.

§ 35-39.4. Telecommunications Towers and Antennas on Non-Borough Property. [Ord. No. 2179-15 § 35-38.4; Ord. No. 2184-15]

- a. Telecommunications towers may be allowed as a conditional use within the B-3 General Business Zone East of Parker Avenue in Blocks 52, 53, 54, 55 and 56 and in a northerly direction from Stockton Lake Boulevard to Sea Girt Avenue on property that is not owned, leased, or otherwise controlled by the Borough of Manasquan, subject to the minimum standards of the zone district and the standards, regulations and requirements set forth in this section. Site plan approval shall be required prior to the installation of telecommunications towers on non-Borough property.³⁸
- b. Telecommunications towers shall only be permitted on non-Borough property where the municipal approving authority has determined the following:
 1. There is substantial evidence that there is a significant telecommunications gap in the Borough that the proposed facility will correct.
 2. There is no Borough-owned property available and no telecommunications towers on Borough-owned property available where a proposed facility could locate or collocate that would correct the telecommunications gap.
 3. There are no non-Borough wireless telecommunications towers or transmission facilities available on which the proposed facility could locate or collocate that would correct the telecommunications gap.
 4. There is no residential use, school use, or health-care use on the lot on which the proposed facility is to be located and that the existing use and structure does not preclude the installation of a tower and antenna on the same lot.
 5. The application for the proposed facility is the joint application of two or more telecommunications carriers, licensed to provide service within the area, and that the application provides for the collocation of two or more carriers at the site.
 6. The dimensions of the entire lot on which the facility is located are used for the purpose of determining whether the installation of a tower complies with zone district development regulations, including but not limited to setback, lot coverage, and other such requirements. The dimensions of the entire lot shall control, even though the tower may be located on a leased parcel within such lot.
 7. A plan is submitted for the periodic testing of the facility to ensure ongoing

38. Editor's Note: The map referred to herein may be found in the Borough offices.

compliance with applicable Federal and/or State standards, the plan is subject to the review and approval of the Planning Board.

- c. Telecommunications towers shall only be permitted on non-Borough property where the municipal approving authority has determined the following:
 - 1. There is no Borough-owned property available and no telecommunications antennas on Borough-owned property available where a proposed facility could locate or collocate that would correct the telecommunications gap.
 - 2. There are no non-Borough wireless telecommunications antennas available on which the proposed facility could locate or collocate that would correct the telecommunications gap.
 - 3. There is no residential use, school use, or health-care use on the lot on which the proposed facility is to be located and that the existing use and structure does not preclude the installation of a tower and antenna on the same lot.
 - 4. The dimensions of the entire lot on which the facility is located are used for the purpose of determining whether the installation of a tower complies with zone district development regulations, including but not limited to setback, lot coverage, and other such requirements. The dimensions of the entire lot shall control, even though the tower may be located on a leased parcel within such lot.
 - 5. A plan is submitted for the periodic testing of the facility to ensure ongoing compliance with applicable Federal and/or State standards, the plan is subject to the review and approval of the Planning Board.
- d. Each applicant for a tower and antenna shall provide to the Planning Board, as part of its application, an inventory of its existing towers, antennas, or sites approved for towers and antennas, that are either within the jurisdiction of the Borough or within two miles of the border thereof, including specific information about the location, height, and design of each tower. The Borough may share such information with other applicants applying for approvals under this section or other organizations seeking to locate towers or antennas within the jurisdiction of the Borough; provided, however, that the Borough is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- e. Telecommunications towers and antennas shall meet the following aesthetic requirements:
 - 1. Towers shall either maintain a finish or be painted a color approved by the Planning Board, so as to reduce visual obtrusiveness, subject to any applicable standards of the FAA.
 - 2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
 - 3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

4. Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
 5. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the State or Federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
 6. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable State or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Borough concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then, upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
 7. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Borough irrespective of municipal and County jurisdictional boundaries.
 8. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Borough have been obtained and shall file a copy of all required franchises with the Borough.
 9. No signs shall be allowed on an antenna or tower.
 10. Buildings and support equipment associated with antennas or towers shall comply with the requirements as set forth herein.
 11. The tower, including antennas, shall be a maximum height of 150 feet above the ground level at the base of the tower and usage criteria. The applicant shall submit structural design calculations certified by a licensed New Jersey professional engineer that the tower can structurally accommodate the number of shared users proposed by the applicant.
- f. Applicants for approval for a telecommunications tower shall submit, in addition to any information required for applications for site plan review, the following:
1. A location plan drawn to scale and clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of the

site and all properties within the applicable separation distances, set forth herein, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, and parking.

