

§ 185-19. Purposes.

The purposes of these districts are to:

- A. Protect the valuable and environmentally sensitive areas of southern Hardyston from the adverse impacts of development.
- B. Preserve the rural character of the southern portion of Hardyston Township and the visual quality of the area so as to lessen the effect of artificially imposed development.
- C. Provide a regulatory mechanism through which appropriate development can occur considering the exceptional, unique, irreplaceable and delicately balanced physical, chemical and biologically acting and interacting natural environment encompassed in the southern Hardyston area.
- D. Foster the long-term social, economic, aesthetic and recreational interest of the people of Hardyston Township.
- E. Provide an equitable, understandable development mechanism that establishes clearly definable goals and advances the public interest by balancing the aforementioned environmental interests with the rights of persons owning property in this district through the encouragement of development of compatible land uses in order to improve the overall environmental and economic basis of the area.
- F. The Township further recognizes the legitimate economic aspirations of the property owners of the districts and wishes to encourage development of compatible land uses in order to improve the overall economic position of the inhabitants of that area within the framework of a comprehensive environmental design strategy which preserves the most ecologically sensitive and fragile area from inappropriate development and provides adequate environmental safeguards for the construction of any facilities in the district.
- G. Provide for the orderly development and effective preservation of the environment of the MIDD-10, MIDD-5 and MIDD-3 Zones in order to ensure that the development of the zones is regulated in a manner that is fair, efficient and effective as to those persons owning property affected by this subsection. (See Proposed Zone Change Map 16.)

§ 185-20. Definitions.

For the purposes of this article, unless the context clearly indicates a different meaning, the following definitions shall apply:

ADAPTIVE REUSE — The process of rehabilitating an existing structure for a permitted principal or accessory use.

LINKAGE — An open space design principle whereby large open space areas are connected via appropriate linear open space. Stream corridors and ridgelines are among areas which may be used to provide linkage.

LOT DISTURBANCE — All areas disturbed for the purpose of the construction of buildings and structures on an individual fee simple lot. This total shall include all disturbance, including but not limited to building and structure areas, septic wells, lawns and areas of tree removal.

MASSING — The concentration of open space in large contiguous tracts in appropriate areas.

TRACT DISTURBANCE — All tract disturbance not associated with the development of individual lots, including areas disturbed for roadways, utility systems and stormwater management basins to address stormwater for the entire development.

§ 185-21. Submission requirements.

- A. Preliminary design assessment. In addition to those items required for submission in accordance with the Hardyston Township preliminary major subdivision checklist, all applicants for major subdivisions within the Minimum Impact Development Districts must also provide a preliminary design assessment fulfilling the requirements of the preliminary design assessment checklist contained in Appendix A.¹ This assessment shall also include a graphic and narrative site feature inventory, all significant site features, including all critical areas, vistas, ridgelines, wetlands, floodplains, slopes, tree lines, stone rows, significant rock outcrops and free masses, rare and endangered species habitats, trout maintenance and trout production streams and any additional features uniquely affecting a site.
- B. Wildlife management plan. In projects involving 100 or more acres, a wildlife management plan shall be submitted fulfilling the requirements of the wildlife management plan checklist contained in Appendix B.² This plan shall also address measures taken to preserve and improve on-site wildlife habitat. Rare and endangered species habitat protection shall be addressed if applicable.
- C. Lake management plan. All applicants for major subdivisions which involve a lake or pond of five acres or more in the MIDD-10, MIDD-5 and MIDD-3 Zones must provide a lake management plan in accordance with the lake management plan checklist contained in Appendix C.³

§ 185-22. Zoning requirements.

- A. Principal uses and structures permitted.
 - (1) The following uses and structures shall be permitted in the MIDD-10 District:
 - (a) Detached single-family dwellings.
 - (b) Farms containing a minimum of five acres.

[1] Any animals, other than cattle, horses and ponies, domestic animals, other than household pets, kept on the premises shall be in connection with the pursuit of agriculture. This shall not include the keeping of domestic animals for boarding, training, sale and resale, where such activities are not in connection with the pursuit of agriculture and are themselves the exclusive or primary use. Any animal other than cattle, horses and ponies shall be kept at a distance of at least 100 feet from any property line. No commercial

1. Editor's Note: Appendix A is included at the end of this chapter.
 2. Editor's Note: Appendix B is included at the end of this chapter.
 3. Editor's Note: Appendix C is included at the end of this chapter.

piggeries, fur farms and/or animal processing facilities shall be permitted on a farm.

