

**Code
of the
City of Estell Manor**

COUNTY OF ATLANTIC

NEW JERSEY

SERIAL NO.

GENERAL CODE
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PREFACE

The recording of local law is an aspect of community history; as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Legislation must be available and logically arranged for convenient use and must be kept up to date.

Contents of Code

The various chapters of the Code contain all currently effective legislation of a general and permanent nature, including revisions or amendments. The Disposition List contains a listing of legislation and its placement in the Code or the reason for its exclusion, and indicates the most recent legislation reviewed for inclusion in the Code. The Appendix is reserved for certain forms of local legislation that are not general and permanent in nature but are of significance to the community or conduct of government.

Reserved Chapters

Unassigned chapter numbers do not appear in the Table of Contents but are available for assignment to new subject matter in a way that maintains the Code structure.

Numbering of Sections

A numbering system is applied to all sections. The first number indicates the chapter number and the second number indicates the location of the section within that chapter.

Histories

Histories indicate the specific legislative source from which the content was derived, including the enactment number, if pertinent, and the date of adoption. Legislative histories may be found at the chapter, article, section and/or subsection level, as appropriate.

Acknowledgment

The assistance of the community officials is gratefully acknowledged by the editor. The codification of legislation reflects an appreciation of the needs of a progressive and expanding community. It is the profound conviction of General Code that this publication will contribute significantly to the efficient administration of local government.

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ADMINISTRATIVE LEGISLATION

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ARTICLE III
Adoption of Code

[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Definitions and Word Usage
[Adopted 10-2-1974 (Ch. I, Secs. 1-2 and 1-3, of the 1974 Revised General Ordinances)]

§ 1-1. Definitions.

For the purpose of this Code, and in the interpretation and application of all other ordinances heretofore or hereafter adopted, except as the context may otherwise require, the following terms shall have the meanings indicated:

CITY — The City of Estell Manor in the County of Atlantic and State of New Jersey.

CITY COUNCIL or **COUNCIL** — The governing body of the City.

CLERK or **CITY CLERK** — The Municipal Clerk duly appointed pursuant to law.

DEPARTMENT — An organizational unit of the City government established or designated by ordinance or this Code as a department, together with any agency or instrumentality of the City government assigned to such organizational unit by the City Council.

LICENSED — Licensed in accordance with the appropriate section or chapter of this Code.

MONTH — A calendar month unless otherwise specifically provided.

ORDINANCE — Any act of local legislation heretofore or hereafter adopted, and including this Code, so long as it shall have been adopted by the procedure required for the adoption of an ordinance and so long as it shall remain in force and effect pursuant to law.

PERSON — Any individual, natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, corporations or unincorporated groups; or any officers, agents, employees, servants, factors or any kind of personal representatives of any thereof in

any capacity, acting either for himself or for any other person, under either personal appointment or pursuant to law.

STREET — Includes a street, avenue, road, alley, lane, highway, boulevard, concourse, driveway, culvert, sidewalk and crosswalk, and every class of road, square, place or municipal parking field used by the general public.

YEAR — A calendar year unless otherwise specifically provided.

§ 1-2. Construction.

For the purpose of this Code and any other ordinances heretofore or hereafter adopted, except as the context may otherwise require:

- A. The present tense includes the past and future tenses, and the future, the present.
- B. Wherever necessary or appropriate in this Code, one gender shall be deemed to include and mean either of the other two, and the singular number shall include the plural and vice versa.¹ [**Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)**]
- C. "Shall" is mandatory and "may" is permissive.
- D. The time within which an act is to be done shall be computed by excluding the first and including the last day, and if the last day be a Sunday, a legal holiday, or a day on which the offices of the City are closed, that day shall be excluded.
- E. "Writing" and "written" shall include printing, typewriting and any other mode of communication using paper or similar material which is in general use, as well as legible handwriting.
- F. Whenever a specific time is used in this Code, it shall mean the prevailing and established time in effect in the State of New Jersey during any day in any year.²

ARTICLE II

General Penalty

[Adopted by 10-2-1974; amended in its entirety by Ord. 84-7 (Ch. III, Sec. 3-7, of the 1974 Revised General Ordinances)]

§ 1-3. Maximum penalty. [Amended by Ord. No. 93-6; 10-4-2006 by Ord. No. 08-06]

- A. For violation of any provision of this Code, or any other chapter of these ordinances for which no specific penalty is provided, the maximum penalties upon conviction of each violation shall be one or more of the following: imprisonment for a term of up to 90 days; a fine of up to \$2,000; or a period of community service of up to 90 days.

1. Editor's Note: Original Sec. 1-2C, regarding singular and plural use, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

2. Editor's Note: The four paragraphs which originally followed this paragraph, regarding use of the terms "chapter," "section," "subsection" and "paragraph" (which pertained to the 1974 Revised General Ordinances) were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

- B. Whenever a fine is to be imposed in an amount greater than \$1,250 for violations of housing or zoning codes, the owner shall be provided a thirty-day period during which the owner shall be afforded the opportunity to cure or abate the condition and shall be afforded the opportunity for a hearing before a court of competent jurisdiction for an independent determination concerning the violation. Subsequent to the expiration of the thirty-day period, a fine greater than \$1,250 may be imposed if the court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed.

§ 1-4. Separate violations.

Except as otherwise provided, each and every day in which a violation of any provision of this Code or any other chapter or ordinance of the City exists shall constitute a separate violation.

§ 1-5. Application.

The maximum penalty stated in the general penalty clause of this article is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or a particular violation.

ARTICLE III
Adoption of Code

[An ordinance adopting the Code of the City of Estell Manor and making certain substantive changes to existing ordinances of the City is presently proposed before the City Council. Upon final adoption, it will be included here as Article III of this chapter.]

Chapter 8

BOARDS, COMMITTEES AND COMMISSIONS

ARTICLE I Planning Board

§ 8-1. Creation.

§ 8-2. Appointment.

§ 8-3. Terms.

§ 8-4. Powers and duties.

§ 8-5. Planning Board to exercise powers of Board of Adjustment.

§ 8-6. Request of relief; notice.

[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Planning Board

[Adopted 11-5-1997 by Ord. No. 97-6 (Ch. II, Sec. 2-13, of the 1974 Revised General Ordinances)]

§ 8-1. Creation.

There shall be a Planning Board of the City consisting of nine members.

§ 8-2. Appointment.

A. The members constituting the Planning Board shall consist of the following:

- (1) Class I: the Mayor or the Mayor's designee in the absence of the Mayor. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]
- (2) Class II: one of the officials of the City, other than a member of the Council, to be appointed by the Mayor.
- (3) Class III: a member of the City Council to be appointed by it by majority vote.
- (4) Class IV: Six other citizens of the City to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, position or employment except that one member may be a member of the Historic Preservation Commission if there be one appointed, and one may be a member of the Board of Education. For the purposes of this section, membership on a City board or commission whose function is advisory in nature, and the establishment of which is discretionary and not required by statute, shall not be considered the holding of municipal office.

B. In addition to the foregoing regular membership of the Planning Board, the Mayor shall also appoint not more than four alternative members who shall meet the qualifications of Class IV members. Alternate members shall be designated at the time of appointment by the Mayor as "Alternate No. 1," "Alternate No. 2," "Alternate No. 3"

and "Alternate No. 4." The terms of the alternate members shall be for two years, except that the term of not more than two alternate members shall expire in any one year. Any vacancy occurring otherwise than by the expiration of a term shall be filled by the appointing authority for the unexpired term only. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member or members are to vote, the alternate members shall be chosen in order of their designation by alternate number, with Alternate No. 1 being chosen to vote first, and Alternate No. 4 being chosen to vote last. **[Amended 7-11-2001 by Ord. No. 06-01]**

§ 8-3. Terms. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

The term of the member composing Class I shall correspond to the Mayor's official tenure or, if the member is the Mayor's designee in the absence of the Mayor, the designee shall serve at the pleasure of the Mayor during the Mayor's official tenure. The terms of the members composing Class II and Class III shall be for one year or shall terminate at the completion of their respective terms of office, whichever occurs first. The terms of all Class IV members first appointed pursuant to this section shall be so determined that, to the greatest practical extent, the expiration of such terms shall be distributed evenly over the first four years after their appointment as determined by resolution of the City Council, provided that no term of any member shall exceed four years, and further provided that nothing herein shall affect the term of any present Class IV member of the Planning Board, all of whom shall continue in office until the completion of the terms for which they were appointed. The term of a Class IV member who is also a member of the Board of Education shall terminate whenever he/she is no longer a member of such other body or at the completion of his or her Class IV term, whichever occurs first. After appointment of the initial terms of all Class IV members as aforesaid, all Class IV members shall be appointed for terms of four years except as otherwise herein provided. All terms shall run from January 1 of the year in which the appointment is made.

§ 8-4. Powers and duties.

The Planning Board shall exercise those powers as set forth in the Municipal Land Use Law, Chapter 291 of the Laws of New Jersey, 1975, N.J.S.A. 40:55D-1 et seq., including those powers which may heretofore or hereafter be set forth in amendments or supplements to the same.

§ 8-5. Planning Board to exercise powers of Board of Adjustment.

The City of Estell Manor does hereby further exercise the option provided by N.J.S.A. 40:55D-25c to have the Planning Board exercise all powers of a Board of Adjustment. The Planning Board shall exercise, to the same extent and subject to the same restrictions, all the powers of a Board of Adjustment, but the Class I and the Class III members shall not participate in consideration of applications for development which involve relief pursuant to Subsection d of Section 57 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-70d).

§ 8-6. Request of relief; notice.

Whenever relief is requested in a manner in which the Planning Board exercises, to the same extent and subject to the same restrictions, any of the powers and duties of the Board of Adjustment pursuant to N.J.S.A. 40:55D-70d or otherwise, notice of a hearing on the application for development shall include reference to the request for variance or direction for issuance of a permit, or other relief, as the case may be.

Chapter 14

CLAIMS, PAYMENT OF

- § 14-1. Bill of demand; certification. § 14-4. Records.
§ 14-2. Consideration by City Council. § 14-5. Payment.
§ 14-3. Approval; disapproval.

[HISTORY: Adopted by the City Council of the City of Estell Manor 10-2-1974 (Ch. II, Sec. 2-6, of the 1974 Revised General Ordinances); amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. III). Subsequent amendments noted where applicable.]

§ 14-1. Bill of demand; certification.

No payment will be made unless duly authorized by the owner's authorized representative and accompanied by proper documentation. Vendor certification is required only for employee reimbursements, professional services, and goods and services provided exclusively and entirely by an individual (e.g., sole proprietor). The Chief Financial Officer shall have the duty to audit, warrant and make recommendations on all claims and bills.

§ 14-2. Consideration by City Council.

The bill or claim duly certified shall be presented to the City Clerk for inclusion in the agenda of the next formal meeting of the City Council. All claims or bills to be considered by the City Council shall be listed systematically without preference and the list shall be made available to every member of the City Council at least three full days prior to formal action by that body.

§ 14-3. Approval; disapproval.

Claims shall be considered by the City Council which shall approve them, except that the City Council may reject any claim presented to it stating the reason for the rejection. Any disapproved claim shall be referred back to the Chief Financial Officer with such instructions as the City Council may give at the time of disapproval.

§ 14-4. Records.

It shall be the duty of the City Clerk to record all claims in the official minutes or through an appropriate claims register, indicating that the City Council has by formal action approved the claims with appropriate record as to any claims disapproved or rejected. All records pertaining to approved and disapproved bills or claims shall be available for public inspection.

§ 14-5. Payment.

After the Clerk has certified that the claims have been approved, he shall turn them over to the Chief Financial Officer, who shall forthwith prepare the necessary checks for payment. The checks shall be signed by the Mayor, City Clerk and Chief Financial Officer. (If the Mayor is not available, a member of Council who is registered with the bank may sign.) After preparing checks for payment of claims, the Chief Financial Officer or other staff person shall record them and then mail.

Chapter 22
CONTRACTS

ARTICLE I
Award of Bids for Construction Projects

§ 22-1. Bidding and awarding of contracts.

ARTICLE II
Competitive Negotiation for Professional Services Contracts

§ 22-2. Short title.

§ 22-3. Purpose.

§ 22-4. Definitions.

§ 22-5. General provisions.

[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Award of Bids for Construction Projects
[Adopted 8-1-2001 by Ord. No. 09-01 (Ch. II, Sec. 2-25, of the 1974 Revised General Ordinances); amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

§ 22-1. Bidding and awarding of contracts.

The bidding and awarding of contracts shall be governed by the applicable statutes and regulations of the State of New Jersey, including, without limitation, the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

ARTICLE II
Competitive Negotiation for Professional Services Contracts
[Adopted 12-13-2006 by Ord. No. 16-2006 (Ch. II, Sec. 2-30, of the 1974 Revised General Ordinances)]

§ 22-2. Short title.

This article shall be known as the "Competitive Negotiation Ordinance."

§ 22-3. Purpose.

- A. Whereas this municipality has a strong commitment to open and fair competition; and
- B. Whereas qualification-based, competitive negotiation procedures help to ensure open and fair competition through published rules and decision-making criteria;
- C. Therefore, it is accordingly found and determined that the paramount public interest is served by requiring that the City award all contracts or agreements to outside

consultants for the provision of professional services on the basis of competitive negotiation.

§ 22-4. Definitions.

As used in this section, the following terms shall have the meanings indicated:

PROFESSIONAL SERVICES — As defined at N.J.S.A. 40A:11-2(6), services rendered or performed by a person authorized by law to practice a recognized profession, whose practice is regulated by law, and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. For purposes of this section, however, "professional services" shall not include professional artistic services as defined at N.J.S.A. 40A:11-2(6). "Professional services" shall include financial services or insurance services.

§ 22-5. General provisions.

In the event that, at the December regular meeting of City Council, either the Mayor and one other member of City Council or any three members of City Council vote to consider a change in any of the professional positions, then the following procedures shall be used:

- A. The municipality shall award all contracts or agreements for the provision of professional services on the basis of qualification-based, competitive negotiation.
- B. Professional service contract requests for proposal shall be published by the posting of a public notice at least 10 days before the awarding of any contract for professional services.
 - (1) The public notice shall be:
 - (a) Prominently posted in the public place reserved for Sunshine Law¹ notices;
 - (b) Mailed, telephoned, telegraphed, or hand-delivered to at least two newspapers designated to receive such notices because they have the greatest likelihood of informing the public within the municipality, one of which shall be the official newspaper of the municipality; and
 - (c) Filed with the Clerk of the municipality.
 - (2) The public notice shall, at minimum, include:
 - (a) A description of the professional services needed, including, where appropriate, a description of tasks involved.
 - (b) Threshold qualification requirements setting the highest possible, minimum standards for qualifying to compete for the particular services and tasks involved.

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

- (c) Notice that standardized submission requirements and selection criteria are on file and available at a stated location in the City.
 - (d) Deadline and place for all submissions.
- C. Standardized submission requirements shall include:
 - (1) Names and roles of the individuals who will perform the task and a description of their experience with projects similar to the matter being advertised.
 - (2) References and record of success.
 - (3) Description of ability to provide the services in a timely fashion (including staffing, familiarity and location of key staff).
 - (4) Cost details, including the hourly rates of each of the individuals who will perform services and time estimates for each individual, all expenses, and, where appropriate, total cost of "not to exceed" amount.
- D. The selection criteria to be used in awarding a contact or agreement for professional services shall include:
 - (1) Qualifications of the individuals who will perform the tasks and the amounts of their respective participation.
 - (2) Experience and references.
 - (3) Ability to perform the task in a timely fashion, including staffing and familiarity with subject matter.
 - (4) Cost competitiveness.
- E. All submissions shall be kept on file during the term of the related contract and shall be public records after the deadline for the submission of proposals.
- F. In the event that compliance with part or all of the requirements of this section is impracticable as regards a particular contract or agreement, the Township Council may waive part or all of the requirements by a majority vote of the full Council, together with publication of a resolution setting forth with specificity the reasons such waiver is required.

Chapter 27

COURT, REGIONAL MUNICIPAL

ARTICLE I General Provisions

- § 27-1. **Municipal Court of the City of Estell Manor abolished.**
- § 27-2. **Court established; statutory authority.**
- § 27-3. **Official name.**
- § 27-4. **Seal.**
- § 27-5. **Jurisdiction.**

ARTICLE II Appointment of Professionals

- § 27-6. **Appointment of Municipal Court Judge; powers, duties and qualifications.**
- § 27-7. **Municipal Court Prosecutor.**
- § 27-8. **Public Defender.**

ARTICLE III Appointment of Employees

- § 27-9. **Municipal Court Administrator.**
- § 27-10. **Necessary clerical and other assistance.**
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ARTICLE IV Shared Services Agreements

- § 27-12. **Shared service agreements.**
- § 27-13. **Administration of Joint Court.**
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- § 27-19. **Effective date; length of agreement.**
- § 27-20. **Severability.**
- § 27-21. **Repealer; exception.**

[HISTORY: Adopted by the City Council of the City of Estell Manor 11-22-2016 by Ord. No. 05-2016. Amendments noted where applicable.]

ARTICLE I General Provisions

§ 27-1. **Municipal Court of the City of Estell Manor abolished.**

Effective January 1, 2017, or upon the approval of the City of Estell Manor Regional Municipal Court by the State of New Jersey Administrative Office of the Courts, the Municipal Court of the City of Estell Manor is hereby abolished and Sections 2-11.1 and 2-11.2 of the Code of the City of Estell Manor are hereby repealed in their entirety and replaced by the following new sections establishing the City of Estell Manor Regional Municipal Court.

§ 27-2. Court established; statutory authority.

Pursuant to N.J.S.A. 2B:12-1, there is hereby created a joint municipal court composed of the City of Estell Manor ("Estell Manor") and the Township of Weymouth ("Weymouth"), collectively referred to as the "municipalities," all located in Atlantic County, New Jersey.

§ 27-3. Official name.

The name of the Joint Municipal Court shall be the "City of Estell Manor Regional Municipal Court."

§ 27-4. Seal.

The Joint Municipal Court shall have a Seal, which shall bear the impress of the name of the Court.

§ 27-5. Jurisdiction.

The jurisdiction of the City of Estell Manor Regional Municipal Court shall be coextensive with the territory of the City of Estell Manor and the Township of Weymouth.