2. A survey and legal description of the parent tract and leased parcel (if applicable).
 3. The setback distance between the proposed tower and the nearest residential unit, and residentially zoned properties.
 4. The separation distance from other towers described in the inventory of existing sites submitted shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
 5. A landscape plan showing specific landscape materials.
 6. Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
 7. A description of compliance with all of the sections herein and all applicable Federal, State or local laws.
 8. A statement by the applicant as to the number of users construction of the tower will accommodate for collocation.
 9. Identification of the entities providing the back haul network for the tower(s) described in the application and other telecommunication service sites owned or operated by the applicant in the Borough.
 10. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed tower.
 11. A description of the feasible location(s) of future towers or antennas within the Borough based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- g. Pursuant to this section, the Planning Board shall, in addition to any standards for consideration of site plans, consider the following factors in the conditional use application:
1. Availability of suitable existing towers, other structures or alternative technologies not requiring the use of towers or structures, as discussed herein.
 2. Height of the proposed tower.
 3. Proximity of the tower to residential structures and residential district boundaries.
 4. Nature of uses on adjacent and nearby properties.
 5. Surrounding topography.
 6. Surrounding tree coverage and foliage.
 7. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

8. Proposed ingress and egress to the site.
- h. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Board that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the municipal agency related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
 1. No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
 2. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
 3. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
 4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 5. The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs not exceeding new tower development are presumed to be reasonable.
 6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 7. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- i. The following minimum setback requirements shall apply to all telecommunications towers for which site plan approval is required:
 1. Towers must be set back a distance equal to at least 100% of the height of the tower from any adjoining lot line, but in no event shall the tower be located in the minimum required yard area or buffer area of the zone district.
 2. Guys and accessory buildings and structures must satisfy the minimum zoning district setback and buffer requirements.
 3. Separation from off-site uses/designated areas:
 - (a) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in paragraph i3(b) below, except as otherwise provided.

- (b) Towers shall maintain a separation distance of 100 feet or 100% of the tower height; whichever is greater, from residential dwelling units.
4. Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers or other proposed towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown below in the Table of Required Separation Distances Between Towers.

Table of Required Separation Distances Between Towers				
	Lattice	Guyed	Monopole 75 Feet in Height or Greater	Monopole Less Than 75 Feet in Height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 feet in height or greater	1,500	1,500	1,500	750
Monopole less than 75 feet in height	750	750	750	750

- j. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anticleimbing device; provided, however, that the municipal agency may waive such requirements, as it deems appropriate.
- k. The following requirements shall govern the landscaping surrounding towers for which site plan approval is required; provided, however, that the municipal agency may waive such requirements if the goals of this chapter would be better served thereby:
1. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences.
 2. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced.
 3. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
- l. In approving the tower, the Planning Board may impose conditions, including the use of an alternative tower structure, to the extent the municipal agency concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties or the neighborhood in which it is located.
- m. Buildings or other equipment storage structures shall comply with the following:
1. Antennas mounted on buildings or existing elevated structures shall not extend more than 30 feet above the highest point of the building's roof or above the highest point of the structure. The equipment cabinet or structure used in association with antennas

shall comply with the following.

2. The cabinet or structure shall not contain more than 200 square feet of gross floor area or be more than 10 feet in height. In addition, for buildings and structures that are less than 65 feet in height, the related unmanned equipment structure, if over 200 square feet of gross floor area or 10 feet in height, shall be located on the ground and shall not be located on the roof of the structure.
 3. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 10% of the roof area.
 4. Equipment storage buildings or cabinets shall comply with all applicable building codes.
- n. Antennas shall not be located on tower utility poles or light poles within a Borough street or right-of-way unless such facilities are approved by the Borough Council. Antennas proposed on towers, utility poles, or light poles within a street or right-of-way not owned by the Borough shall require approval as a conditional use. The related unmanned equipment structure shall not contain more than 200 square feet of gross floor area or be more than 10 feet in height, requirements of the zoning district in which located, and shall be screened from view of all residential properties.
- o. Any tower or antenna that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the Borough of Manasquan notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.