[2] It is intended that a single-family residence may be established on the same lot used for agricultural purposes as set forth above. In that event, the lot shall then have a minimum lot area of one acre for the single-family residence use in addition to the required minimum of five acres set forth above.

(c) Wood lot management in accordance with a wood lot management plan prepared by a certified forester.

(d) Cluster development.

(2) The following uses and structures shall be permitted in the MIDD-5 District:

(a) Principal uses and structures permitted in the MIDD-10 District.

(b) Municipal buildings and grounds.

(c) Parks and playgrounds.

(3) The following uses and structures shall be permitted in the MIDD-3 District:

(a) Principal uses and structures permitted in the MIDD-10 and MIDD-5 Districts.

B. Permitted accessory uses. The following accessory uses shall be permitted in the MIDD-10, MIDD-5 and MIDD-3 Districts:

(1) Home occupations.

(2) Required off-street parking.

(3) Private garages.

(4) Farm stands in connection with a farm.

(5) Private swimming pools and tennis courts.

(6) Horses and/or ponies for riding purposes in connection with a single-family residence use where such use is the principal use of the property and the horse or/pony is owned by a member of the family occupying such single-family dwelling unit. The keeping of horses and/or ponies shall be conditioned upon the following requirements:

(a) The following ratio of the number of horses and/or ponies shall be met. A minimum of three acres shall be required for the first horse and/or pony, and one additional acre shall be required for each additional horse and/or pony.

(b) The property shall have adequate property to allow for pasture and grazing.

(c) All structures for the housing of such animals, including stables, corrals and fences, shall be at least 50 feet from all side and rear lot lines.

(7) Chickens, chicks or other domestic fowl for individual purposes/use in connection with

a single-family residential use. The keeping of chickens, chicks or other domestic fowl shall be conditioned on the following requirements:

- (a) No property is permitted to keep more than six hens, and no person shall be permitted to keep a male chicken (rooster).
 - (b) No property owner shall slaughter hens on his or her property.
 - (c) Chickens, chicks or other domestic fowl shall be provided with a covered enclosure and must be kept in a covered or fenced enclosure at all times.
 - (d) Enclosures erected to house chickens, chicks or other domestic fowl shall not be permitted in the front yard and must be at least 20 feet from any property line.
- (8) Any other use which the Zoning Board of Adjustment determines is one customary and incidental to the principal permitted use of the property.

C. Conditionally permitted uses. The following uses are permitted only after a review and approval by the Board to ensure compliance with the standards and criteria set forth in Article XVI:

- (1) The following conditionally permitted uses shall be permitted in the MIDD-10 District:
 - (a) Public utility uses and essential services.
 - (b) Commercially operated golf courses.
 - (c) Towers and antennas.
- (2) The following conditionally permitted uses shall be permitted in the MIDD-5 District:
 - (a) Conditionally permitted uses permitted in the MIDD-10 District.
 - (b) Country clubs and private swimming or tennis clubs.
 - (c) Institutional and public uses.
 - (d) Churches and houses of worship.
 - (e) Public and private schools.
- (3) The following conditionally permitted uses shall be permitted in the MIDD-3 District:
 - (a) Conditional uses permitted in the MIDD-5 and MIDD-10 Districts.

D. Bulk requirements and other conditions. The following requirements are applicable in the MIDD-10, MIDD-5 and MIDD-3 Districts:

- (1) Density.
 - (a) MIDD-10 District: The maximum permitted density within the MIDD-10 District shall be one unit per 10 acres. In order to calculate the maximum permissible number of lots, the total gross tract acreage is divided by 10. (See Diagram 1.⁴)