ARTICLE II**Appointment of Professionals****§ 27-6. Appointment of Municipal Court Judge; powers, duties and qualifications.**

- A. There shall be one joint Municipal Court Judge. Pursuant to Article VI, Section VI of the New Jersey Constitution, the Municipal Court Judge of the Joint Municipal Court shall be nominated and appointed by the Governor, with the advice and consent of the Senate. Any and all recommendations made to the Governor for such nomination and appointment shall be made by the City of Estell Manor. Until such time as the gubernatorial appointment is finalized, the Assignment Judge for Vicinage I - Atlantic/Cape May Counties may appoint the Municipal Court Judge.
- B. During any vacancy in the office of Municipal Court Judge of the Joint Municipal Court, the Acting Judge shall be appointed by the Vicinage Assignment Judge, in accordance with N.J.S.A. 2B:12-6.
- C. The Municipal Court Judge shall serve for a term of three years from the date of appointment and until a successor shall be appointed and qualified.
- D. The Municipal Court Judge shall have and possess the qualifications as established by N.J.S.A. 2B:12-7 and the New Jersey Supreme Court and shall have, possess and exercise all the functions, duties, power and jurisdiction conferred by the law or ordinance. Whenever the Municipal Court Judge is unable to sit as such, any Judge designated by the Assignment Judge for Vicinage I - Atlantic-Cape May Counties may sit for him/her temporarily and hold the Joint Municipal Court. Any such designee, while sitting temporarily, shall possess all of the powers of the Municipal Court Judge.

- E. The Municipal Court Judge shall faithfully carry out all of the duties and responsibilities of a Municipal Court Judge and shall abide by all rules and regulations established for Municipal Court Judges by the New Jersey Supreme Court, by the Administrative Office of the Courts and by the laws of the State of New Jersey.
- F. The Municipal Court Judge shall have full management authority over judicial operations of the Joint Municipal Court.
- G. The compensation for the Municipal Court Judge shall be fixed and paid for by the governing body of Estell Manor.

§ 27-7. Municipal Court Prosecutor.

- A. There shall be one Prosecutor for the Joint Municipal Court who shall prosecute all cases in the Joint Municipal Court. The Municipal Prosecutor for the Joint Municipal Court shall be appointed by the governing body of Estell Manor, in its sole and exclusive discretion, for a one-year term. The compensation of the Municipal Prosecutor shall be determined by the governing body of Estell Manor.
- B. There shall be one Alternate Prosecutor for the Joint Municipal Court who shall be utilized in the event of conflicts or unavailability of the Prosecutor. The appointment and compensation of the Alternate Prosecutor shall be the responsibility of Estell Manor, in its sole and exclusive discretion.

§ 27-8. Public Defender.

- A. There shall be one Public Defender for the Joint Municipal Court who shall represent those defendants assigned by the Municipal Court Judge. The Municipal Public Defender for the Joint Municipal Court shall be selected by the governing body of Estell Manor, in its sole and exclusive discretion, and hired for a one-year term. The compensation of the Municipal Public Defender shall be determined by the governing body of Estell Manor.
- B. There shall be one Alternate Public Defender of the Joint Municipal Court who shall be utilized in the event of conflicts or unavailability of the Public Defender. The appointment and compensation of the Alternate Public Defender shall be the responsibility of Estell Manor, in its sole and exclusive discretion.

ARTICLE III

Appointment of Employees

§ 27-9. Municipal Court Administrator.

- A. There shall be an Administrator of the Joint Municipal Court appointed by the governing body of Estell Manor, in its sole and exclusive discretion, who shall perform the functions and duties prescribed for Municipal Court Administrators by law, by the Court Rules applicable to Municipal Courts and by the Municipal Court Judge. The Administrator shall be appointed by Estell Manor for a term of one year, subject,

however, to the tenure provisions as set forth in N.J.S.A. 2A:8-13.1. The Administrator's duties shall include, but are not limited to:

- (1) Carrying out the rules, regulations, policies and procedures relating to the operation of the Court, inclusive of supervision of the Deputy Municipal Court Administrator(s).
- (2) Maintaining the financial records of the Court, including overseeing the receipt and accounting for fines and costs.
- (3) Attending all court sessions; recording pleas; judgments and dispositions; arranging trial calendars; signing court documents; preparing and issuing warrants and commitments and other Court-related documents.
- (4) Maintaining and classifying records and files of the Court.
- (5) Maintaining, forwarding, receiving and reporting such records, reports and files as required by appropriate agencies.
- (6) Consulting and meeting with the Administrative Office of the Courts on an "as needed" basis and making daily decisions regarding the closing of Court personnel coverage for the Court and work assignments/scheduling of Court personnel.
- (7) Carrying out such additional duties as may be required in order to fulfill the duties of the Court Administrator, including, without limitation, those duties falling within the parameters of N.J.S.A. 2B:12-13.

B. Deputy Municipal Court Administrators. There shall be one Deputy Municipal Court Administrator of the Joint Municipal Court who shall be appointed by Estell Manor, in its sole and exclusive discretion. The Deputy Court Administrator shall perform the functions assigned to him/her by the Municipal Court Judge and Municipal Court Administrator. The compensation of the Deputy Court Administrator shall be determined by Estell Manor.

§ 27-10. Necessary clerical and other assistance.

There may be appointed such other clerical and other personnel, full- or part-time, for the Joint Municipal Court as is necessary for the efficient operation of the Court. Estell Manor shall appoint such clerical or other personnel as it deems necessary, in its sole and exclusive discretion.

§ 27-11. Auditor.

The Auditor for the Joint Municipal Court shall be same as that utilized by Estell Manor. The Auditor shall perform a yearly audit of the Joint Municipal Court in accordance with the requirements of the Local Fiscal Affairs Law, N.J.S.A. 40a:5-1 et seq.

ARTICLE IV

Shared Services Agreements**§ 27-12. Shared service agreements.**

- A. Estell Manor hereby approves and agrees to the terms of the Shared Services Agreement by and between the City of Estell Manor and the Township of Weymouth for a Joint Municipal Court to be incorporated herein by reference and expressly authorizes the Mayor and the Clerk of the City of Estell Manor to execute the agreement on behalf of Estell Manor.
- B. The Joint Municipal Court will be governed by this chapter and the Shared Services Agreement by and between the City of Estell Manor and the Township of Weymouth for a Joint Municipal Court approved by the governing body of Estell Manor.
- C. Other municipalities who approve a Shared Services Agreement to join the City of Estell Manor Regional Municipal Court shall be subject to the terms thereof which will embody the provisions of this chapter.

§ 27-13. Administration of Joint Court.

- A. The Joint Municipal Court operations shall be administered by Estell Manor as a joint municipal court pursuant to N.J.S.A. 2B:12-1b, using one set of books and one court calendar.
- B. Location. The Joint Municipal Court will be located at the City of Estell Manor Municipal Building located at 148 Cumberland Avenue, Estell Manor, New Jersey. Estell Manor will make available for the court: a courtroom, chambers, offices, storage space, equipment and supplies for the Municipal Court Judge and support personnel of the court and court security.
- C. Court days and times. Municipal Court sessions shall be determined by the Municipal Court Judge of the City of Estell Manor Regional Municipal Court. Emergency or special sessions can be scheduled as may be necessary by the Court Administrator in consultation with the Municipal Court Judge.

§ 27-14. Budget; accounting.

- A. Estell Manor shall be responsible for all budgeting, accounting, and auditing for the Joint Municipal Court.
- B. Annually, Estell Manor shall prepare a budget for the Joint Municipal Court expenses.
- C. Estell Manor will provide Weymouth with a monthly report of revenues from the Court Administrator.
- D. Accounting records for the expenses associated with Joint Municipal Court operations will be maintained by Estell Manor.

§ 27-15. Revenue; contributions.

- A. All fines and costs levied on summons/warrants/tickets or other charges issued by a municipality's police department or other law enforcement agency or by any private citizen pursuant to a local ordinance violation shall be retained by the municipality in which the offense or violation took place.
- B. All fines levied on summons/warrants/tickets issued for non-local ordinance violations by the New Jersey State Police or any other law enforcement agency shall be distributed as required by law.
- C. Additional contributions. The contribution of Weymouth towards the costs of the court facility, judge, prosecutor, public defender and support staff shall be as set forth in the Shared Services Agreement.

§ 27-16. Insurance.

All municipalities will keep in force, at their respective sole expenses, comprehensive general liability insurance with insurance companies licensed in the State of New Jersey or with the Atlantic County Municipal Joint Insurance Fund, which insurance shall be evidenced by certificates and/or policies as determined by Estell Manor and as otherwise set forth in the Shared Services Agreement.

§ 27-17. Withdrawal by municipality.

Any municipality may withdraw from participation in the Joint Municipal Court by delivering written notice to the other municipality of its intentions to withdraw no less than one full year prior to the date of withdrawal. All withdrawals shall be effective January 1, no earlier than one full year subsequent to the date of notice of withdrawal.

§ 27-18. Additional members.

Estell Manor may solicit other municipalities to the Joint Municipal Court. In the event that a contract with an additional municipality is pending or contemplated, Estell Manor will notify Weymouth. Notwithstanding the foregoing, Estell Manor shall continue to provide Weymouth with the same level of services as before adding another municipality.

§ 27-19. Effective date; length of agreement.

- A. This agreement will become effective only after adoption of a resolution authorizing the execution of this agreement and the final adoption of an ordinance establishing the Joint Municipal Court have been passed by the governing bodies of Weymouth and Estell Manor. Upon passage of the ordinances and resolutions, this agreement will be filed with the Administrative Director of the Courts.
- B. After adoption of the aforementioned resolutions, the effective date of this agreement shall be January 1, 2017.

- C. Notwithstanding anything herein to the contrary, the term of this Agreement shall remain in full force and effect for so long and until the Administrative Office of the Courts for the State of New Jersey governing this Vicinage approves the termination of the Joint Municipal Court.

§ 27-20. Severability.

If any article, section, subdivision, sentence, clause or phrase of this chapter shall be held to be invalid for any reason, such decision shall not affect the remaining portions of this chapter.

§ 27-21. Repealer; exception.

All ordinances or parts thereof or resolutions inconsistent with the provisions of this chapter are hereby repealed to the extent of their inconsistency. Nothing in this chapter, however, shall affect the rights and tenure of any elected official.

Chapter 31

DEFENSE AND INDEMNIFICATION

§ 31-1. City to provide defense and indemnification.

§ 31-2. Officials, employees and appointees covered.

§ 31-3. Duty to defend.

§ 31-4. Refusal by City to provide defense and indemnification.

§ 31-5. Provision of defense and indemnification in other actions or proceedings.

§ 31-6. Municipality assumes control of representation.

§ 31-7. Representation by City Attorney or other counsel.

[HISTORY: Adopted by the City Council of the City of Estell Manor 8-4-2004 by Ord. No. 09-04 (Ch. II, Sec. 2-26, of the 1974 Revised General Ordinances). Amendments noted where applicable.]

§ 31-1. City to provide defense and indemnification.

Except as hereinafter provided, the City of Estell Manor, hereinafter known as the "municipality," shall, upon the request of any present or former official, employee or appointee of the municipality, provide for indemnification and legal defense of any civil action brought against said person or persons arising from an act or omission falling within the scope of their public duties.

§ 31-2. Officials, employees and appointees covered.

The terms of this chapter and the definition of "official," "employee" and "appointee" are to be construed liberally in order to effectuate the purposes of this chapter except that these terms shall not mean any person who is not a natural person; any person while providing goods or services of any kind under any contract with the municipality except an employment contract; any person while providing legal or engineering services for compensation unless said person is a regular full- or part-time employee of the municipality; and any person who as a condition of his or her appointment or contract is required to indemnify and defend the municipality and/or secure insurance.

§ 31-3. Duty to defend.

The municipality shall provide for defense of and indemnify any present or former official, employee or appointee of the municipality who becomes a defendant in a civil action if the person or persons involved acted or failed to act in a matter in which the municipality has or had an interest; acted or failed to act in the discharge of a duty imposed or authorized by law; and acted or failed to take action in good faith. For purposes of this chapter, the duty and authority of the municipality to defend and indemnify shall extend to a cross-claim or counterclaim against said person.

§ 31-4. Refusal by City to provide defense and indemnification.

The municipality shall not indemnify any person against the payment of punitive damages, penalties or fines, but may provide for the legal defense of such claims in accord with the standards set forth herein. The municipality may refuse to provide for the defense and indemnification of any civil action referred to herein if the City of Estell Manor, by its governing body, determines that the act or omission did not occur within the scope of a duty authorized or imposed by law; the act or failure to act was the result of actual fraud, willful misconduct or actual malice of the person requesting defense and indemnification; or the defense of the action or proceeding by the municipality would create a conflict of interest between the municipality and the person or persons involved.

§ 31-5. Provision of defense and indemnification in other actions or proceedings.

In any other action or proceeding, including criminal proceedings, the municipality may provide for the defense of a present or former official, employee or appointee if the City Council concludes that such representation is in the best interest of the municipality and that the person to be defended acted or failed to act in accord with the standards set forth in this chapter.

§ 31-6. Municipality assumes control of representation.

Whenever the municipality provides for the defense of any action set forth herein and as a condition of such defense, the municipality may assume exclusive control over the representation of such persons defended, and such person shall cooperate fully with the municipality.

§ 31-7. Representation by City Attorney or other counsel.

The municipality may provide for the defense pursuant to this chapter by authorizing its Attorney to act in behalf of the person being defended or by employing other counsel for this purpose or by asserting the right of the municipality under any appropriate insurance policy that requires the insurer to provide defense.

Chapter 39

EMERGENCY MANAGEMENT

§ 39-1. Purpose.

§ 39-2. Comprehensive Plan.

§ 39-3. Establishment of Office of
Emergency Management.

§ 39-4. Municipal Emergency
Management Coordinator;
Deputy Coordinator.

§ 39-5. Rules and regulations.

§ 39-6. Duties; establishment of
operations center.

§ 39-7. Emergency Management
Council.

§ 39-8. Compensation.

[HISTORY: Adopted by the City Council of the City of Estell Manor 9-21-1999 by Ord. No. 0-11-99¹ (Ch. II, Sec. 2-15, of the 1974 Revised General Ordinances). Amendments noted where applicable.]

§ 39-1. Purpose.

Because of the existing and increasing possibility of disasters of unprecedented size and destructiveness resulting from fire, flood, earthquake, hurricane, tropical storm, plane crash or other natural or man-made causes, and in order to ensure that preparation of this City will be adequate to deal with such disasters in addition to civil insurrection, war or any hostility towards the United States and generally provide for the common defense and to protect the public peace, health, safety and to preserve the lives and property of the residents of this City, it is hereby found and declared to be necessary to:

- A. Create an Office of Emergency Management.
- B. Provide for the rendering of mutual aid to other cities within the State of New Jersey and adjoining states and to cooperate with the state government with respect to carrying out emergency functions.
- C. Create and test an emergency operations plan for all divisions of City government in the event of one of the aforementioned disasters.

§ 39-2. Comprehensive Plan.

It is further declared to be the purpose of this section and the policy of this City that all emergency functions of the state government, including its various departments and agencies, of the county government and of the other municipalities and private agencies of every type shall be included in the emergency operations plan so that a Comprehensive Plan can be developed to make use of all available resources in the event that a disaster does occur.

1. Editor's Note: This ordinance also provided for the repeal of former Sec. 2-15, Disaster Control Agency, of the 1974 Revised General Ordinances.

§ 39-3. Establishment of Office of Emergency Management.

It is further declared to be the purpose of this section and the policy of this City to organize an Office of Emergency Management in conformity with the Civil Defense Act as directed by P.L. 1942, c. 251, N.J.S.A. App. A:9-33 et seq., as amended.

§ 39-4. Municipal Emergency Management Coordinator; Deputy Coordinator.

The Mayor of this City shall be responsible for the appointment of a qualified Coordinator of this Office pursuant to state and federal guidelines as of the date of his/her appointment. The Coordinator shall serve for a term of three years subject to fulfilling the requirements of state statute (N.J.S.A. App. A:9-40.1). It shall be the responsibility of the Coordinator to appoint a Deputy Coordinator and such staff as may be needed to effectively operate this office. The appointment of each Deputy Coordinator is subject to the approval of the Mayor and, whenever possible, shall be appointed from among the salaried officers or employees of the municipality. It is the responsibility of the staff, under the direction of the Coordinator and Deputy Coordinator, to create and test the emergency operations plan and to be prepared to activate it whenever necessary.

§ 39-5. Rules and regulations.

It shall be the responsibility of this organization to carry out and enforce such orders, rules and regulations as issued by the Coordinator or the chain of command as outlined by the emergency operations plan, under the authority of this section.

§ 39-6. Duties; establishment of operations center.

- A. The Office of Emergency Management, through its Coordinator, shall be responsible for the planning, activating, coordinating and conduct of disaster control operations within the City.
- B. The Office shall accordingly establish a fully equipped emergency operations center within the municipal communications center, which shall be ready to coordinate all City functions in the event of a disaster. The Office shall also plan for an alternative operations center in the event that the primary communications center is damaged or unusable.

§ 39-7. Emergency Management Council.

- A. There is herewith established a Local Emergency Management Council which shall be composed of not more than 15 members appointed by the Mayor and who shall hold office at the will and pleasure of the Mayor. The Emergency Management Coordinator shall be a member and shall serve as Chairman of said Emergency Management Council.
- B. The Emergency Management Council shall assist the City in establishing the various local volunteer agencies needed to meet the requirements of all local civilian defense and emergency management activities in accordance with the rules and regulations

established by the Governor of the State of New Jersey in pursuance of the provisions of the State Civil Defense Act.

§ 39-8. Compensation.

The Coordinator and Deputy Coordinator as herein appointed may be entitled to compensation to be determined by a majority of the Common Council on an annual basis in accordance with the appropriate salary ordinance.

Chapter 48

FIRE DEPARTMENT

ARTICLE I Volunteer Fire Company

- § 48-1. Establishment.
- § 48-2. Membership; requirements.
- § 48-3. Control of the Company.
- § 48-4. Reports.
- § 48-5. Records.
- § 48-6. Duties of Chief.
- § 48-7. Discipline.

ARTICLE II Length of Service Awards Program

- § 48-8. Creation of program.

- § 48-9. Fixed annual contributions to be made for qualifying members.
- § 48-10. Criteria for eligibility; amount of contribution.
- § 48-11. Credit for previous years.
- § 48-12. Cost of program estimated.
- § 48-13. Volunteer service credit points.
- § 48-14. When effective; approval by voters.