- (b) MIDD-5 District: The maximum permitted density within the MIDD-5 District shall be one unit per five acres. In order to calculate the maximum permitted number of lots, the total gross tract acreage is divided by five.
 - (c) MIDD-3 District: The maximum permitted density within the MIDD-3 District shall be one unit per three acres. In order to calculate the maximum permissible number of lots, the total gross tract acreage is divided by three. (See Diagram 1.)
- (2) Bulk requirements for MIDD-10, MIDD-5 and MIDD-3 Districts.
- (a) Minimum lot size with individual well and septic: 40,000 square feet.
 - (b) A minimum lot size with central water: 30,000 square feet.
 - (c) Maximum building envelope size: 40% of lot area or 20,000 square feet, whichever is less. (See Diagram 2.⁵)
 - (d) Maximum total lot disturbance: 50% of lot area or 30,000 square feet, whichever is less. Site disturbance shall include all areas disturbed for the purpose of the construction of buildings and structures as well as all graded areas and lawns. The total shall include disturbed areas both inside and outside of the building envelope. (See Diagram 3.⁶)
 - (e) Maximum total tract disturbance for public improvements, including streets, utilities and stormwater management facilities provided to service the overall development, shall not exceed 7% of gross tract area. All improvement-related disturbance shall be included in this calculation, including areas of grading and vegetation removal as well as the cartways and basins.
 - (f) Minimum spacing between building envelopes on adjacent lots: 50 feet. (See Diagram 4.⁷)
 - (g) Minimum spacing between building envelopes and tract boundary: 25 feet. (See Diagram 5.⁸)
 - (h) No building envelope shall be placed closer than five feet to any interior lot line. (See Diagram 4.)
 - (i) Minimum spacing of building envelope from on-site public or private streets: 35 feet. (See Diagram 5.)
 - (j) Minimum spacing between building envelope and off-site public private streets: 50 feet.

4. Editor's Note: Diagram 1 is included at the end of this chapter.

5. Editor's Note: Diagram 2 is included at the end of this chapter.

6. Editor's Note: Diagram 3 is included at the end of this chapter.

7. Editor's Note: Diagram 4 is included at the end of this chapter.

8. Editor's Note: Diagram 5 is included at the end of this chapter.

§ 185-23. Design standards for the MIDD-10, MIDD-5 and MIDD-3 Districts.

The following criteria shall be considered design standards pursuant to Article 6 of the New Jersey Municipal Land Use Law. It is recognized that all of these standards may not be achievable on every subdivision; for this reason, each application shall be carefully considered and waivers shall be granted where appropriate.

- A. Lot frontage. Each individual parcel is required to provide safe and efficient access.
 - (1) Where a lot abuts a public street, the minimum lot frontage shall be 50 feet.
 - (2) Lots utilizing common drives for access shall not be required to have frontage on a public street.
- B. Locating building envelopes. These standards aim to ensure that the disturbed areas of any parcel are, to the minimum extent possible, not visible from municipal roads and situated so as to minimize the impact of construction on the sensitive environment and to protect the rural character of the area as set forth in the purposes of this article. The standards to be adhered to are as follows:
 - (1) Building envelopes shall be selected which do not include the tops of ridgelines. (See Diagram 7.)
 - (2) Building envelopes shall avoid wooded areas. (See Diagram 7.)
 - (3) Building envelopes shall be located in fields or along the edge of wooded areas and shall be located in such a way to minimize the visual impact of development when feasible. (See Diagram 7.)
 - (4) Building envelopes shall not include wetlands, transition areas and floodplains.
 - (5) Building envelopes shall not include areas with slopes of 35% or greater. (See Diagram 7.)
- C. Clustering. In order to minimize the impact development shall have within the MIDD Districts, clustering is strongly encouraged. The standards contained in this section shall be strictly adhered to, unless extraordinary circumstances exist.
 - (1) Clustering shall be permitted upon the submission of an acceptable open space management plan.
 - (2) Open space and conservation easement areas shall be designed with massing and linkage as guiding principles.
 - (3) Each area of common open space shall have at least two fifteen-foot-wide pedestrian access points accessible from a public roadway.
 - (4) If an open space management plan acceptable to the Planning Board is not possible, then the building lots shall be increased in size to include the entire tract area, and conservation easements will be used to restrict the area identified as open space on the

9. Editor's Note: Diagram 7 is included at the end of this chapter.

cluster plan. (See Diagram 8.¹⁰)

(5) No increase in density shall be permitted when using the cluster option.