Schedule A, Length of Service
Awards Program Point
Schedule

[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Volunteer Fire Company [Adopted 5-13-2015 by Ord. No. 05-2015]

§ 48-1. Establishment.

The Estell Manor Volunteer Fire Company, heretofore organized as a nonprofit corporation, is hereby authorized and established as the official Fire Department for the City of Estell Manor, along with such additional companies of said Fire Department as the City Council may hereafter authorize and approve (hereinafter "Fire Company"). The Fire Company must comply with all the requirements of this article and any rules or regulations promulgated hereunder to remain the designated Fire Company of the City of Estell Manor.

§ 48-2. Membership; requirements.

- A. No person shall become a member of the Fire Company or any unit thereof unless he or she has attained the age of at least 18 years, except that an individual may serve as an Explorer Member at the minimum age of 14 years.
- B. Every member must pass a physical examination by a practicing physician in the State of New Jersey, certifying the applicant is fit for firefighting duties. A copy of the certification must be provided to the City of Estell Manor.

- C. Every member of the Fire Company shall, at minimum, be certified as a Firefighter-1. Every officer must obtain an Incident Management Level 1 certification prior to assuming officer position. A copy of the certification must be provided to the City of Estell Manor.
- D. Every person seeking to join the Fire Company shall make application to the Fire Company in accordance with the Rules and Regulations thereof, and the bylaws of the Fire Company. Upon obtaining membership in the Fire Company, said person shall become a member in good standing of the Estell Manor Fire Company subject to appointment of City Council.
- E. Any member failing to meet any of the above requirements or any requirement mandated by the New Jersey Department of Community Affairs, Division of Fire Safety shall be cause for immediate removal of the member from the Company, and discipline, up to termination, of the Chief of the Fire Company.
- F. All members shall stay current with the National Fire Incident Reporting System requirements.

§ 48-3. Control of the Company.

- A. The City of Estell Manor, its Mayor and Council, shall have full charge and control over the Fire Company, and title to all of the fire equipment shall vest in the City of Estell Manor.
- B. If, at any time, the Fire Company becomes noncompliant with any section of this article, the Mayor may remove the Fire Company from service.
- C. The City Council shall choose one of its members to act as a liaison to the Fire Company.

§ 48-4. Reports.

- A. The Chief of the Fire Company shall render a report to the City Council no later than the fifth day of every month. Such report shall contain a record of all fires and other service calls attended by the Fire Company during the preceding month, finances, new and/or resigned members, and such other information as may be required or requested by City Council.
- B. At the beginning of each year, the Chief shall submit a written report and be present at the first Council meeting of the year for questioning of the report. The report shall contain the following:
 - (1) Certification status of each firefighter;
 - (2) Fit testing results for every firefighter;
 - (3) Flow testing results of every self-contained breathing apparatus;
 - (4) Ladder testing results of every ladder on site;
 - (5) Hose testing results of every hose on site; and

- (6) Any other testing or certification required by the State of New Jersey or County of Atlantic.
- C. If any of the above-mentioned tests or certifications lapse or fail, the Fire Company shall decommission such equipment unless or until the equipment has passed its required test or receive its required certification.
- D. In the Chief's report, he or she shall state the expiration date of any certification or test.
- E. If any of the firefighters shall become noncompliant with any of their required tests or certification, the Chief shall notify the Mayor, in writing, and shall remove the firefighter from service until such test is passed or certification obtained. In the Chief's report, he or she shall state the expiration date of any certification or test.
- F. If the Chief fails to provide any of the above, it shall be cause for discipline, up to and including removal as Chief.

§ 48-5. Records.

- A. A copy of all certifications of every firefighter in the Fire Company shall be submitted to the City of Estell Manor. Any record of any firefighter's failure to obtain their proper certifications to fight fires shall be immediately reported to the Mayor and City Council by the Chief.
- B. Any and all records of equipment obtained and the testing thereof shall be submitted to the City of Estell Manor. Any record of failing equipment shall be immediately reported, in writing, to the Mayor and City Council by the Chief.

§ 48-6. Duties of Chief.

- A. In addition to all of the requirements of this article, the Chief shall be in full command and complete control at all fires and during the period of all alarms and shall be held accountable for his/her action to the Council. The Chief shall make written reports to the City Council every month. The Chief shall be present at the first Council meeting of the year and any other Council meeting by written request of the Mayor.
- B. The Chief shall be responsible for obtaining the proper certification of every member of the Fire Company. Failure to do so may result in removal of the Chief.
- C. The Chief shall be responsible for all fire-related equipment. The Chief shall ensure that all equipment is properly licensed and operational. The Chief shall be responsible for obtaining the proper certifications for every piece of equipment.
- D. By the first Council meeting of each year, the Chief shall prepare an annual budget for the Fire Department, listing all anticipate expenditures and estimating prices thereof to be submitted to the City Council for approval. The budget shall include an accounting of the previous year. No expenditure to be borne by the City shall be submitted without prior approval by the Mayor and/or Chief Financial Officer of Estell Manor. Any expenditure request shall be submitted in writing.

§ 48-7. Discipline.

The Mayor may reprimand, suspend, or remove from office or membership the Fire Chief, or any officer or firefighter of the Fire Company. The City and the Fire Company shall be required to follow the following disciplinary procedure:

- A. Any and all charges shall be in writing and shall set forth the factual basis for the charges, including the proposed penalty.
- B. If the charges are for a written or oral reprimand, the Fire Chief, officer or firefighter may appeal the reprimand to the personnel committee.
- C. If the charges are for suspension or termination, the Fire Chief, officer or firefighter are entitled to a hearing, if one is requested within five days of receiving the charges.
- D. If a hearing is requested, the personnel committee or their designee will be the hearing officer.
- E. The hearing will be held within 30 days of the request, unless agreed to by both parties to be heard later than 30 days.
- F. If no written request for reconsideration is made or hearing requested, respectively, the discipline is final.

ARTICLE II**Length of Service Awards Program**

[Adopted 8-31-1999 by Ord. No. 0-10-99 (Ch. XI, Sec. 11-7, of the 1974 Revised General Ordinances)]

§ 48-8. Creation of program.

A Length of Service Awards Program (LOSAP) is herewith created in accordance with Chapter 388 of the Laws of 1997, N.J.S.A. 40A:14-183 et seq., to reward members of the volunteer firefighters for their loyal, diligent and devoted services to the residents of the City of Estell Manor.

§ 48-9. Fixed annual contributions to be made for qualifying members.

The LOSAP shall provide for fixed annual contributions to a deferred income account for each volunteer member that meets the criteria set forth below; that such contributions shall be made in accordance with a plan that shall be established by the City of Estell Manor pursuant to P.L. 1997, c. 388, N.J.S.A. 40A:14-183 et seq.; and that such plan shall be administered in accordance with the laws of the State of New Jersey, the United States Internal Revenue Code and this article.

§ 48-10. Criteria for eligibility; amount of contribution.

- A. The LOSAP shall provide for annual contributions to each eligible member that meets the criteria as follows:

- (1) Two hundred twenty-five points are required for a member to be eligible for an annual contribution (see Schedule A¹).
 - (2) Five years of service are required for vesting.
- B. The initial annual contribution shall be \$550. The governing body may from time to time amend the contribution amount to reflect cost of living increases authorized pursuant to N.J.A.C. 5:30-14.9. [**Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)**]

§ 48-11. Credit for previous years.

The LOSAP shall provide previous credit for vesting purposes only for no more than five years of prior service for each eligible volunteer considered each year as an "active and in good standing member" for each individual year.

§ 48-12. Cost of program estimated.

The estimated cost of the program has been calculated as follows:

- A. For regular annual services: \$14,850 per year.
- B. For contributions for prior years service: \$11,000 per year for an estimated five years.

§ 48-13. Volunteer service credit points.

Each active volunteer shall be credited with points for volunteer services provided to the Volunteer Fire Company in accordance with the following schedule (see Schedule A²).

§ 48-14. When effective; approval by voters.

This article shall not take effect unless it is approved by voters as a public question at the next general election.³

1. Editor's Note: Said Schedule A is included as an attachment to this chapter.

2. Editor's Note: Said Schedule A is included as an attachment to this chapter.

3. Editor's Note: Ordinance No. 0-10-99 was approved at the November 2, 1999, general election.

FIRE DEPARTMENT

48 Attachment 1

City of Estell Manor

Schedule A
Length of Service Awards Program Point Schedule

225 points are required for a member in good standing to be eligible for an annual contribution

Activity	Points
Fires	5
Drills, fire preventions programs, fire protection details	5
Meetings	3
Work details, public education, firefighter funeral details	3
Fund-raising	5

Additional Available Points

Position or Course	Points
Chief or President of fire company	25
First and Second Assistant Chiefs, training officer, Treasurer, Recording Secretary, Vice President and Trustees	20
Captains	15
First and Second Lieutenants, safety officers	10
Corresponding Secretary	5
Officer in charge of Fire Police	15
Fire Police	10
All other judicial officers	5
Chairperson of fund-raising activity	10
If co-chair persons, each person	5
Passing sixteen-week Firefighter I or II courses	20
Firefighter training courses (must complete and pass tests), points per 8 hours	10

Chapter 70

OFFICERS AND EMPLOYEES

ARTICLE I Zoning Officer

- § 70-1. Creation; appointment.
- § 70-2. Duties.

ARTICLE II Clerk

- § 70-3. Creation.
- § 70-4. Duties of Municipal Clerk
- § 70-5. Deputy Municipal Clerk.

ARTICLE III City Attorney

- § 70-6. Appointment and qualification.
- § 70-7. Powers and duties.

ARTICLE IV City Engineer

- § 70-8. Appointment.
- § 70-9. Qualifications; duties.

ARTICLE V Tax Collector

- § 70-10. Appointment and duties.
- § 70-11. Deputy Tax Collector.

ARTICLE VI Maintenance Foreman; Laborer

- § 70-12. Maintenance Foreman.
- § 70-13. Laborer.

ARTICLE VII Construction Official

- § 70-14. Designation of Construction Official.

ARTICLE VIII Code Enforcement Officer

- § 70-15. Creation; appointment.
- § 70-16. Duties.

ARTICLE IX 911 Coordinator and Deputy 911 Coordinator

- § 70-17. Offices established; appointment.
- § 70-18. Term.
- § 70-19. Qualifications.
- § 70-20. Duties.

ARTICLE X Clerk Typist

- § 70-21. Creation of position.
- § 70-22. Compensation.

ARTICLE XI Chief Financial Officer

- § 70-23. Appointment.
- § 70-24. Powers and duties.
- § 70-25. Deputy Chief Financial Officer.

[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Zoning Officer

[Adopted by Ord. No. 69-6 (Ch. II, Sec. 2-10, of the 1974 Revised General Ordinances)]

§ 70-1. Creation; appointment.

There shall be created the position of Zoning Officer of the City. He shall be appointed by the City Council and shall hold office for a period of one year. The term shall expire on December 31 of each year.

§ 70-2. Duties. [Amended 11-5-1997 by Ord. No. 97-6]

It shall be the duty of the Zoning Officer to enforce and administer the provisions of Chapter 380, Zoning, as directed by the Planning Board and City Council.

ARTICLE II

Clerk

[Adopted by Ord. No. 72-3; amended in its entirety 3-5-2008 by Ord. No. 01-2008 (Ch. II, Sec. 2-2, of the 1974 Revised General Ordinances)]

§ 70-3. Creation.

There shall be created the position of Municipal Clerk who shall be appointed in accordance with the provisions of N.J.S.A. 40A:9-133 et seq. The Municipal Clerk shall attend all meetings of Council and shall prepare the minutes of all Council meetings.

§ 70-4. Duties of Municipal Clerk

A. Ordinances and resolutions.

- (1) The Clerk shall record all ordinances in books to be provided for that purpose. After each ordinance he shall record and certify the proof of its publication as required by law. Each ordinance so recorded shall be signed by the Mayor and the Clerk, who shall attest that it was adopted on a date stated, and when so signed, the recorded copy shall be deemed to be a public record of the ordinance. Any omission by the Clerk or the Mayor to record, sign or certify shall not impair or affect the validity of an ordinance which has been duly adopted.
- (2) Periodically, as determined by the Council, the Clerk shall compile at least two copies of all ordinances that have been adopted since the previous Code or supplement and forward them to a company selected by the Council to prepare a supplement to the Code.

- (3) The Clerk shall compile annually, in the order of their adoption, all resolutions adopted by the Council during the year and shall preserve them.
- B. Custodian of records. The Clerk shall have custody of and safely keep all records, books and documents of the City except those committed by ordinance, to any other office, by resolution or by law. On request and on the payment of the fees prescribed therefor, the Clerk shall furnish a certified copy of any paper in his custody under the corporate seal of the City.
- C. Corporate seal. The Clerk shall cause the corporate seal of the City to be affixed to instruments and writings when authorized by ordinance or resolution of the Council or when necessary to exemplify any document on record in his office, or to certify any act or paper which from the records in his office shall appear to have been a public act of the City or a public document.
- D. Insurance; surety bonds; contracts. Subject to the supervision of the Council, the Clerk shall:
 - (1) Be the depository for and the custodian of all official surety bonds furnished by or on account of any officer or employee, except his own bond which shall be placed in the custody of the Treasurer; of all insurance policies on or with respect to risks insured for the benefit of the City or to protect it against any claim, demand or liability; and all formal contracts for work, labor, services, supplies, equipment and materials to which the City may be a party.
 - (2) Be the depositories for and the custodian of all performance bonds running to the City as obligee, or any other form of security given by a contractor, subdivision developer or other persons on account of work done or to be done in or for the City.
 - (3) Have custody of all leases of property owned by the City.
 - (4) Report to the Council annually, at such times as the Council may require, on the coverage, expiration date and premium of each surety bond and contract of insurance; the nature and terms of outstanding leases, the rent reserved by each and their respective expiration dates.
- E. Administrative rules and regulations; filing and publication. The Clerk shall maintain a current compilation of all rules and regulations, which shall be available for public inspection in his office during business hours. No rule or general regulation made by a department, officer, agency or authority of the City, unless it relates to the organization or internal management of the municipal government or a part thereof, shall take effect until it is filed with the Clerk.
- F. Other laws and ordinances. In addition to other functions, powers and duties prescribed by ordinance and subject to the supervision and direction of the Council, the Clerk shall:
 - (1) Perform all the functions required of city clerks by the General Election Law (Title 19 of the Revised Statutes) and any other law or ordinance.

- (2) Administer the provisions of City ordinances with reference to the licensing of occupations and activities for which licenses are required by law or ordinance to be obtained from the Clerk.
 - (3) Have such other, different and additional functions, powers and duties as may be prescribed by law or ordinance or delegated to him by the Council.
- G. The Clerk shall also serve as the Registrar of Vital Statistics in accordance with N.J.S.A. 26:8-11c. The appointment shall be for a three-year term at such compensation as the governing body may set. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

§ 70-5. Deputy Municipal Clerk.

Creation. There is created the position of Deputy Municipal Clerk in accordance with the provisions of N.J.S.A. 40A:9-135 who during the absence or disability of the Municipal Clerk shall perform and have the powers of the Municipal Clerk and shall perform the functions and duties of that office.

ARTICLE III

City Attorney

[Adopted 10-2-1974 (Ch. II, Sec. 2-3, of the 1974 Revised General Ordinances)]

§ 70-6. Appointment and qualification.

A City Attorney shall be appointed for a term of one year by the Council. He shall be an attorney at law of New Jersey but need not be a resident of the City.

§ 70-7. Powers and duties.

The City Attorney shall have such powers and perform such duties as are provided for the office of City Attorney by general law or ordinances of the City. He shall represent the City in all judicial and administrative proceedings in which the City or any of its officers or agents may be a party or have an interest. He shall give all legal counsel and advice where required by the Mayor and Council and shall in general serve as the legal advisor to the Mayor and Council on all matters of City business. In furtherance of such general powers and duties, but without limitation thereto, the City Attorney shall:

- A. Draft or approve as to form and sufficiency all legal documents, contracts, deeds, ordinances and resolutions made, executed or adopted by or on behalf of the City.
- B. Conduct appeals from orders, decisions or judgments affecting any interest of the City as he may in his discretion determine to be necessary or desirable, or as directed by the Mayor and Council.
- C. Subject to the approval of the Mayor and Council, have power to enter into any agreement, compromise or settlement of any litigation in which the City is involved.

- D. Render written opinions upon any question of law submitted to him by the Mayor and Council with respect to their official powers and duties and perform such duties as may be necessary to provide legal counsel to the Mayor and Council in the administration of municipal affairs.
- E. Supervise and direct the work of such additional attorneys and technical and professional assistants as the Mayor and Council may authorize for special or regular employment in or for the City.

ARTICLE IV

City Engineer

[Adopted 10-2-1974 (Ch. II, Sec. 2-4, of the 1974 Revised General Ordinances)]

§ 70-8. Appointment.

There shall be a City Engineer who shall be appointed for a term of one year by the Council. In lieu of appointing an individual to be the City Engineer, the Mayor and Council may appoint a firm of engineers, each member of which shall be a licensed professional engineer of the State of New Jersey. The City Engineer shall receive such compensation as may be agreed upon and determined by the City Council.

§ 70-9. Qualifications; duties.

The City Engineer shall be a licensed professional engineer of the State of New Jersey and shall perform such duties as are prescribed by general law and ordinance, and in addition shall:

- A. Prepare or cause to be prepared plans, designs and specifications for public works and improvements undertaken by the City.
- B. Provide and maintain surveys, maps, plans, specifications and control records with respect to public works and facilities owned or operated by the City.
- C. Provide technical and engineering advice and assistance to other City departments as needed.
- D. All papers, documents, memoranda, reports and other materials relating to the administration of engineering duties of the City Engineer shall be the property of the City and remain in the Municipal Building unless the Mayor and Council authorize storage elsewhere. Upon the termination of his services with the City, the Engineer shall forthwith surrender to any successor all such property.

ARTICLE V

Tax Collector

[Adopted by Ord. No. 80-4; amended by Ord. No. 85-2 (Ch. II, Sec. 7A, of the 1974 Revised General Ordinances)]

§ 70-10. Appointment and duties.

The Tax Collector shall possess all the powers and duties established by law. The Collector shall enter in suitable books to be kept for that purpose the same received by him each day for taxes, with the names of the persons on whose account the same shall have been paid; shall keep a record and account of the finances of the City; and shall, within 60 days after the end of the fiscal year or when otherwise required by the Council, make and furnish a report thereof, with a detailed and true statement of all moneys received by him and disbursed therefrom and for what purposes, from the commencement of his official year to the date of his report or for such period as the Council may require, and a list of delinquent taxpayers for the previous year. He shall file the report, with two copies of the statement and a list of delinquents, with the Clerk within the time hereinabove specified or when otherwise required by the Council. He shall, as necessary and as directed, arrange for and conduct sales of real estate for delinquent taxes.

§ 70-11. Deputy Tax Collector.

There is hereby created within the City the position of Assistant Tax Collector, whose duty it shall be to assist the Tax Collector in receipt of taxes and other public moneys, as provided by N.J.S.A. 54:4-122.1 et seq., such person shall be appointed by and shall serve at the pleasure of the City Council, with compensation to be determined annually by salary ordinance.

ARTICLE VI

Maintenance Foreman; Laborer

[Adopted by Ord. No. 81-5 (Ch. II, Sec. 2-19, of the 1974 Revised General Ordinances)]

§ 70-12. Maintenance Foreman.

- A. Creation of position. There is hereby established within the City of Estell Manor the position of Maintenance Foreman, whose job shall consist of responsibility for the routine repair, maintenance and improvement of the public streets, roads, buildings and grounds, as well as all municipal property and equipment, subject to the direction and approval of the members of the City Council, City Administrator or their designee.
- B. Compensation. Compensation by way of salary for the position aforesaid shall be determined annually by ordinance of the City Council. **[Amended by Ord. No. 85-2]**

§ 70-13. Laborer. [Added 6-7-2000 by Ord. No. 0-3-00]

- A. Laborer. There is hereby created within the City the position of Laborer, whose duties it shall be to assist the Maintenance Foreman in the routine repair, maintenance and improvement of the public streets, roads, buildings and grounds, as well as all

municipal property and equipment, subject to the direction and approval of the Maintenance Foreman and the members of the City Council, City Administrator or their designee.

- B. Compensation. Compensation by way of salary for the position of Laborer shall be determined annually by ordinance of the City Council.

ARTICLE VII

Construction Official

[Adopted by Ord. No. 84-9 (Ch. II, Sec. 2-9, of the 1974 Revised General Ordinances)]

§ 70-14. Designation of Construction Official.

The Construction Official for the City shall be such person or persons as shall be designated, from time to time, by the New Jersey State Department of Community Affairs in accordance with authorized code enforcement procedures under Chapter 155, Construction Code, Article I, Enforcement, of the Code of the City of Estell Manor. Such Construction Official or Officials shall be required to take all applications, conduct inspections, issue permits and have all other jurisdiction assigned to them by law and City ordinance, in addition to which such officials shall make a report of their duties and activities on a monthly basis, in writing, to the City Council.

ARTICLE VIII

Code Enforcement Officer

[Adopted by Ord. No. 87-5 (Ch. II, Sec. 2-10A, of the 1974 Revised General Ordinances)]

§ 70-15. Creation; appointment.

There is hereby created the position of Code Enforcement Officer of the City. Said Officer shall be appointed by the City Council and hold office for a period of one year. The term shall expire on December 31 of each year.

§ 70-16. Duties.

It shall be the duty of the Code Enforcement Officer to enforce and administer the provisions of all ordinances of the City where such administration and enforcement is not otherwise exclusively reserved to another officer of the municipality.

ARTICLE IX

911 Coordinator and Deputy 911 Coordinator

[Adopted 9-21-1999 by Ord. No. 0-12-99 (Ch. II, Sec. 2-24, of the 1974 Revised General Ordinances)]

§ 70-17. Offices established; appointment.

There is hereby established the office of 911 Coordinator of the City of Estell Manor who shall be appointed by the Mayor with the advice and consent of Council. There is hereby established the office of Deputy 911 Coordinator of the City of Estell Manor who may be appointed by the Mayor with the advice and consent of Council.

§ 70-18. Term.

The term of said office(s) shall be for one year running from January 1 until December 31, except in the year in which this article becomes effective, in which case the term shall be from the date of appointment until December 31 of that year.

§ 70-19. Qualifications.

Said 911 Coordinator and Deputy 911 Coordinator shall be an officer of the City of Estell Manor who is thoroughly familiar with all of the public safety agencies of this City and shall have the time and ability to fulfill the requirements of said office(s) in accordance with all state, county and local rules and regulations.

§ 70-20. Duties.

- A. It shall be the duty of the 911 Coordinator to compile and cause to be provided to the agencies requiring the same all such data necessary for the establishment of the automatic location identification capability of the system, coordinate the municipal program with the county program and the 911 Commission of the Department of Law and Public Safety, report to the Mayor and Council of the operation and needs of the program as necessary but, nevertheless, no less often than annually, and do such other acts as may be required of him or her pursuant to N.J.S.A. 52:17C-1 et seq.
- B. It shall be the duty of the Deputy 911 Coordinator to aid and assist the 911 Coordinator as heretofore appointed at the discretion of said 911 Coordinator and shall report and be subservient to said 911 Coordinator.

ARTICLE X

Clerk Typist

[Adopted 6-7-2000 by Ord. No. 0-2-00 (Ch. II, Sec. 2-2A, of the 1974 Revised General Ordinances)]

§ 70-21. Creation of position.

It is hereby established within the City of Estell Manor the position of Clerk Typist, whose job shall consist of assisting the Chief Financial Officer of the City in keeping records and inputting data as well as to assist the Tax Collector with similar duties.

§ 70-22. Compensation.

Compensation by way of salary for the position aforesaid shall be determined annually by ordinance of the City Council.

ARTICLE XI

Chief Financial Officer

[Adopted 7-11-2001 by Ord. No. 08-01 (Ch. II, Sec. 2-5, of the 1974 Revised General Ordinances)]

§ 70-23. Appointment. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

There shall be a Chief Financial Officer appointed by the City Council; he shall serve for a term of four years at a salary fixed by ordinance.

§ 70-24. Powers and duties.

The Chief Financial Officer shall have, perform and exercise all of the functions, powers and duties provided by general law and City ordinances. He shall keep and maintain books and records of all financial transactions of the City in accordance with the standards and requirements of the Division of Local Finance in the Department of Community Affairs. He shall have custody of all public moneys of the City and shall make monthly reports to the Mayor and Council of all receipts, expenditures, commitments and unexpended appropriations. All moneys received from any source by or on behalf of the City or any department, board, office or agency thereof, except as otherwise provided by City ordinance, shall be paid to the Chief Financial Officer, who shall, by the next ensuing bank day after their receipt, deposit them in the authorized public depository of the City to the credit of the proper account.

§ 70-25. Deputy Chief Financial Officer.

- A. Appointment. There shall be created the office of Deputy Chief Financial Officer who shall be appointed by the City Council and shall serve for a term of one year from January 1 through December 31 or until a successor is appointed and qualified.

- B. Powers and duties. It shall be the duty of the Deputy Chief Financial Officer to assist the Chief Financial Officer in the discharge of his duties, including, but not limited to, routine clerical, accounting and administrative work. The Deputy Chief Financial Officer shall also provide assistance in the tax office and City Clerk's office as needed.

Chapter 77

PERSONNEL POLICIES

ARTICLE I

Employment and Conduct Manual

§ 77-1. Authority to adopt various personnel policies and procedures.

ARTICLE II

Political Fund-Raising

§ 77-2. Short title.

§ 77-3. Purpose.

§ 77-4. Definitions.

§ 77-5. Prohibition against soliciting or accepting political contribution in rooms or buildings occupied in the discharge of public duties.

§ 77-6. Prohibition against use of public property for political fund-raising.

§ 77-7. Exception.

§ 77-8. Violations and penalties.

ARTICLE III

Defined Contribution Retirement Program

§ 77-9. Positions eligible for participation.

§ 77-10. Positions exempt from participation.

§ 77-11. Statutory authority.

ARTICLE IV

Standard Operating Procedures Manual for Safety

§ 77-12. Establishment of Standard Operating Policies and Procedures Manual for Safety Standards and Reporting and Related Matters.

§ 77-13. Amendment of manual.

[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Employment and Conduct Manual

[Adopted by Ord. No. 86-2 (Ch. II, Sec. 2-20, of the 1974 Revised General Ordinances)]

§ 77-1. Authority to adopt various personnel policies and procedures.

The City Council shall from time to time adopt policies and procedures, by resolution, for the operation of municipal offices, as well as terms for the employment of various municipal employees and personnel.

ARTICLE II

Political Fund-Raising

[Adopted 2-1-2006 by Ord. No. 02-2006 (Ch. II, Sec. 2-27, of the 1974 Revised General Ordinances)]

§ 77-2. Short title.

This article shall be titled "An Ordinance Banning the Use of Government Buildings and Equipment for Political Fund-Raising."

§ 77-3. Purpose.

- A. Our laws in New Jersey do not presently ban solicitation or acceptance of political contributions by public office holders and employees while in any room or building occupied in the discharge of official duties;
- B. Solicitation and acceptance of political contributions in rooms and buildings occupied in the discharge of official municipal business undermines the efficiency of government by taking officials and employees away from the people's business, and leads to the appearance of improper influence of political contributions on government functions;
- C. Prohibiting the solicitation and acceptance of political contributions in rooms and buildings occupied in the discharge of official duties will address these harms and leave open ample alternative venues for political fund-raising;
- D. Our laws in New Jersey do not presently recognize the misuse of public property for political fund-raising as a distinct offense;
- E. It is accordingly found and determined that the municipality's interests in an independent and efficient government workforce and a government that is undermined by neither the fact nor appearance of improper influence of political contributions on government decisions require the prohibition of political fund-raising in rooms or buildings occupied in the discharge of official duties or through the use of public property.

§ 77-4. Definitions.

As used in this section, the following terms shall have the meanings indicated:

CANDIDATE — Any individual seeking election to a public office of the federal, state, county, or municipal government, or school district or political party, and any individual who shall have been elected or failed of election to any such office;

MUNICIPALITY — The government of the municipality, including any officer, department, board, commission, or agency thereof.

MUNICIPAL OFFICIAL, EMPLOYEE AND APPOINTEE — Any person holding elective municipal office or holding an appointed position in the municipal government, or in any agency, commission, board, or office thereof, whether the position is full-time or part-time, compensated or uncompensated; and any employee of municipal government or of any

municipal agency, commission, board, or office thereof, whether the position is full-time or part-time.

POLITICAL CONTRIBUTION — Any loans and transfers of money or other things of value to any candidate, elected official, or representative of any political organization, or other commitments or assumptions of liability to make any such transfer. Political contributions shall be deemed to have been made upon the date when such commitment is made or liability assumed.

POLITICAL ORGANIZATION — Any two or more persons acting jointly, or any corporation, partnership or other incorporated or unincorporated association which is organized to, or does, aid or promote the nomination, election or defeat of any candidate or candidates for federal, state, county, municipal or school board office or political party office. "Political organization" includes, but is not limited to, organizations defined in N.J.S.A. 19:44A-3 as a "political committee," "joint candidates committee," "continuing political committee," "political party committee," "candidate committee," or "legislative leadership committee."

PUBLIC PROPERTY — All personal property owned, leased, or controlled by the municipal government, including, but not limited to, vehicles, phones, fax machines, computers, stationery, including municipal letterhead, postage, and other office equipment.

SOLICIT — To ask for, by oral or written communication, a contribution as that term is defined herein.

§ 77-5. Prohibition against soliciting or accepting political contribution in rooms or buildings occupied in the discharge of public duties.

No municipal official, employee or appointee may solicit, commit to pay, or receive payment of or a commitment to pay any political contribution for any candidate, elected official or political organization while in any room or building occupied in the discharge of official municipal business. This section shall include solicitation or acceptance of political contributions made over a private cell phone or by use of a private computer, if the person soliciting or accepting the political contribution, or using the cell phone or computer for purposes of soliciting or accepting the political contribution, is in any room or building occupied in the discharge of official municipal business.

§ 77-6. Prohibition against use of public property for political fund-raising.

No municipal official, employee, or appointee may solicit, commit to pay, or receive payment of or a commitment to pay any political contribution for any candidate, elected official or political organization while utilizing public property.

§ 77-7. Exception.

In the event public facilities are made available to any group for nongovernmental use, as a meeting facility, this prohibition shall not be deemed to prevent fund-raising of any sort among members of such groups during the time such groups have reserved exclusive use of the meeting facility.

§ 77-8. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

Violation of any provision of this article shall be punishable as provided in Chapter 1, Article II, General Penalty, of the Code of the City of Estell Manor.

ARTICLE III

Defined Contribution Retirement Program

[Adopted 8-6-2008 by Ord. No. 05-2008 (Ch. II, Sec. 2-29, of the 1974 Revised General Ordinances)]

§ 77-9. Positions eligible for participation.

Pursuant to N.J.S.A. 43:15C-2, the following positions are deemed to be eligible for and shall participate in the Defined Contribution Retirement Program:

- A. City Solicitor.
- B. City Engineer.
- C. Municipal Prosecutor.
- D. Municipal Court Judge.

§ 77-10. Positions exempt from participation.

Individuals serving in the following positions are exempt from Defined Contribution Retirement Program membership, pursuant to N.J.S.A. 43:15C-2:

- A. Tax Collector.
- B. Chief Financial Officer.
- C. Qualified Purchasing Agent.
- D. Tax Assessor.
- E. Registered Municipal Clerk.
- F. Principal Public Works Manager.

§ 77-11. Statutory authority.

This section shall be implemented, construed and subject to the aforesaid Chapter 92 of the Laws of 2007 (N.J.S.A. 43:15C-1 et seq.) as amended from time to time, and any regulations or guidance documents from the Local Finance Board or the Division of Pensions and Benefits.

ARTICLE IV

**Standard Operating Procedures Manual for Safety
[Adopted 8-13-2014 by Ord. No. 11-2014]****§ 77-12. Establishment of Standard Operating Policies and Procedures Manual for Safety Standards and Reporting and Related Matters.**

There is established in the City of Estell Manor a Standard Operating Policies and Procedures Manual for Safety Standards and Reporting and Related Matters for the City of Estell Manor (hereinafter referred to as the "SOP Manual For Safety"), a copy of which is attached hereto and adopted pursuant to this article.

§ 77-13. Amendment of manual.

The City Council of the City of Estell Manor may, from time to time, amend and supplement the SOP Manual for Safety by resolution.

PART II

GENERAL LEGISLATION

Chapter 110

ALARM DEVICES

ARTICLE I False Alarms

- § 110-2. False alarms.
- § 110-3. Violations and penalties.

§ 110-1. Purpose.

[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I False Alarms

[Adopted by Ord. No. 92-7 (Ch. III, Sec. 3-8, of the 1974 Revised General Ordinances)]

§ 110-1. Purpose.

The purpose of this article is to provide standards and regulations for various types of intrusion, burglar, fire and other emergency alarm devices, whether by direct line, radio, telephone or other means, for the purposes of giving alarm to summon emergency services. The provisions of this article shall apply to any person who operates, maintains or owns any alarm device or local alarm designed to summon the police, Fire Department or other emergency services to any location in response to any type of alarm signal.

§ 110-2. False alarms.

Any party owning or operating an alarm device shall maintain said alarm in proper working condition, and each and every false alarm in excess of three such false alarms which occurs in any twelve-month period shall constitute a violation of this article and shall subject the owner or operator to a penalty as otherwise provided herein.¹

§ 110-3. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

Violation of any provision of this article shall be punishable as provided in Chapter 1, Article II, General Penalty, of the Code of the City of Estell Manor. A separate offense shall be deemed committed on the day in which a violation occurs and each day the violation continues to occur.

¹ Editor's Note: Original Sec. 3-8.3, Charges for false alarms, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

Chapter 114
ALCOHOLIC BEVERAGES

ARTICLE I
Licensing and Regulation

- § 114-1. Purpose.
- § 114-2. Definitions.
- § 114-3. Licenses.
- § 114-4. Regulations.
- § 114-5. Revocation of licenses.

ARTICLE II
**Possession and Consumption by Minors
on Private Property**

- § 114-6. Underage possession and consumption prohibited.
- § 114-7. Violations and penalties.
- § 114-8. Additional penalties.
- § 114-9. Exceptions.

[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Licensing and Regulation
[Adopted 10-2-1974 (Ch. V, Secs. 5-1 through 5-5, of the 1974 Revised General Ordinances)]

§ 114-1. Purpose.

This article is enacted to regulate the sale and transportation of alcoholic beverages in the City of Estell Manor in accordance with the provisions of an act of the legislature of the State of New Jersey, entitled "An Act Concerning Alcoholic Beverages," comprising Chapter 436 of the Laws of 1933, its supplements and amendments, and also comprising N.J.S.A. 33:1-1 et seq., and in accordance with the rules and regulations of the State Director of Alcoholic Beverage Control.

§ 114-2. Definitions.

As used in this article, words and phrases shall have the same meanings they have in N.J.S.A. 33:1-1 et seq. and the rules and regulations of the Director of the Division of Alcoholic Beverage Control.

§ 114-3. Licenses. [Amended by Ord. No. 24]

- A. Laws applicable. All applications for licenses, all licenses issued, and all proceedings under this article shall be in accordance with the act, rules and regulations referred to in the previous section and all other applicable laws of the State of New Jersey or of the United States.
- B. Issuing authority. All licenses required by this article shall be issued by the Common Council which shall also administer the provisions of this article.

C. License required. No person shall sell or distribute alcoholic beverages within the City without having obtained a license in accordance with the act referred to in § 114-1 and the provisions of this article.

D. License fees; maximum number. **[Amended by Ord. No. 73-7; Ord. No. 30; Ord. No. 79-7]**

(1) The maximum number of licenses for the sale or distribution of alcoholic beverages in the City shall be as follows. For fee amounts, see Chapter 185, Fees, Art. III, Fees for City Services. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

Class of License	Number
Plenary retail consumption license	2
Plenary retail distribution license	1
Club license	1

(2) No seasonal retail consumption licenses shall be issued.

§ 114-4. Regulations.

A. Hours of operation. **[Amended by Ord. No. 74-4]**

(1) No licensee shall sell, serve, deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverage, or permit the consumption of any alcoholic beverage on licensed premises, on weekdays, between the hours of 4:00 a.m. and 5:00 a.m.

(2) During the hours that sales are prohibited, the entire licensed premises shall also be closed and free from patrons, but the aforesaid closing of premises provisions shall not apply to hotels, or to restaurants, as defined in N.J.S.A. 33:1-1t.