D. Conservation easement/deed restrictions. Applications before the Board shall be required to provide appropriate conservation and deed restrictions when sensitive environmental areas are encountered. These legal instruments shall be drafted in general conformance with the recommendations and language contained in Appendix E.¹¹ All land preserved through conservation and/or deed restrictions shall be enforceable and monitored by the Township and, as applicable: for environmental protection, the NJDEP Green Acres or a qualified land trust nonprofit organization, or for agricultural use, the CADB or the SADC. All conservation set-asides shall be deed restricted against further subdivision and shall consist of one contiguous parcel, to the maximum extent feasible. The conservation easements, deed restrictions and open space organization documents shall be subject to the review and approval of the Board Attorney, Engineer and Municipal Attorney.

(1) Conservation easements shall be required for all natural resources and critical areas located outside of the building envelope, including forested resource areas, open water bodies/wetlands and required transition areas, steep slopes in excess of 35%, critical habitat areas, floodplains, scenic resource areas and historic, cultural and archeological resources. (See Diagram 9.¹²)

(2) When agricultural resources are preserved through clustering, conservation easements/deed restrictions shall be required in accordance with the following standards:

(a) The conservation easement or deed restriction shall include Right to Farm Act¹³ provisions.

(b) Retention of original farmstead or construction of new farmsteads associated with the preserved agricultural lands shall be permitted.

(c) The preserved agricultural lands shall include an appropriate buffer to avoid conflicts between agricultural operations and adjacent residential development.

(3) All subdivision plats shall contain a reference to any required conservation easement.

(4) The minimum tract density shall not be exceeded; in subdivisions where some of the resultant individual lots are in excess of the zone density, no further subdivision of these lots shall be permitted. This restriction shall be included in the lot's deed and set forth on the subdivision plat.

E. Design standards for public roads. It is the intent of this subsection to minimize the amount of site disruption caused by roadways and the associated grading required for their construction. The standards are as follows:

(1) Right-of-way width: in accordance with Residential Site Improvement Standards.

10. Editor's Note: Diagram 8 is included at the end of this chapter.

11. Editor's Note: Appendix E is included at the end of this chapter.

12. Editor's Note: Diagram 9 is included at the end of this chapter.

13. Editor's Note: See N.J.S.A. 4:1C-1 et seq.

- (2) Cartway width: in accordance with Residential Site Improvement Standards.
 - (3) Minimum number of units per public dead-end street: in accordance with Residential Site Improvement Standards.
 - (4) Minimum distance between access points on off-site public roads 200 feet. Access points shall include individual and common driveways and on-site public roadways. (See Diagram 10.¹⁴)
 - (5) Curbing. Curbing shall be used only where necessary to provide for stormwater management. Where curbing is required, Belgian block or equivalent material shall be required.
 - (6) Roadways shall follow existing contours to minimize the extent of cuts and fills.
 - (7) Where sites include linear features such as existing access roads, tree lines and stone rows, roadways shall follow these features to minimize their visual impact.
 - (8) Roadways shall not be located in open fields.
- F. Driveways. It is the intent of this subsection to use private drives for access to the residential lot, provided that the following standards are satisfied:
- (1) The number of driveways accessing off-site public streets shall be kept to a minimum.
 - (2) The appropriate use of common driveways is encouraged. Where lots will access an off-site public street, common driveways shall be used, where appropriate, to minimize the number of curb cuts required. (See Diagram 11.¹⁵)
 - (3) The maximum number of units served by a common driveway shall be four. (See Diagram 12.¹⁶)
 - (4) Minimum driveway width: 12 feet paved with two-foot graded and stoned shoulders.
 - (5) Paving shall be required in areas where driveway grade is in excess of 6%.
 - (6) Maximum length of common driveway: 1,000 feet. (See Diagram 12.)
 - (7) All driveways in excess of 500 feet shall provide a ten-foot by thirty-foot turnout. The exact location of the turnout shall be determined by the Board with the review of the Fire Department. (See Diagram 13.¹⁷)
 - (8) All driveway areas shall be included in the total lot disturbance calculation for the lot on which the driveway is located.
 - (9) All lots using common driveways shall provide a driveway maintenance agreement to be reviewed and approved by the Board's professionals. The maintenance agreement