B. Sales to minors. No person shall sell, expose for sale, or serve any alcoholic beverage to any person under the age of 21 years. No persons under the age of 18 years shall be permitted in any room or premises, on weekdays, between the hours of 4:00 a.m. and 5:00 a.m. **[Amended by Ord. No. 74-4; at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

C. Sales to certain persons. No licensee or employee of a licensee shall sell, serve or deliver, directly or indirectly, any alcoholic beverages to any habitual drunkard, intoxicated person or minor, nor permit the consumption of alcoholic beverages on any licensed premises by any of the above-named classes of persons, or permit any such persons to congregate in or about the licensed premises.

§ 114-5. Revocation of licenses.

- A. Any license issued under this article may be suspended or revoked for violation of any of the provisions of this article, any provisions of any applicable statute, or any of the rules and regulations of the State Director of Alcoholic Beverage Control.
- B. Proceedings for suspension or revocation shall be in accordance with the provisions of N.J.S.A. 33:1-31 by service of a five-day notice of charges preferred against the licensee and affording a reasonable opportunity for hearing.
- C. Suspension or revocation of a license shall be in addition to any other penalty which may be imposed for a violation of this article.

ARTICLE II

Possession and Consumption by Minors on Private Property

[Adopted 11-3-2010 by Ord. No. 03-2010 (Ch. V, Sec. 5-6, of the 1974 Revised General Ordinances)]

§ 114-6. Underage possession and consumption prohibited.

It shall be unlawful for any person under the legal age to, without legal authority, knowingly possess or knowingly consume an alcoholic beverage on private property.

§ 114-7. Violations and penalties.

Any person violating the provisions of this section shall, in accordance with the provisions of N.J.S.A. 40:48-1.2, as amended, be punished by a fine of \$250 for a first offense and \$350 for any subsequent offense.

§ 114-8. Additional penalties.

- A. In addition to the fine authorized for this offense, the court may suspend or postpone for six months the driving privilege of the defendant. Upon the conviction of any person and the suspension or postponement of that person's driver's license, the court shall forward a report to the Division of Motor Vehicles stating the first and last day of the suspension or postponement period imposed by the court pursuant to N.J.S.A. 40:48-1 as amended. If a person at the time of the imposition of sentences is less than 17 years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six months after the person reaches the age of 17 years.
- B. If a person at the time of the imposition of a sentence has a valid driver's license issued by this state, the court shall immediately collect the license and forward it to the Division of Motor Vehicles along with the report. If for any reason the license cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color, and sex of the person, as well as the first and last date of the license suspension period imposed by the court.

- C. The court shall inform the person orally and in writing that, if the person is convicted of operating a motor vehicle during the period of license suspension or postponement, the person shall be subject to the penalties set forth in N.J.S.A. 39:3-40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge, in writing, the receipt of a written notice shall not be a defense to a subsequent charge of a violation of N.J.S.A. 39:3-40.
- D. If a person convicted under this section is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the nonresident driving privilege of the person based on the age of the person and submit to the Division of Motor Vehicles the required report. The court shall not collect the license of a nonresident convicted under this section. Upon receipt of a report for the court, the Division of Motor Vehicles shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

§ 114-9. Exceptions.

- A. Nothing contained in this article is intended to prohibit, nor shall it be construed as prohibiting, an underage person from consuming or possessing an alcoholic beverage in connection with a religious observance, ceremony, or rite or consuming or possessing an alcoholic beverage in the presence of and with the permission of a parent, guardian or relative who has attained the legal age to purchase and consume alcoholic beverages. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

- B. As used in the preceding § 114-9A, the following terms shall have the meanings set forth:

GUARDIAN — A person who has qualified as a guardian of the underaged person pursuant to testamentary or court appointment.

RELATIVE — The underaged person's grandparent, aunt or uncle, sibling, or any other person related by blood or affinity.

- C. Nothing contained in this section is intended to prohibit, nor shall it be construed as prohibiting, possession of alcoholic beverages by any such person while actually engaged in the performance of employment by a person who is licensed under Title 33 of the New Jersey Revised Statutes, or while actively engaged in the preparation of food while enrolled in a culinary arts or hotel management program or at a county vocational school or post-secondary educational institution; provided, however, that this section shall not be construed to preclude the imposition of a penalty under this section, N.J.S.A. 33:1-81, or any other section of law against a person who is convicted of unlawful alcoholic beverage activity on or at premises licensed for the sale of alcoholic beverages.

Chapter 119

ANIMALS

ARTICLE I

Dogs

§ 119-1. Definitions.

§ 119-2. Licensing provisions.

§ 119-3. Impoundment; running at large.

§ 119-4. Potentially dangerous and vicious dogs.

§ 119-5. Regulations.

§ 119-6. Dog bites.

§ 119-7. Enforcement; canvass.

§ 119-8. Violations and penalties.

ARTICLE II

Deer Driving

§ 119-9. Deer driving unlawful in certain areas.

§ 119-10. Definitions; construal.

§ 119-11. Enforcement.

[**HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.**]

ARTICLE I

Dogs¹

[Adopted 10-2-1974 (Ch. VI of the 1974 Revised General Ordinances)]

§ 119-1. Definitions.

The following words and terms shall have the meanings herein indicated for the purposes of this chapter.

ANIMAL CONTROL OFFICER — A person designated by the New Jersey State Commissioner of Health pursuant to N.J.S.A. 4:19-15.16a as a Certified Animal Control Officer, or in the absence of such an officer, the person, agency or entity authorized by the City to carry out the duties of the Animal Control Officer. [**Added at time of adoption of Code (see Ch. 1, General Provisions, Art. III)**]

DOG — Any dog or dog hybrid. [**Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)**]

DOG OF LICENSING AGE — Any dog which has attained the age of seven months or which possesses a set of permanent teeth.

KEEPER — Any person exercising control over a dog or permitting a dog to remain on premises under his control.

KENNEL — Any establishment wherein or whereon the business of boarding or selling dogs or breeding dogs for sale is carried on, except a pet shop.

1. Editor's Note: The relevant statutory provisions are found in N.J.S.A. 4:19-15 et seq.

OWNER — When applied to the proprietorship of a dog, shall include every person having a right of property in that dog and every person who has that dog in his keeping, and when applied to the proprietorship of any other animal, including, but not limited to, a cat, shall include every person having a right of property in that animal and every person who has that animal in his keeping. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

PET SHOP — Any place of business which is not part of a kennel, wherein animals, including, but not limited to, dogs, cats, birds, fish, reptiles, rabbits, hamsters or gerbils, are kept or displayed chiefly for the purpose of sale to individuals for personal appreciation and companionship rather than for business or research purposes. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

POTENTIALLY DANGEROUS DOG — Any dog or dog hybrid declared potentially dangerous by a municipal court pursuant to N.J.S.A. 4:19-23. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

POUND — An establishment for the confinement of dogs or other animals seized either under the provisions of this chapter or otherwise. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

SHELTER — Any establishment where dogs or other animals are received, housed and distributed without charge. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

VICIOUS DOG — Any dog or dog hybrid declared vicious by a municipal court pursuant to N.J.S.A. 4:19-22. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

§ 119-2. Licensing provisions. [Amended by Ord. No. 70-5]

- A. License; when required. Licenses shall be required for the following dogs of licensing age:
- (1) Any dog owned or kept within the City by a resident of the City on January 1 of any calendar year.
 - (2) Any dog acquired by any person during the course of any calendar year and kept within the City for more than 10 days after acquisition.
 - (3) Any dog attaining licensing age during the course of the calendar year.
 - (4) Any unlicensed dog brought into the City by any person and kept within the City for more than 10 days.
 - (5) Any dog licensed by another state brought into the City by any person and kept within the City for more than 90 days.
- B. Application for license.
- (1) Each application for a license under this chapter shall give the following information:

- (a) A general description of the dog sought to be licensed, including breed, sex, age, color and markings and whether such dog is of a long- or short-haired variety.
 - (b) Name, street and post office address of the owner of and the person who shall keep or harbor such dog.
- (2) Registration numbers shall be issued in the order in which applications are received.
- C. Fees shall be as provided in Chapter 185, Fees, Article III, Fees for City Services. A late fee shall be assessed after April 1. **[Amended by Ord. No. 79-16; Ord. No. 81-10; Ord. No. 85-2; Ord. No. 89-1; Ord. No. 97-7; at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- D. Terms. All licenses issued shall expire on December 31 of each year. **[Amended by Ord. No. 97-7; at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- E. Dogs used as guides for blind persons and commonly known as "seeing eye dogs," dogs used to assist handicapped persons and commonly known as "service dogs" or "aid dogs" and dogs used to assist deaf persons and commonly known as "hearing ear dogs" shall be licensed and registered as other dogs, except that the owner or keeper of such dog shall not be required to pay any fee therefor, pursuant to N.J.S.A. 4:19-15.3. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

§ 119-3. Impoundment; running at large. [Amended by Ord. No. 79-6; Ord. No. 81-6; at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

- A. The Animal Control Officer shall take into custody and impound or cause to be taken into custody and impounded, and thereafter destroyed or offered for adoption, as provided in this section and in N.J.S.A. 4:19-15.16, the following:
- (1) Any dog off the premises of the owner or of the person keeping or harboring said dog which said Animal Control Officer or other appointed person has reason to believe is a stray dog.
 - (2) Any dog off the premises of the owner or of the person keeping or harboring said dog without a current registration tag on his collar.
 - (3) Any female dog in season off the premises of the owner or of the person keeping or harboring said dog.
 - (4) Any dog or other animal which is suspected to be rabid.
 - (5) Any dog or other animal off the premises of the owner reported to, or observed by, a certified Animal Control Officer to be ill, injured or creating a threat to public health, safety or welfare, or otherwise interfering with the enjoyment of property.
- B. If any animal so seized wears a collar or harness having inscribed thereon or attached thereto the name and address of any person or a registration tag, or the owner or the

person keeping or harboring said animal is known, the Animal Control Officer or other person authorized by the City shall forthwith serve on the person whose address is given on the collar, or on the owner or the person keeping or harboring said animal, if known, a notice, in writing, stating that the animal has been seized and will be liable to be offered for adoption or destroyed if not claimed within seven days after the service of the notice.

- C. A notice under this section may be served either by delivering it to the person on whom it is to be served; or by leaving it at the person's usual or last known place of abode or at the address given on the collar; or by forwarding it by post in a prepaid letter addressed to that person at his usual or last known place of abode or the address given on the collar.
- D. Any person authorized by the City may cause an animal to be destroyed in a manner causing as little pain as possible and consistent with the provisions of N.J.S.A. 4:22-19 or offered for adoption seven days after seizure, provided that:
- (1) Notice is given as set forth above and the animal remains unclaimed;
 - (2) The owner or person keeping or harboring the animal has not claimed the animal and paid all expenses incurred by reason of its detention, including maintenance costs, in such amount as provided in Chapter 185, Article III, Fees for City Services; or **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
 - (3) The owner or person keeping or harboring a dog which was licensed at the time of seizure does not produce a license and registration tag for the dog.
- E. Prohibited. Every person owning, harboring, keeping or having charge of any licensed or unlicensed male or female dog shall:
- (1) Prevent the dog from running-at-large upon any public highway, street, alley, park or other public place in the City at any time.
 - (2) Prevent the dog from being on any public highway, street, avenue, alley, park or other public place in the City at any time, unless such dog be accompanied by a person and be securely confined and controlled by an adequate leash not more than six feet in length.
 - (3) Prevent the dog from running-at-large in the City upon the lands or other real estate of any person without the consent of the owner of the lands or other real estate.
 - (4) Prevent the dog from injuring or damaging any vegetable garden, flower garden, lawn, plant, tree, shrubbery, grounds or other property of any person other than the person owning, harboring, keeping or having charge of such a dog.
 - (5) Prevent the dog from worrying, wounding, killing any sheep, lamb, domestic animal or poultry of any person other than the person owning, harboring, keeping or having charge of such a dog.

§ 119-4. Potentially dangerous and vicious dogs. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

The provisions of Chapter 307 of the Laws of 1989 (N.J.S.A. 4:19-17 et seq.), regarding potentially dangerous dogs and vicious dogs, shall be applicable in the City of Estell Manor.

§ 119-5. Regulations.

No person shall own, keep or harbor a dog in the City except in compliance with the provisions of this chapter and the following regulations:

- A. Wearing of registration. All dogs which are required by the provisions of this chapter to be licensed shall wear a collar or harness with the registration tag for such dog securely fastened thereto.
- B. Use of registration tags. No person, except an officer in the performance of his duties, shall remove a registration tag from the collar of any dog without the consent of the owner, nor shall any person attach a registration tag to a dog for which it was not issued.
- C. Interference with official duties. No person shall hinder, molest or interfere with anyone authorized or empowered to perform any duty under this chapter.
- D. Disturbing the peace. No person shall own, keep, harbor or maintain any dog which habitually barks or cries between the hours of 8:00 p.m. and 8:00 a.m.
- E. Running-at-large. No person owning, keeping or harboring any dog shall suffer or permit it to run-at-large upon the public streets or in any public park, public buildings or other public place within the City.
- F. Leashing of dogs. No person owning, keeping or harboring any dog shall suffer or permit it to be upon the public streets or in any of the public places of the City unless such dog is accompanied by a person over the age of 12 years and is securely confined and controlled by an adequate leash not more than six feet long.
- G. Property damage. No person owning, keeping or harboring a dog shall permit or suffer it to do any injury, or to do any damage to any lawn, shrubbery, flowers, grounds or property.

§ 119-6. Dog bites.

Where it has been determined by a physician that a person has been bitten by a dog, such individual, or his parent or guardian if he is a minor, shall immediately notify the police or the health department. When the owner or keeper of any dog shall be notified by the health department that the dog has bitten any individual or individuals, the owner or keeper of the dog must comply with the following procedures:

- A. Have the dog kept in quarantine in the owner's home or at a kennel for a period of 10 days. Any symptoms denoting rabies or any unusual behavior must be immediately reported to the health department.

- B. At the end of 10 days have the dog examined by a veterinarian and a written report of the dog's state of health sent to the health department.

§ 119-7. Enforcement; canvass. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

- A. The provisions of this chapter and article shall be enforced by the Animal Control Officer, who shall be hired for a one-year term expiring on December 31 of the year of hiring. It shall be a violation of this chapter and article for any person to molest, obstruct or interfere with the Animal Control Officer in their performance of the duties set forth herein.
- B. The Animal Control Officer or such other person as the City may designate may, at the City's direction, make a canvass of all dogs owned, kept or harbored within the City limits and shall report to the City Clerk the result thereof, setting forth in separate columns the names and addresses of persons owning, keeping or harboring unlicensed dogs, the number of unlicensed dogs owned, kept or harbored by each of said persons, and a complete description of each of said unlicensed dogs.

§ 119-8. Violations and penalties. [Amended by Ord. No. 81-10; at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

Except as may be provided in N.J.S.A. 4:15-19.1 et seq., a violation of this article shall be punishable by the penalties as set forth in Chapter 1, General Provisions, Article II, General Penalty.

ARTICLE II

Deer Driving

[Adopted by Ord. No. 84-7 (Ch. III, Sec. 3-6, of the 1974 Revised General Ordinances)]

§ 119-9. Deer driving unlawful in certain areas.

It shall be unlawful to drive deer or take part in a deer drive within any area of the municipality zoned as RV Village Residence, as well as in certain of those areas zoned as R-5 immediately adjacent to the foregoing Village Residence Zone, said area generally bounded on the north by Tenth Avenue and the Township of Weymouth, on the east by Tuckahoe Road and limited residential districts adjacent thereto, on the south by First Avenue and on the west by Linwood Avenue, excepting therefrom those portions of the R-5 Zone south of a line 900 feet north of Fourth Avenue and west of a line 900 feet west of Cape May Avenue. A map of the foregoing described areas within which deer driving is prohibited shall be posted and on file for inspection in the office of the City Clerk.

§ 119-10. Definitions; construal.

- A. For the purposes of this section:

TO DRIVE DEER — To intentionally pursue, drive, chase or otherwise frighten or cause deer to move in the direction of any person or persons known to be waiting for the deer.

- B. Nothing, however, in this section shall be construed to prevent properly licensed and regulated hunting of deer by individuals within those areas designated above as long as such deer driving techniques are not employed.

§ 119-11. Enforcement. [Added at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

This article will be enforced by the State Police.

Chapter 142

CAMPGROUNDS

ARTICLE I Private Campgrounds

- § 142-1. Code adopted.
- § 142-2. Inspections.
- § 142-3. Notice of violation.
- § 142-4. Hearing.
- § 142-5. License fees.
- § 142-6. Storage of vehicles.
- § 142-7. Enforcement.

§ 142-8. Violations and penalties.

ARTICLE II Limitation on Campground Licenses and Campsites

- § 142-9. Campground licenses.
- § 142-10. Campsites.
- § 142-11. Applicability of state statutes
and regulations.
- § 142-12. Winter occupancy.

[HISTORY: Article I adopted by the Board of Health of the City of Estell Manor as indicated in article history. Subsequent articles adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Private Campgrounds

**[Adopted by the Board of Health by Ord. No. 66-7 (Ch. BH-III of the 1974 Revised
General Ordinances)]**

§ 142-1. Code adopted.

Pursuant to the provisions of N.J.S.A. 40:49-5.1, the Private Campgrounds Code as approved by the Department of Health and the Department of Conservation and Economic Development and filed in the Secretary of State's office is hereby accepted, adopted and established as a standard to be used as a guide in determining whether campground dwellings, as well as their facilities, located in this City are safe, sanitary and fit for human habitation and rental.¹

§ 142-2. Inspections. [Amended by Ord. No. 85-11; at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

The Board of Health is hereby authorized and directed to make inspections to determine the condition of camp dwellings, as well as their facilities, located within the City in order that they may perform their duty of safeguarding the health and safety of the occupants of camp dwellings, as well as their facilities, and of the general public. For the purpose of making such inspections, the Board of Health is hereby authorized to enter, examine and survey at all reasonable times all camp dwellings, as well as their facilities. The owner or occupant of

1. Editor's Note: Original Sec. BH:3-2, Public record, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

every camp dwelling, as well as its facilities, or the person in charge thereof shall give the Board of Health free access to the camp dwelling, as well as its facilities, at all reasonable times for the purpose of such inspection, examination and survey. Repairs or alterations, as are necessary, shall be made in compliance with the provisions of this chapter or with any lawful rule or regulations adopted or any lawful order issued pursuant to the provisions of this chapter. All references herein to Board of Health shall refer to the Atlantic County Board of Health which assumes primary responsibility for the inspection and enforcement of this chapter.