14. Editor's Note: Diagram 10 is included at the end of this chapter.

15. Editor's Note: Diagram 11 is included at the end of this chapter.

16. Editor's Note: Diagram 12 is included at the end of this chapter.

17. Editor's Note: Diagram 13 is included at the end of this chapter.

shall include an escrow fund to ensure that the driveway will be maintained. The agreement shall be drafted in general conformance with the recommendations and language contained in Appendix D.¹⁸

- G. Stormwater management. In order to maximize the effectiveness of the MIDD Ordinance, stormwater management will be required as deemed appropriate and in as natural a way as may be engineered. The standards are as follows:
- (1) Existing natural drainageways shall be retained.
 - (2) Where stormwater management facilities are required, they shall be designed in as small an area as possible. The ratio of the basin's area to volume shall be minimized.
 - (3) Retention basins shall be used where such basins are practical.
 - (4) All basins shall require landscaping plans. The basins shall resemble natural ponds to the maximum extent practical.
 - (5) Basin landscaping materials shall be selected which enhance wildlife habitat.
- H. Central water facilities. Central water facilities are not encouraged due to the fact that they are often highly visible and become dominant features of the landscape. However, when they are to be used, the following standards shall be met:
- (1) Where central water facilities are utilized, their visual impact shall be minimized. The overall size, height and location shall all be considered.
 - (2) Water towers shall not be placed on top of ridgelines. (See Diagram 14.¹⁹)
 - (3) The height of water towers shall be limited to an elevation below the crown line of mature on-site trees. (See Diagram 14.)
 - (4) Where a tract contains barns or silos, these structures may be used to conceal a water storage facility.
- I. Permissible development within the water feature buffer. In order to limit development within the highly visible and environmentally sensitive area around lakes, the following standards shall be imposed:
- (1) Not more than 25 linear feet of shoreline per lot shall be disturbed. This includes docks, bulkheads and beach areas.
 - (2) Structures permitted in the buffer area: docks, bulkheads, patios, terraces, decks and pathways. (See Diagram 15.²⁰)
 - (3) Patios, terraces and decks shall be unroofed and shall not exceed 400 square feet in area. The maximum height above grade shall be limited to 24 inches. (See Diagram 15.)

18. Editor's Note: Appendix D is included at the end of this chapter.

19. Editor's Note: Diagram 14 is included at the end of this chapter.

20. Editor's Note: Diagram 15 is included at the end of this chapter.

- (4) The total maximum disturbance within the buffer area shall not exceed 1,000 square feet. (See Diagram 15.)
- J. Landscaping and lawns. The goal of this subsection is to limit the disturbance and impacts associated with establishment of extensive residential lawns.
- (1) Existing vegetation shall be preserved in areas where disturbance is not necessary outside of the building envelope. (See Diagram 16.²¹)
 - (2) The creation of lawn areas in excess of 10,000 square feet is prohibited. Lawn areas shall be included in the total lot disturbance calculation. In instances where a lot includes open field areas, these areas may be seeded without being included in the ten-thousand-square-foot total or the total site disturbance calculation.
 - (3) Where landscaping is proposed, native species shall be included in the design.
 - (4) Where building envelopes are located in woodlands, a treed area of at least 30 feet between the building envelope and the common drive or roadway shall be retained. (See Diagram 16.)
- K. Fencing. In order to maintain natural undisturbed appearances, fencing is frowned upon. Where fencing is needed, the following standards shall be met:
- (1) Perimeter fencing of lots is not permitted. (See Diagram 17.²²)
 - (2) Fencing may be constructed on the perimeter of or within the building envelope area of lots. (See Diagram 17.)
 - (3) The fencing restriction shall not apply to agricultural uses as defined in this chapter.
 - (4) Critical areas located outside of building envelopes shall not be fenced except to address safety issues.
 - (5) Where fences are installed, natural materials and colors shall be used to the extent possible.
- L. Signage.
- (1) Permanent on-site development identification signs are prohibited.
 - (2) Where the Planning Board determines that a development identification sign is appropriate, its area shall be limited to eight square feet, its construction shall be of natural materials (i.e., wood and stone) and the base area shall be appropriately landscaped.
 - (3) Resident identification signs are permitted at entrances to driveways. The maximum height of residence identification signs shall be eight feet. Each individual name sign shall not be more than one square foot. (See Diagram 18.²³)

21. Editor's Note: Diagram 16 is included at the end of this chapter.

22. Editor's Note: Diagram 17 is included at the end of this chapter.

23. Editor's Note: Diagram 18 is included at the end of this chapter.

M. Lighting. Since artificial lighting is often highly visible and adversely affects the rural character of an area, it is specifically discouraged except for those specific categories listed below:

- (1) Site lighting shall only be provided where warranted to address specific safety conditions.
- (2) Where lighting is proposed along public roads or common driveways, locations and intensities shall be subject to approval of the Planning Board.