§ 142-3. Notice of violation.

Whenever the Board of Health determines that there are reasonable grounds to believe that there has been a violation of any provision of this chapter, or of any rule or regulation adopted pursuant thereto, he shall give notice of the alleged violation to the person responsible therefor, as hereinafter provided. The notice shall be put in writing and include a statement of the reasons why it is being issued. The notice shall be served upon the owner or his agent, or the occupant, as the case may require, provided that the notice shall be deemed to be properly served upon the owner or agent, or upon the occupant if a copy thereof is served upon him personally, or sent by registered mail to his last known address, or is posted in a conspicuous place in or about the dwelling affected by the notice, or if he is served within such notice by any other method authorized or required under the laws of this state. The notice shall contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter and with rules and regulations adopted pursuant thereto.

§ 142-4. Hearing.

Any person affected by any notice which has been issued in connection with the enforcement of any provision of this chapter, or of any rule or regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the Board of Health, provided that the person shall file in the office of the Board of Health a written petition requesting a hearing and setting forth a brief statement of the grounds therefor within 10 days after the day the notice was served. Upon receipt of the petition, the Board of Health shall set a time and place for the hearing and shall give the petitioner written notice thereof. At the hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than 10 days after the day on which the petition was filed, provided that, upon application of the petitioner, the Board of Health may postpone the date of the hearing for a reasonable time beyond the ten-day period, if in its judgment the petitioner has submitted a good and sufficient reason for such postponement. After the hearing, the Board of Health shall sustain, modify or withdraw the notice, depending upon its findings as to whether the provisions of this article and the rules and regulations adopted pursuant thereto have been complied with. If the Board of Health sustains or modifies the notice, it shall be deemed to be an order. Any notice served pursuant to this article shall automatically become an order if a written petition for a hearing is not filed in the office of the Board of Health within 10 days after the notice is served. The proceedings at the hearing, including the findings and decision of the Board of Health, shall be summarized, reduced to writing and entered as a matter of public record in the office of the Board of Health. The record shall also include a copy of every notice or order issued in connection with the matter. Any person aggrieved by the decision of the Board of Health

may seek relief therefrom in any court of competent jurisdiction as provided by the laws of the state. Whenever the Board of Health finds that an emergency exists which requires immediate action to protect the public health or safety, it may, without notice or hearing, issue an order, reciting the existence of the emergency and requiring that the action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this chapter, the order shall be effective immediately. Any person to whom the order is directed shall comply therewith immediately but, upon petition to the Board of Health, shall be afforded a hearing as soon as possible. After the hearing, depending upon its findings as to whether the provisions of this chapter and of the rules and regulations adopted pursuant thereto have been complied with, the Board of Health shall continue the order in effect or modify it or revoke it.

§ 142-5. License fees. [Amended by Ord. No. 68-4; Ord. No. 68-10; Ord. No. 91-3; at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

- A. Private campground. An annual license fee for a private campground shall be payable to the Clerk in such amounts as provided in Chapter 185, Fees, Article III, Fees for City Services. Applications for permits for a private campground license shall be made to the City Clerk, and no permit shall be issued by the City unless the annual license fee is first paid.
- B. Camp cars or trailers. Anything to the contrary contained notwithstanding, any owner of land in the City may maintain and occupy upon his land his camp car or camp trailer for a period not to exceed two weeks per year, provided that the camp car or camp trailer has a self-contained sanitary unit or similar facilities approved by the local Board of Health.

§ 142-6. Storage of vehicles. [Amended by Ord. No. 69-7]

Nothing contained herein shall prohibit owners of camping trailers, tent trailers, travel trailers and similar vehicles from noncommercial storage of the vehicles upon their land in the City, during the time as the vehicles are not in actual use, provided that commercial storage or storage of nonowned vehicles is prohibited.

§ 142-7. Enforcement.

The Board of Health is hereby authorized and empowered to make and adopt written rules and regulations as it may deem necessary for the proper enforcement of the provisions of this chapter, provided that the rules and regulations shall not be in conflict with the provisions of this chapter or in any way alter, amend or supersede any of the provisions thereof. The Board of Health shall file a certified copy of all rules and regulations which it may adopt in its office and in the office of the Clerk of the City.

§ 142-8. Violations and penalties. [Amended by Ord. No. 93-6; at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

The violation of this chapter, or a violation of the Public Campgrounds Code, N.J.A.C. 8:22-1.1 et seq., or any other sanitary code adopted by the New Jersey State Department of Health pursuant to N.J.S.A. 26:1A-7 et seq., shall, unless otherwise provided therein, be subject to the penalty provided in Chapter 1, Article II, General Penalty.

ARTICLE II

Limitation on Campground Licenses and Campsites

[Adopted 11-5-2008 by Ord. No. 09-2008 (Ch. IV, Sec. 4-7, of the 1974 Revised General Ordinances)]

§ 142-9. Campground licenses.

No more than five licenses or permits shall be issued in the City of Estell Manor.

§ 142-10. Campsites.

No campground shall have more than 250 sites or units in the City of Estell Manor.

§ 142-11. Applicability of state statutes and regulations.

All campgrounds to be governed by New Jersey Statutes under this article:

- A. Campground health and safety will be governed by N.J.S.A. 26:1A-7 and N.J.A.C. 8:22-1.1 through 8:22-10.6.
- B. Proprietary campground health and safety will be governed by N.J.A.C. Title 5, Chapter 10A, N.J.A.C. 5:10A-1.1 through 5:10-2.15.
- C. Proprietary campground occupancy shall be governed in accordance with N.J.S.A. 45:22A-51.
- D. In administering construction issues in regard to campgrounds, the City of Estell Manor will comply with N.J.A.C. 5:23 and 5:23A as well as N.J.U.C.C. Bulletin 93-7.

§ 142-12. Winter occupancy.

- A. In public campgrounds, winter camping shall be permitted only upon designated winter campsites as set forth in the licensing application.
- B. From November 1 through March 31 of the following year, no designated winter campsite in a public campground, or any site or unit in a proprietary campground, shall be occupied for more than 21 consecutive days within each calendar month. Each winter camper must vacate the property for at least eight consecutive days in any one calendar month before returning; provided that in public campgrounds, two sites may be designated as winter sites which may be occupied year round as the residence of the campground owner, manager or caretaker.

- C. Public campgrounds with approved winter campsites must maintain a registration logbook between November 1 and March 31 of the following year. This must show daily occupancy of winter sites, including the name, permanent address of the occupant or occupants, and vehicle registration of the occupant or occupants. Such records shall be sent monthly to the Municipal Zoning Officer.
- D. Costs of enforcement. Reasonable fees incurred by the City of Estell Manor in enforcing the campground regulations herein shall be reimbursed to the City by any campground operator or owner who is found to be in violation, provided that in the event that any such enforcement action is limited to the jurisdiction of the Estell Manor Municipal Court, then, in that event, such reimbursement provisions shall not apply.
- E. No campsite or unit in the City of Estell Manor shall have a recreational vehicle of over 400 square feet placed on it, and no accessory structure or a cumulative of accessory structures shall be over 300 square feet total (300 square feet of accessory structure allowed on each site without Pinelands approval).

Chapter 155

CONSTRUCTION CODE

ARTICLE I Enforcement

§ 155-1. State enforcement of Uniform Construction Code.

ARTICLE II

Waiver of Construction Permit Fees to Promote Accessibility

§ 155-2. Construction fees waived.

[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Enforcement

[Adopted by Ord. No. 79-20 (Ch. VII, Sec. 7-1, of the 1974 Revised General Ordinances)]

§ 155-1. State enforcement of Uniform Construction Code.

The New Jersey State Department of Community Affairs is hereby authorized to be the state uniform construction code enforcing agency for the City of Estell Manor and the City Council is hereby authorized to adopt such resolutions as may be necessary to cooperate and implement the enforcement of the Uniform Construction Code within the City.

ARTICLE II

Waiver of Construction Permit Fees to Promote Accessibility

[Adopted 4-21-1999 by Ord. No. 0-2-99 (Ch. VII, Sec. 7-4, of the 1974 Revised General Ordinances)]

§ 155-2. Construction fees waived.

In accordance with N.J.S.A. 52:27D-126e, no person shall be charged a construction permit surcharge fee or enforcing agency fee for any construction, reconstruction, alteration or improvement designed and undertaken solely to promote accessibility by disabled persons to an existing public or private structure or any of the facilities therein. Additionally, a disabled person, or a parent or sibling of a disabled person, shall not be required to pay any municipal fee or charge in order to secure a construction permit for any construction, reconstruction, alteration or improvement which promotes accessibility to his own living unit.

ARTICLE III

Exemption from Development Fees to Promote Accessibility
[Adopted 4-21-1999 by Ord. No. 0-3-99 (Ch. VII, Sec. 7-5, of the 1974 Revised General Ordinances)]

§ 155-3. Development fees waived.

In accordance with N.J.S.A. 40:55D-8e, a disabled person, or a parent or sibling of a disabled person, shall be exempt from the payment of any fee charged in connection with any application for development which promotes accessibility to his own living unit.

Chapter 171
DRUG-FREE ZONES

ARTICLE I
Drug-Free School Zones

- § 171-1. Adoption of map.
- § 171-2. Construal of map.

- § 171-3. Notice to municipality.
- § 171-4. Copy of map on file;
availability.
- § 171-5. Additional declarations.

[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Drug-Free School Zones

[Adopted by Ord. No. 88-8 (Ch. XV of the 1974 Revised General Ordinances)]

§ 171-1. Adoption of map.

In accordance with and pursuant to the authority of P.L. 1988, c. 44 (N.J.S.A. 2C:35-7), the Drug-Free School Zone Map produced on or about September 7, 1988, by Ira Milovsky, P.E. Municipal Engineer, is hereby approved and adopted as an official finding and record of the location and areas within the municipality of property which is used for school purposes and which is owned by or leased to any elementary or secondary school or school board, and of the areas on or within 1,000 feet of such school property.

§ 171-2. Construal of map.

The Drug-Free School Zone Map approved and adopted pursuant to § 171-1 of this article shall continue to constitute an official finding and record as to the location and boundaries of areas on or within 1,000 feet of property owned by or leased to any elementary or secondary school or school board which is used for school purposes until such time, if any, that this chapter shall be amended to reflect any additions or deletions with respect to the location and boundaries of school property and drug-free school zones.

§ 171-3. Notice to municipality.

The school board, or the chief administrative officer in the case of any private or parochial school, is hereby directed and shall have the continuing obligation to promptly notify the Municipal Engineer and the Municipal Attorney of any changes or contemplated changes in the location and boundaries of any property owned by or leased to any elementary or secondary school or school board and which was issued for school purposes.

§ 171-4. Copy of map on file; availability.

The Clerk of the municipality is hereby directed to receive and to keep on file the original of the map approved and adopted pursuant to § 171-1 of this article and to provide at a reasonable cost a true copy thereof to any person, agency or court which may from time to time request such a copy, along with a certification that such copy is a true copy of the map approved and adopted herein and kept on file. It is hereby further directed that a true copy of such map and of this article shall be provided without cost to the County Clerk and to the office of the Atlantic County Prosecutor.

§ 171-5. Additional declarations.

The following additional matters are hereby determined, declared, recited and stated:

- A. Map to constitute evidence. It is understood that the map approved and adopted pursuant to § 171-1 of this article was prepared and is intended to be used as evidence in prosecutions arising under the criminal laws of this state, and that pursuant to state law, such map shall constitute prima facie evidence of the following:
- (1) The location of elementary and secondary schools within the municipality;
 - (2) The boundaries of the real property which is owned by or leased to such schools or a school board;
 - (3) That such school property is and continues to be used for school purposes; and
 - (4) The location and boundaries of areas which are on or within 1,000 feet of such school property.
- B. School property depicted. All of the property depicted on the map approved and adopted herein as school property was owned by a school or school board and was being used for school purposes as of July 9, 1987, that being the effective date of P.L. 1987, c. 101 (N.J.S.A. 2C:35-7).
- C. Interpretation of map. Pursuant to the provisions of P.L. 1988, c. 44,¹ a prosecutor is not precluded from introducing or relying upon any other evidence or testimony to establish a violation of the offense defined in that statute, including use of a map or diagram other than the one approved and adopted pursuant to § 171-1 of this article. The failure of the map approved herein to depict the location and boundaries of any property which is, in fact, used for school purposes and which is owned by or leased to any elementary or secondary school or school board, whether the absence of such depiction is the result of inadvertent omission or the result of any changes in the location and boundaries of such property which have not yet been incorporated into a revised approved map, shall not be deemed to be an official finding and record that such property is not owned by or leased to a school or school board, or that such property is not used for school purposes.

1. Editor's Note: See N.J.S.A. 2C:35-7.

- D. Statutory requirements satisfied. All of the requirements set forth in P.L. 1988, c. 44,² concerning the preparation, approval and adoption of a Drug-Free School Zone Map have been complied with.

2. Editor's Note: See N.J.S.A. 2C:35-7.

Chapter 185

FEES

ARTICLE I

Records

§ 185-1. Per-page fees for document reproduction.

§ 185-2. Deposit required for certain requests.

§ 185-3. Special service charge for certain requests.

ARTICLE II

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§ 185-15. Zoning.

§ 185-16. Municipal Clerk's fees for services and documents.

§ 185-17. Municipal Tax Collector's fees for services and documents.

[**HISTORY:** Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Records

[Adopted 6-2-2004 by Ord. No. 03-04 (Ch. II, Sec. 2-22A, of the 1974 Revised General Ordinances)]

§ 185-1. Per-page fees for document reproduction. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

All requests for reproduction of government documents, as defined by N.J.S.A. 47:1 et seq., by members of the public shall be subject to the following reproduction fees:

A. Letter-size pages or smaller: \$0.05 per page.

B. Legal-size pages or larger: \$0.07 per page.

§ 185-2. Deposit required for certain requests.

When the Municipal Clerk, as custodian of records under the statute, anticipates that the reproduction costs associated with the government records requested will cost in excess of \$5

to reproduce, the Municipal Clerk may require a deposit against costs for reproducing such documents sought through an anonymous request.

§ 185-3. Special service charge for certain requests.

Under special circumstances when reproduction of the government record(s) requested involves an extraordinary expenditure of time and effort to accommodate the request, the Municipal Clerk may, in addition to the actual costs of duplicating the record, impose a special service charge in the amount of \$20 per hour that any municipal official or employee must dedicate to fulfill the record request. The Municipal Clerk shall estimate the special service charge in advance of reproduction and notify the requester, in writing, before completing the request.

ARTICLE II

Municipal Court Discovery Fees

[Adopted 12-15-2004 by Ord. No. 13-04 (Ch. II, Sec. 2-22B, of the 1974 Revised General Ordinances)]

§ 185-4. Submission of requests for discovery.

All requests for discovery in matters pending before the Estell Manor Municipal Court shall be submitted through the Municipal Prosecutor.

§ 185-5. Fees for discovery. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

The following fees shall be payable by the requestor for said discovery:

- A. Letter-size pages or smaller: \$0.05 per page.
- B. Legal-size pages or larger: \$0.07 per page.
- C. Actual postage for any discovery sent by mail.
- D. Twenty-five cents for the envelope for any discovery sent by mail.
- E. Photographs will be photocopied in accordance with the rates established herein. If requests are made for duplicate photographs, the actual cost of making such photographs will be charged.
- F. Duplication of videotapes constitute an extraordinary duplication process and will be charged at the rate of \$5 per videotape.
- G. On any item that cannot be photocopied by the Municipal Prosecutor or City or that is not otherwise provided for in this schedule, the actual cost incurred in making the copy shall be charged.

§ 185-6. Requestor responsible for costs from other entities.

Where the discovery must be obtained from an entity other than the City of Estell Manor, e.g., another police department or State Police, the actual costs paid to the other entity shall be paid by the requestor.

ARTICLE III

Fees for City Services

[Adopted 3-12-2014 by Ord. No. 01-2014; amended 5-2-2007 by Ord. No. 09-2007; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

§ 185-7. Alcoholic beverages.

The annual license fees for the sale or distribution of alcoholic beverages in the City shall be as follows: (§ 114-3)

Class of License	Annual License Fee
Plenary retail consumption license	\$504
Plenary retail distribution license	\$140
Club license	\$70

§ 185-8. Animals.

Item	Fee
Dog license, spayed/neutered (§ 119-2)	\$10
Dog license, not spayed/neutered (§ 119-2)	\$20
License late fee (§ 119-2)	\$5
Impounded animal maintenance cost (§ 119-3)	Not to exceed \$4 per day

§ 185-9. Campgrounds.

An annual license fee for a private campground shall be payable to the Clerk as follows: (§ 142-5)

Number of Campsites	Fee
Up to 200	\$600
For each additional over 200	\$5 each

§ 185-10. Checks, returned.

- A. Service charge. Whenever a check payable to any account of the City of Estell Manor is returned for lack of sufficient funds, because the account was closed or for any other similar reason, a service charge of \$20 per transaction shall be charged to the payer or added to the account of the payer, in the discretion of the official receiving the payment. The service charge shall be paid and credited before any other payment on the account is accepted and credited.
- B. Unpaid charges to become lien. In the event that unpaid service charges assessed under this provision shall become delinquent and, when applicable, a lien against the property of the payer may be enforced in the same manner as other liens created by these ordinances.
- C. Cash payment required. Any payer whose returned checks become chronic, as determined by the Tax Collector or the Chief Financial Officer, may thereafter be required to make all payments due to the City of Estell Manor in cash or by certified or cashier's check.

§ 185-11. Property, abandoned and vacant.

Item	Fee
Registration of abandoned property, annual fee (§ 289-5)	\$300 per property
Administrative fee for cost of temporarily securing property (§ 289-11)	\$500

§ 185-12. Soil removal.

License fee: \$600. (§ 315-5)

§ 185-13. Streets and sidewalks.

- A. Street opening permit fee: \$125. (§ 336-6)
- B. Street construction and paving. (§ 336-15)
 - (1) Application filing fee: \$125.
 - (2) Inspection fee equal to 5% of the Engineer's estimate of costs to be billed by municipal professionals for the review of design and inspections of improvements related to the project.

§ 185-14. Subdivision of land.

Schedule of fees and deposits:

Type	Application Fees	Escrow Fees	
		Attorney	Engineer
Minor subdivision ¹	\$150	\$500	\$750
Major subdivision ¹			
Preliminary	\$400 plus \$25/lot	\$1,500	\$4,000
Final	\$400 plus \$25/lot	\$500	\$500
Tax Map revision	\$150 per each new lot created		
Site plan (minor)	\$400	\$500	\$1,500
Site plan (major)			
Commercial	\$500	\$750	\$3,000
Residential	\$500	\$500	\$4,000
Hardship variance	\$300	\$650	\$500
Use variance	\$400	\$750	\$1,000
Conditional use permit	\$300	\$500	\$500
Appeals and interpretations	\$300	\$500	\$500
Rehearings	\$100	\$500 ²	\$500 ²
Informal review	\$150 ³	\$100	\$100

NOTES:

- ¹ This application is subject to the Tax Map revision fees, which are refunded should the application be denied. A separate check is required.
- ² Escrow fees are refunded if request for rehearing is denied.
- ³ Credit toward application fee for formal review pursuant to N.J.S.A. 40:55D-10.1.

§ 185-15. Zoning.

Item	Fee
Code book - available online	N/A
Land use section - available online	N/A
Code supplement - available online	N/A
Preliminary review by Historic Preservation Commission	\$50
Zoning permit application, primary structure (§ 380-72)	\$50
Zoning permit application, secondary structure (§ 380-20)	\$20

Item	Fee
Construction trailer, six-month period (§ 380-34)	\$50
Flood plan certification	\$75
Certificate of occupancy	\$50
Pinelands development certificate (§ 380-36)	\$25 each
Pinelands development certificate - registration outside City (§ 380-36)	\$25 each
Registering Pinelands development credits from premises within the City for use on lands located outside the City (§ 380-36)	\$25 each
Sign permit (§ 380-38)	\$25
Additional, per square foot of sign relating to business or commercial uses	\$5
Certificate of occupancy for resale or rental with smoke detector certificate (§ 380-72)	\$50
Second or more reinspection for certificate of occupancy (§ 380-72)	\$30 per unit
Certificate of compliance (§ 380-73)	\$50
Certificate of compliance, each subsequent visit (§ 380-73)	\$50
List of adjacent property owners for notification purposes (§ 380-74)	\$10 (flat fee in all cases)
Renewal of zoning variance (§ 380-75)	\$25

§ 185-16. Municipal Clerk's fees for services and documents.

The Municipal Clerk is authorized to charge the following for services and documents provided by the Municipal Clerk's office:

- A. Certified copy of birth certificate: \$4 (\$2 additional copy).
- B. Certified copy of marriage certificate and/or certified copy of civil union certificate: \$4 (\$2 additional copy).
- C. Certified copy of death certificate: \$4 (\$2 additional copy).
- D. Additional fees.

Item	Fee
Certified copies	\$15
Additional certified copies	\$5
Meeting audio recording	*OPRA

Item	Fee
Club license	\$70
Photocopies	\$0.25
Additional photocopies	\$0.25
Fax outgoing	\$1
Fax incoming	\$1 first page; \$0.25 each additional page

§ 185-17. Municipal Tax Collector's fees for services and documents.

The Municipal Tax Collector is authorized to charge the following for copying documents and rendering services:

- A. Duplicate tax bill: \$5.
- B. Subsequent duplicate copy of the same tax bill requested in the same tax year: \$25.
- C. Tax search: \$10.
- D. Municipal assessment search: \$10.
- E. Municipal utilities search: \$10.
- F. Fax fee: \$1.

Chapter 194

FIRE PREVENTION

§ 194-1. Applicable codes; enforcement.

[HISTORY: Adopted by the City Council of the City of Estell Manor Ord. No. 85-8 (Ch. XII of the 1974 Revised General Ordinances); amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. III). Amendments noted where applicable.]

§ 194-1. Applicable codes; enforcement.

The New Jersey Fire Safety Act (N.J.S.A. 52:27D-192 et seq.) and the regulations of the New Jersey Uniform Fire Code (N.J.A.C. 5:70-1 et seq.) are applicable in the City of Estell Manor and shall be locally enforced by the New Jersey Department of Community Affairs.

Chapter 200

FLOOD DAMAGE PREVENTION

ARTICLE I Statutory Authorization; Findings; Purpose; Objectives

- § 200-1. Statutory authorization.
- § 200-2. Findings of fact.
- § 200-3. Statement of purpose.
- § 200-4. Methods of reducing flood losses.

ARTICLE II Definitions

- § 200-5. Terms defined.

ARTICLE III General Provisions

- § 200-6. Lands to which this chapter applies.
- § 200-7. Basis for establishing areas of special flood hazard.
- § 200-8. Violations and penalties.

- § 200-9. Abrogation and greater restrictions.

- § 200-10. Interpretation.

- § 200-11. Warning and disclaimer of liability.

ARTICLE IV Administration

- § 200-12. Establishment of development permit.

- § 200-13. Designation of local administrator.

- § 200-14. Duties and responsibilities of administrator.

- § 200-15. Variance procedure.

ARTICLE V Provisions for Flood Hazard Reduction

- § 200-16. General standards.

- § 200-17. Specific standards.

[HISTORY: Adopted by the City Council of the City of Estell Manor 6-11-2014 by Ord. No. 02-2014. Amendments noted where applicable.]

ARTICLE I Statutory Authorization; Findings; Purpose; Objectives

- § 200-1. Statutory authorization.

The Legislature of the State of New Jersey has, in N.J.S.A. 40:48-1 et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the Mayor and Council of the City of Estell Manor of Atlantic County, New Jersey, does ordain as follows.

- § 200-2. Findings of fact.

- A. The flood hazard areas of the City of Estell Manor are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of

commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

- B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

§ 200-3. Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood-control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 200-4. Methods of reducing flood losses.

In order to accomplish its purposes, this chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and

- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

ARTICLE II

Definitions

§ 200-5. Terms defined.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

APPEAL — A request for a review of the Zoning Officer's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING — A designated AO, AH, or VO zone on a community's Digital Flood Insurance Rate Map (DFIRM) with a one-percent annual or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone V, VE, V1-30, A, AO, A1-A30, AE, A99, or AH.

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE) — The flood elevation shown on a published Flood Insurance Study (FIS) including the Flood Insurance Rate Map (FIRM). For Zones AE, AH, AO, and A1-30, the elevation represents the water surface elevation resulting from a flood that has a one-percent or greater chance of being equaled or exceeded in any given year. For Zones VE and V1-30, the elevation represents the stillwater elevation (SWEL) plus wave effect ($BFE = SWEL + \text{wave effect}$) resulting from a flood that has a one-percent or greater chance of being equaled or exceeded in any given year.

BASEMENT — Any area of the building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

CUMULATIVE SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure that equals or exceeds 50% (lower threshold, e.g., replace 50% with 40%) of the market value of the structure at the time of the improvement or repair when counted cumulatively for 10 years.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading,

paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM) — The Official Map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

ELEVATED BUILDING —

A. A nonbasement building:

- (1) Built, in the case of a building in an area of special flood hazard, to have the top of the elevated floor elevated above the base flood elevation by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water; and
- (2) Adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood.

B. In an area of special flood hazard, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

FLOOD or FLOODING — A general and temporary condition of partial or complete inundation of normally dry land areas from:

A. The overflow of inland or tidal waters; and/or

B. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM) — The Official Map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) — The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

FLOODPLAIN MANAGEMENT REGULATIONS — Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODPROOFING — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE — Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in States without approved programs.

LOWEST FLOOR — The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement, is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements of 44 CFR 60.3.

MANUFACTURED HOME — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

MANUFACTURED HOME PARK or MANUFACTURED HOME SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the municipality.

RECREATIONAL VEHICLE — A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred square feet or less when measured at the longest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light-duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

START OF CONSTRUCTION —

- A. For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348)¹ includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.
- B. Permanent construction does not include land preparation such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE — A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two or more separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damages occurred.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local Code Enforcement Officer and which are the minimum necessary to ensure safe living conditions; or

1. Editor's Note: See 16 U.S.C.A. Ch. 55, Coastal Barrier Resources.

- B. Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure."

VARIANCE — A grant of relief from the requirements of this chapter that permits construction in a manner that would otherwise be prohibited by this chapter.

VIOLATION — The failure of a structure or other development to be fully compliant with this chapter. A new or substantially improved structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3(b)(5), (c)(4), (c)(10), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

ARTICLE III

General Provisions

§ 200-6. Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the City of Estell Manor, Atlantic County, New Jersey.

§ 200-7. Basis for establishing areas of special flood hazard.

- A. The areas of special flood hazard for the City of Estell Manor, Community No. 340573, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
- (1) A scientific and engineering report "Flood Insurance Study, City of Estell Manor, New Jersey, Atlantic County" dated July 2, 2003.
 - (2) "Flood Insurance Rate Map City of Estell Manor, New Jersey, Atlantic County" as shown on Index and panel(s) 3405730013C, 3405730015C, 3405730020C, 3405730040C, 3405730051C, 3405730053C, 3405730055C, 3405730060C, 3405730062C, 3405730066C, 3405730080C, 3405730085C, 3405730090C, 3405730095C, whose effective date is July 2, 2003.
- B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study, maps and advisory documents are on file at 148 Cumberland Avenue, Estell Manor, New Jersey.

§ 200-8. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

No structure or land shall hereafter be constructed, relocated to, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be subject to the penalties provided in Chapter 1, General Provisions, Article II, General Penalty, and in addition shall

pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Estell Manor from taking such other lawful action as is necessary to prevent or remedy any violation.

§ 200-9. Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

§ 200-10. Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

§ 200-11. Warning and disclaimer of liability.

- A. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.
- B. This chapter shall not create liability on the part of the City of Estell Manor, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

ARTICLE IV
Administration

§ 200-12. Establishment of development permit.

A development permit shall be obtained before construction or development begins, including placement of manufactured homes, within any area of special flood hazard established in § 200-7. Application for a development permit shall be made on forms furnished by the Zoning Officer and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or

proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- A. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- B. Elevation in relation to mean sea level to which any structure has been floodproofed;
- C. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in § 200-17B; and
- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

§ 200-13. Designation of local administrator.

The Zoning Officer is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

§ 200-14. Duties and responsibilities of administrator.

Duties of the Zoning Officer shall include, but not be limited to:

- A. Permit review. The Zoning Officer shall:
 - (1) Review all development permits to determine that the permit requirements of this chapter have been satisfied.
 - (2) Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- B. Use of other base flood and floodway data. When base flood elevation and floodway data has not been provided in accordance with § 200-7, Basis for establishing areas of special flood hazard, the Zoning Officer shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer § 200-17A, Specific standards, Residential construction, and § 200-18B, Specific standards, Nonresidential construction.
- C. Information to be obtained and maintained. The Zoning Officer shall:
 - (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
 - (2) For all new or substantially improved floodproofed structures:
 - (a) Verify and record the actual elevation (in relation to mean sea level); and
 - (b) Maintain the floodproofing certifications required in § 200-12C).

- (3) Maintain for public inspection all records pertaining to the provisions of this chapter.
- D. Alteration of watercourses. The Zoning Officer shall:
- (1) Notify adjacent communities and the New Jersey Department of Environmental Protection, Dam Safety and Flood Control Section and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
 - (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood-carrying capacity is not diminished.
- E. Interpretation of FIRM boundaries. The Zoning Officer shall make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 200-15.

§ 200-15. Variance procedure.

- A. Appeal Board.
- (1) The Appeal Board as established by Mayor and Council shall hear and decide appeals and requests for variances from the requirements of this chapter.
 - (2) The Appeal Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Zoning Officer in the enforcement or administration of this chapter.
 - (3) Those aggrieved by the decision of the Appeal Board, or any taxpayer, may appeal such decision to the Atlantic County Superior Court, as provided in N.J.S.A. 40:55D.
 - (4) In passing upon such applications, the Appeal Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location, where applicable;
 - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

- (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (5) Upon consideration of the factors of § 200-15A(4) and the purposes of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
 - (6) The Zoning Officer shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

B. Conditions for variances.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in § 200-15A(4)(a) through (k) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public

expense, create nuisances, cause fraud on or victimization of the public as identified in § 200-15A(4) or conflict with existing local laws or ordinances.

- (6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

ARTICLE V

Provisions for Flood Hazard Reduction

§ 200-16. General standards.

In all areas of special flood hazard, compliance with the applicable requirements of the Uniform Construction Code (N.J.A.C. 5:23) and the following standards, whichever is more restrictive, is required.

A. Anchoring.

- (1) All new construction to be placed or substantially improved and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes to be placed or substantially improved shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters;
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
- (4) For all new construction and substantial improvements, the electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities

shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. Subdivision proposals.

- (1) All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed new development which contain at least 50 lots or five acres (whichever is less).

E. Enclosure openings. All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

§ 200-17. Specific standards.

In all areas of special flood hazard where base flood elevation data have been provided as set forth in § 200-7, Basis for establishing areas of special flood hazard, or in § 200-14B, Use of other base flood and floodway data, the following standards are required:

A. Residential construction.

- (1) New construction and substantial improvement of any residential structure located in an A or AE zone shall have the lowest floor, including the basement, together with the attendant utilities and sanitary facilities, elevated at or above the base flood elevation plus one foot.
- (2) Require within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including the basement, elevated above the highest adjacent grade one foot above the depth number specified in feet (at least three feet if no depth number is specified). And, require adequate drainage paths around

structures on slopes to guide floodwaters around and away from proposed structures.

- B. Nonresidential construction. In an area of special flood hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure located in an A or AE zone shall have the lowest floor, including the basement, together with the attendant utilities and sanitary facilities, either:
- (1) Elevated to or above the base flood elevation plus one foot; and
 - (2) Require within any AO zone on the municipality's DFIRM that all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have the lowest floor, including the basement, elevated above the highest adjacent grade one foot above the depth number specified in feet (at least three feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures; or
 - (3) Be floodproofed so that below the base flood level plus one foot, the structure is watertight with walls substantially impermeable to the passage of water;
 - (4) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (5) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in § 200-14C(2)(b).
- C. Manufactured homes.
- (1) Manufactured homes shall be anchored in accordance with § 200-16A(2).
 - (2) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation plus one foot.

Chapter 207
GAMES OF CHANCE

ARTICLE I
Raffles

**exemption from municipal
licensing fee.**

§ 207-2. Raffles authorized on Sundays.

§ 207-1. Investigation; matters to be determined; issuance of license;

[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Raffles

[Adopted 6-6-2007 by Ord. No. 10-2007; amended in its entirety 10-7-2009 by Ord. No. 05-2009 (Ch. IV, Sec. 4-9, of the 1974 Revised General Ordinances)]

§ 207-1. Investigation; matters to be determined; issuance of license; exemption from municipal licensing fee. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

The governing body authorizes and delegates the authority to issue raffle licenses to the City Clerk. The City Clerk shall investigate applications and issue licenses in accordance with the Raffles Licensing Act, N.J.S.A. 5:8-50 et seq., and the regulations in Title 13, Chapter 47, of the New Jersey Administrative Code.

§ 207-2. Raffles authorized on Sundays.

The City Clerk shall have the authority to issue raffles licenses for the holding, operating and conducting of raffles on Sundays, subject to any special provisions made applicable thereto and also subject to compliance with the provisions hereof.

Chapter 212

GARAGE SALES

§ 212-1. Definitions.

§ 212-4. Exceptions.

§ 212-2. Garage sales; limitations.

§ 212-5. Violations and penalties.

§ 212-3. Conduct of sales.

[HISTORY: Adopted by the City Council of the City of Estell Manor Ord. No. 86-8 (Ch. IV, Sec. 4-6, of the 1974 Revised General Ordinances). Amendments noted where applicable.]

§ 212-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

GARAGE OR YARD SALE — All sales entitled "garage sale," "lawn sale," "rummage sale" or "flea market" or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of said sale.

GOODS — Any goods or other property capable of being the object of a sale regulated hereunder.

PERSON — Individuals, partnerships, voluntary associations and corporations listed as owner(s) of a lot shown on the Official Tax Map of the City of Estell Manor. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

§ 212-2. Garage sales; limitations. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

It shall be unlawful for any person to conduct a garage sale in the City of Estell Manor more than three days per week and four times within a twelve-month period, for each lot shown on the Official Tax Map of the City of Estell Manor; or otherwise in violation of any other local, state or federal law.

§ 212-3. Conduct of sales.

The following rules and regulations shall apply to all garage sales duly licensed under this chapter:

- A. All garage sales shall be conducted only between the hours of 9:00 a.m. and 7:00 p.m., prevailing time, during the months of June, July and August, and between the hours of 9:00 a.m. and 6:00 p.m., prevailing time, during all other months.
- B. No signs for advertising or directing customers shall be posted on any other than the premises of the sale. Two signs three feet by three feet in size shall be allowed, which shall not be placed on the premises earlier than one week prior to the sale and must be removed immediately upon termination of the sale.

- C. The owner or tenant of the premises on which such sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale activity. No such person shall permit any loud or boisterous conduct on said premises nor permit vehicles to impede the passage of traffic on any roads. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- D. It shall be unlawful for any person to offer for sale mattresses, bed springs, cots, lounges and sofas in any yard sale authorized under this chapter without first complying with the appropriate sections of N.J.S.A. 26:10-1 through 26:10-18 with respect to the labeling, sterilizing and disinfecting of said mattresses, bed springs, cots, lounges and sofas.
- E. No refrigerator or ice box having a capacity of 1 1/2 cubic feet or more with an attached lid or door which may be opened and fastened shut by means of an attached latch, lock or other similar device shall be displayed, offered for sale or sold at a garage sale unless the attached lid or door shall first be removed and detached therefrom.

§ 212-4. Exceptions.

The provisions of this chapter shall not apply to or affect the following persons or sales:

- A. Persons selling pursuant to an order or process of a court of competent jurisdiction.
- B. Persons acting in accordance with their powers and duties as public officials.
- C. Any persons selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five in number. Repeated sales under this subsection by such person may be evidence of a violation of this chapter.
- D. Any publisher of a newspaper, magazine or other publication or other communication media who publishes or broadcasts in good faith without knowledge of its false, deceptive or misleading character or without knowledge that the provisions of this chapter have not been complied with.
- E. Any sale conducted in the usual course of an activity for which a license has been otherwise issued pursuant to the other ordinances of this City.

§ 212-5. Violations and penalties.