N. Concrete engineered structures. In any development, some engineered structures are necessary for access and drainage. In order to accommodate the installation of infrastructure, the following standards, however, must be strictly adhered to by any applicant:

- (1) Visible structures such as curbing, culverts, walls and outlet structures shall not be stark white.
- (2) The use of dyed and textured concrete as well as the use of other natural materials is required to minimize the visual impact of these structures.

O. Accessory structures and buildings.

- (1) Accessory structures and buildings shall be located within the building envelope areas except as otherwise permitted in this subsection.
- (2) Driveways, septic areas and wells may be located outside of the building envelope.
- (3) Accessory buildings shall not be located in front yard areas.
- (4) Height. The height of an accessory structure shall not exceed 15 feet, except that agricultural barns and accessory structures essential to farm operations may be up to 40 feet in height.

P. Existing structures.

- (1) When a tract contains existing structures deemed to be of historic or architectural significance and where these structures are suitable for rehabilitation, the structures shall be retained.
- (2) Adaptive reuse of existing structures for residential use or permitted accessory residential uses shall be permitted.

Q. Guardrails. Where guardrails are necessary, they shall be constructed of wood.

R. Principal buildings. The height of the principal structure on a lot shall not exceed 2 1/2 stories or 35 feet, whichever is less.

§ 185-24. Exemptions.

The aforementioned standards shall apply to new minor and major subdivisions within the MIDD-10, MIDD-5 and MIDD-3 Districts. Nothing herein shall be construed so as to restrict lots legally in existence prior to the date of adoption of this article. Existing lots may be developed

with single-family uses in accordance with the following requirements:

- A. Minimum lot area: 40,000 square feet.
- B. Minimum lot width: 200 feet.
- C. Minimum yard requirements:
 - (1) Front yard: 50 feet.
 - (2) Side yard: 25 feet.
 - (3) Total of two side yards: 30% of lot width.
 - (4) Rear yard: 40 feet.
- D. Maximum percent of lot coverage by impervious surfaces: 15%.
- E. Maximum height: 2 1/2 stories or 30 feet, whichever is less.
- F. Accessory structures. All accessory structures are prohibited in front yard areas, except as regulated in Article XVI. All accessory structures shall meet the following requirements:
 - (1) Maximum height: 15 feet.
 - (2) Side yard: 10 feet.
 - (3) Rear yard: 10 feet.
- G. Off-street parking shall be required as set forth in Article XX.

§ 185-25. Lake communities.

Existing single-family structures in unsubdivided lake communities are exempt from the bulk requirements of the MIDD-10 Zone. New principal structures must meet the requirements of the MIDD-10 Zone. Existing single-family structures must meet the following standards:

- A. Principal buildings.
 - (1) Minimum distance between buildings: 20 feet.
 - (2) Minimum distance to lake: 15 feet or the existing setback, whichever is less.
 - (3) Minimum distance to center line of any road or common driveway, as defined in § 185-23F: 15 feet or existing setback, whichever is less.
 - (4) Maximum height: 2 1/2 stories or 30 feet, whichever is less.
 - (5) Minimum distance to a property line: 40 feet.
 - (6) Maximum size of addition: 100% of the existing footprint or 500 square feet of additional footprint whichever is less. **[Amended 10-28-2015 by Ord. No. 2015-17]**
- B. Accessory structures, excluding docks and boathouses.

- (1) Minimum distance to associated principal structure: five feet.
- (2) Minimum distance to separate principal structure: 10 feet or existing setback, whichever is less.
- (3) Minimum distance to center line of any road or common driveway as defined in § 185-23F: 10 feet.
- (4) Maximum height: 15 feet.