- A. No garage sale shall be conducted within the City of Estell Manor except in conformance with the provisions of this chapter.
- B. Any person conducting any such sale or similar activity who shall violate any of the terms and regulations of this chapter shall, upon conviction, be liable for the penalties set forth in Chapter 1, Article II, of this Code. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

Chapter 234

HOUSING

ARTICLE I Housing Standards and Unfit Buildings

- § 234-1. Adoption of code.
- § 234-2. Public record.
- § 234-3. Enforcement.
- § 234-4. Unfit buildings.
- § 234-5. Notice of violation.
- § 234-6. Order for abatement or demolition.
- § 234-7. Serving of complaints.

- § 234-8. Conforming to Housing Code.
- § 234-9. Consent of City Council.

ARTICLE II Temporary Housing

- § 234-10. Permitted temporary housing.
- § 234-11. Other conditions.
- § 234-12. Term of permit; extensions.
- § 234-13. Enforcement; violations and penalties.

[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Housing Standards and Unfit Buildings¹

[Adopted by Ord. No. 70-2 (Ch. VII, Sec. 7-2, of the 1974 Revised General Ordinances)]

§ 234-1. Adoption of code.

In accordance with the provisions of N.J.S.A. 40:49-5.1, the "New Jersey State Housing Code" as approved by the Departments of Health and Conservation and Economic Development and filed in the Secretary of State's office is hereby adopted, and established as a standard to be used as a guide in determining the fitness of a building for human habitation or occupancy or use. A copy of the "New Jersey State Housing Code" is annexed and made a part of this section without the text being included herein.

§ 234-2. Public record.

Three copies of the same have been placed on file in the office of the City Clerk and are available to all persons desiring to use and examine the same.

§ 234-3. Enforcement. [Amended by Ord. No. 79-15]

A Municipal Housing Officer, appointed by the City Council annually, shall administer and enforce the provisions of this article. In addition, the Housing Officer shall be responsible for

1. Editor's Note: See also the provisions of the Property Maintenance Code adopted pursuant to Chapter 292 of this Code.

the issuance of certificates of occupancy in accordance with § 380-72D of the Code of the City of Estell Manor, and such other duties as may, from time to time, be designated by resolution of the City Council.

§ 234-4. Unfit buildings.

The designated officer may determine that a building is unfit for human habitation, occupancy or use if he finds that conditions exist in the building which are dangerous or injurious to the health and safety of the occupants of the building, the occupants of neighboring buildings or other residents of the City. These conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair, structural defects or uncleanliness.

§ 234-5. Notice of violation. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

Whenever a petition is filed with the Housing Officer by a public authority or by at least five residents of the municipality charging that any building is unfit for human habitation or occupancy or use or whenever it appears to the Housing Officer (on his own motion) that any building is unfit for human habitation or occupancy or use, the Housing Officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such building a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Housing Officer (or his designated agent) at a place therein fixed not less than seven days nor more than 30 days after the serving of said complaint. The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in the courts shall not be controlling in hearings before the Housing Officer.

§ 234-6. Order for abatement or demolition.

If, after such notice and hearing, the designated official determines that the building under consideration is unfit for human habitation, occupancy or use, as herein defined, he shall state in writing his findings of fact in support of the determination and shall issue and cause to be served upon the owner thereof and parties in interest an order requiring:

- A. The repair, alteration or improvement of the building to be made by the owner, within a reasonable time, which time shall be set forth in the order or at the option of the owner to vacate or to have the building vacated and closed within the time set forth in the order.
- B. If the building is in such a condition as to make it dangerous to the health and safety of persons on or near the premises and the owner fails to repair, alter or improve the building within the time specified in the order, that the owner remove or demolish the building within a reasonable time as specified in the order of removal.
- C. If the owner fails to comply with an order to repair, alter or improve or, at the option of the owner, to vacate and close the building, the designated official may cause such

building to be repaired, altered or improved, or to be vacated and closed. The designated official may cause to be posted on the main entrance of any building so closed a placard with the following words: "This building is unfit for human habitation, occupancy or use, or occupancy or use; the use or occupation of this building is prohibited and unlawful."

- D. If the owner fails to comply with an order to remove or demolish the building, the designated official may cause the building to be removed or demolished or may contract for the removal or demolition thereof after advertisement for, and receipt of bids therefor.
- E. The amount of:
- (1) The cost of the filing of legal papers, expert witnesses' fees, search fees and advertising charges incurred in the course of any proceeding taken under this section shall be determined in favor of the City.
 - (2) The cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition, if any, or the amount of the balance thereof remaining after deduction of the sum, if any, realized from the sale of materials derived from such building or from any contract for removal or demolition thereof, shall be a municipal lien against the real property upon which such cost was incurred. If the building is removed or demolished by the designated official, he shall sell the materials of such building. There shall be credited against the cost of the removal or demolition thereof, including the clearance and, if necessary, leveling of the site, the proceeds of any sale of such materials or any sum derived from any contract for the removal or demolition of the building. If there are no such credits or if the sum total of such costs exceeds the total of such credits, a detailed statement of the aforesaid costs and the amount so due shall be filed with the City Tax Assessor or other custodian of the records of tax liens and a copy thereof shall be forthwith forwarded to the owner by registered mail. If the total of the credits exceeds such costs, the balance remaining shall be deposited in the Superior Court by the designated official, shall be secured in such manner as may be directed by such court, and shall be disbursed according to the order or judgment of the court to the persons found to be entitled thereto by final order or judgment of such court. Any owner or party in interest may, within 30 days from the date of the filing of the lien certificate, proceed in a summary manner in the Superior Court to contest the reasonableness of the amount or the accuracy of the costs set forth in the municipal lien certificate. If an actual and immediate danger to life is posed by the threatened collapse of any fire damaged or other structurally unsafe building, the designated official may, after taking such measures as may be necessary to make such building temporarily safe, seek a judgment in summary proceedings for the demolition thereof. Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise, nor is anything in this act intended to limit the authority of the enforcing agency or construction official under the State Uniform Construction Code Act, P.L. 1975, c. 217 (N.J.S.A. 52:27D-119 et seq.) or any rules or regulations adopted thereunder. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

§ 234-7. Serving of complaints. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

Complaints or orders issued by the designated official pursuant to this article shall be served upon persons either personally or by registered mail, but if the whereabouts of the persons is unknown and the same cannot be ascertained by the designated official in the exercise of reasonable diligence, and the designated official shall make an affidavit to that effect, then the serving of the complaint or order upon such persons may be made by publishing the same once in a newspaper printed and published in the County of Atlantic. A copy of the complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order, and a copy of the complaint or order shall be duly recorded or lodged for record with the county recording officer of the county in which the building is located.

§ 234-8. Conforming to Housing Code.

No person shall occupy as owner or occupant or rent to another for occupancy any building or building unit for the purpose of living therein which does not conform to the provisions of the New Jersey State Housing Code established hereby as the standards to be used in determining whether a building is safe, sanitary and fit for human habitation.

§ 234-9. Consent of City Council.

Notwithstanding anything to the contrary contained herein, designated officials shall obtain the consent of the City Council by its resolution before undertaking repairs or removal of any property hereunder.

ARTICLE II

Temporary Housing

[Adopted 12-2-2009 by Ord. No. 08-2009 (Ch. VII, Sec. 7-6, of the 1974 Revised General Ordinances)]

§ 234-10. Permitted temporary housing.

Temporary housing is permitted in the City of Estell Manor based upon a permit issued by the Zoning Officer if the Zoning Officer finds that the owner/occupant of a single-family dwelling has been displaced as a result of the residence becoming uninhabitable due to damage caused by fire, natural disaster or other catastrophic event.

§ 234-11. Other conditions.

Any applicant for a temporary housing permit must, in addition to meeting the criteria above, demonstrate the following:

- A. Prove that all current property taxes are paid.
- B. In the event that the temporary housing is based upon an uninhabitable residence due to fire, natural disaster, or other catastrophic event, that the applicant for the temporary use permit was the resident of the property at the time that it became uninhabitable;

- C. The temporary use dwelling must be a minimum of 480 square feet and be in compliance with all current building codes and health regulations in effect at the time of the application for the temporary use permit.

§ 234-12. Term of permit; extensions.

- A. The Zoning Officer shall issue a temporary housing permit for a period of six months, which term can be extended for an additional six months (total 12 months) based upon a written justification for the additional six months being presented to the Zoning Officer.
- B. Any renewals or extension beyond a twelve-month period of time can only be approved by the Planning Board of the City of Estell Manor in the form of a use variance.

§ 234-13. Enforcement; violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

Any property owner who violates the provisions contained herein, including an act of establishing a temporary housing facility without complying with the provisions of § 234-10 above, shall be subject to being cited for a violation of this article, which summons and violation notice shall be presented to the Estell Manor Municipal Court, and which penalty shall be as provided in Chapter 1, General Provisions, Article II, General Penalty.

Chapter 249

LITTERING

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| § 249-1. Definitions. | § 249-9. Handbills. |
| § 249-2. Litter in public places. | § 249-10. Posting notices prohibited. |
| § 249-3. Litter on occupied private property. | § 249-11. Dropping litter from aircraft. |
| § 249-4. Owner to maintain premises free of litter, tires and vehicles. | § 249-12. Illegal dumping. |
| § 249-5. Litter on vacant lots. | § 249-13. Storage of household solid waste. |
| § 249-6. Sweeping litter into gutters prohibited. | § 249-14. Transportation within the City. |
| § 249-7. Litter thrown by persons in vehicles. | § 249-15. Construction sites. |
| § 249-8. Transportation from outside City. | § 249-16. Open or overflowing waste disposal bins. |
| | § 249-17. Commercial establishments and residences. |
| | § 249-18. Violations and penalties. |

[HISTORY: Adopted by the City Council of the City of Estell Manor by Ord. No. 76-3 (Ch. III, Sec. 3-1, of the 1974 Revised General Ordinances). Amendments noted where applicable.]

§ 249-1. Definitions. [Amended by Ord. No. 88-6]

As used in this section, the following terms shall have the meanings indicated:

LITTER — Any used or unconsumed substance or waste material which has been discarded whether made of aluminum, glass, plastic, rubber, paper or other natural or synthetic material or any combination thereof, including, but not limited to, any bottle, jar or can or any top, cap or detachable tab of any bottle, jar or can, any unlighted cigarette, cigar, match or any flaming or glowing material or any garbage, trash, refuse, magazines, glass, metal, plastic or paper containers or other packaging or construction material but does not include the waste of the primary processes of mining or other extraction processes, logging, sawmilling, farming or manufacturing.

LITTER RECEPTACLE — Any container suitable for the depositing of litter as so designated by the municipality.

PERSON — Any person, firm, partnership, association, corporation, company or organization of any kind.

1. Editor's Note: See also the provisions of the Property Maintenance Code adopted pursuant to Chapter 292 of this Code.

PRIVATE PREMISES — Any vacant or unimproved lot or parcel of land, or any dwelling, house, building or other structure designed or used, either wholly or in part, for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, including any yard, ground, walk, driveway, porch, steps or vestibule belonging to or appurtenant to such dwelling, house, building or other structure.

PUBLIC PLACE — Any and all streets, sidewalks, boulevards, alleys, beaches or other public ways, and any and all public parks, squares, spaces, docks, grounds and buildings.

REFUSE — All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, derelict or abandoned automobiles and solid market and industrial wastes.

RUBBISH — Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

VEHICLE — Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

§ 249-2. Litter in public places. [Amended by Ord. No. 88-6]

- A. It shall be unlawful for any person to throw, drop, discard or otherwise place litter of any nature upon any public or private property, other than in a litter receptacle.
- B. Litter receptacles and their servicing are required at the following public places which exist in the municipality, including sidewalks used by pedestrians in active retail commercially zoned areas, such that at a minimum there shall be no single linear quarter-mile without a receptacle; buildings held out for use by the public, including schools, government buildings and railroad and bus stations; parks; drive-in restaurants; all sites; gasoline service station islands; shopping centers; parking lots; campgrounds and trailer parks; marinas, boat moorage and fueling stations; boat launching areas; public and private piers operated for public use; beaches and bathing areas; and at special events to which the public is invited, including sporting events, parades, carnivals, circuses and festivals. The proprietors of these places or the sponsors of these events shall be responsible for providing and servicing the receptacles such that adequate containerization is available.

§ 249-3. Litter on occupied private property.

No persons shall throw, deposit or store litter on any occupied private property within the City whether the property is owned by such person or not, except that the owner or person in control of such private property may maintain authorized private receptacles for collection and removal of the litter in such manner that the same shall not be unsightly or detrimental to the surrounding neighborhood.

§ 249-4. Owner to maintain premises free of litter, tires and vehicles. [Amended by Ord. No. 88-6]

It shall be unlawful for the owner or person in control of any private property to permit litter to accumulate thereon, or to otherwise store or permit the storage of tires, trailers, semitrailers or any motor vehicle which is: missing tires, wheels, engine or any essential parts; which displays extensive body damage or deterioration; which does not display a current, valid state license; which is wrecked, disassembled or partially disassembled; or which is abandoned or otherwise unable to be self propelled; provided that this section shall not prohibit the storage of litter in authorized private receptacles for collection, or of tires or vehicles in a fully enclosed structure.

§ 249-5. Litter on vacant lots.

No person shall throw or deposit litter or permit such to be thrown or deposited on any open or vacant private property within the City whether the property is owned by such person or not.

§ 249-6. Sweeping litter into gutters prohibited.

No person, including merchants owning or occupying a place of business, shall sweep into or deposit in any gutter or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

§ 249-7. Litter thrown by persons in vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter or permit such to be thrown or deposited in any public place within the City or on private property.

§ 249-8. Transportation from outside City.

No person shall bring, cart, remove, transport or collect any litter from outside the City into the City for the purpose of dumping or disposing thereof, except with the express written permission of the City Council or its authorized agent. No truck or other vehicle containing litter which has been transported into the City shall be parked or allowed to remain standing on any street in the City or on any public property for a period in excess of two hours.

§ 249-9. Handbills.

No person shall cast or place or cause to be cast or placed any advertisement, handbill, circular or paper on any public street, on sidewalks, into any vestibules or yards, upon porches of any dwelling house or other buildings or into any vehicle while on the public highways or on private property within the City, except that this section shall not apply to newspapers and addressed envelopes delivered to subscribers and addressees. Advertisements, handbills, circulars and papers may be distributed in the City, provided that they are securely placed at each dwelling so as not to be blown away by the wind.

§ 249-10. Posting notices prohibited.

No person shall post or affix any notice, poster or other paper or device calculated to attract the attention of the public to any lamppost, public utility pole or shade tree, or upon any public structure or building, except as may be authorized by the owners thereof or required by law.

§ 249-11. Dropping litter from aircraft.

No person in any aircraft shall throw out, deposit or drop or permit to be thrown, dropped or deposited any litter, handbills or any other object within the City.

§ 249-12. Illegal dumping. [Amended by Ord. No. 88-6]

It shall be unlawful for any person to discard or dump along any street or road, on or off any right-of-way, any household or commercial solid waste, rubbish, refuse, junk, vehicle or vehicle parts, rubber tires, appliances, furniture or private property, except by written consent of the owner of said property, in any place not specifically designated for the purpose of solid waste storage or disposal.

§ 249-13. Storage of household solid waste. [Amended by Ord. No. 88-6]

It shall be unlawful for any residential property owner to store or permit storage of any bulky household waste, including household appliances, furniture and mattresses, in areas zoned residential, except in a fully enclosed structure or during days designated for the collection of bulky items.

§ 249-14. Transportation within the City. [Amended by Ord. No. 88-6]

It shall be unlawful for any vehicle to be driven, moved, stopped or parked on any highway unless such a vehicle is constructed or loaded to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom. Any person operating a vehicle from which any glass or objects have fallen or escaped, which could cause an obstruction, damage a vehicle or otherwise endanger travelers or public property, shall immediately cause the public property to be cleaned of all glass or objects and shall pay the costs therefor.

§ 249-15. Construction sites. [Amended by Ord. No. 88-6]

It shall be unlawful for any owner, agent or contractor in charge of a construction or demolition site to permit the accumulation of litter before, during or after completion of any construction or demolition project. It shall be the duty of the owner, agent or contractor in charge of a construction site to furnish containers adequate to accommodate flyable or nonflyable debris or trash at areas convenient to construction areas, and to maintain and empty the receptacles in such a manner and with such a frequency as to prevent spillage of refuse.

§ 249-16. Open or overflowing waste disposal bins. [Amended by Ord. No. 88-6]

It shall be unlawful for any residential or commercial property owner to permit open or overflowing waste disposal bins on his or her property.

§ 249-17. Commercial establishments and residences. [Amended by Ord. No. 88-6]

It shall be the duty of the owner, lessee, tenant, occupant or person in charge of any structure to keep and cause to be kept the sidewalk and curb abutting the building or structure free from obstruction or nuisances of every kind, and to keep sidewalks, areaways, backyards, courts and alleys free from litter and other offensive material. No person shall sweep into or deposit in any gutter, street, catch basin or other public place any accumulation of litter from any public or private sidewalk or driveway. Every person who owns or occupies property shall keep the sidewalk in front of his or her premises free of litter. All sweepings shall be collected and properly containerized for disposal.

§ 249-18. Violations and penalties. [Added at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

Penalties for violations on a roadway will be determined by the authority having jurisdiction over the roadway. Penalties for violations of local ordinances will be governed by Chapter 1, Article II, of this Code.

Chapter 268

NUMBERING OF PROPERTY

§ 268-1. Adoption of emergency plan.

§ 268-2. System for numbering property.

§ 268-3. Correct assigned number to be furnished to owner or occupant.

§ 268-4. Numbers to be displayed.

§ 268-5. Violations and penalties.

[HISTORY: Adopted by the City Council of the City of Estell Manor 6-3-1992 by Ord. No. 92-3 (Ch. VII, Sec. 7-3, of the 1974 Revised General Ordinances). Amendments noted where applicable.]

§ 268-1. Adoption of emergency plan.

The State of New Jersey 911 emergency number plan, established by the Office of Emergency Telecommunications Services pursuant to P.L. 1989, c. 3 (N.J.S.A. 52:17c-1 et seq.), and approved by the 911 Commission, be and hereby is adopted by reference.

§ 268-2. System for numbering property.

Each property of the City of Estell Manor required to be numbered shall be numbered in accordance with the current filed and certified Tax Map, approved by the City Council and further approved by the United States Postal Service for the purpose of establishing permanent house numbers to comply with the provisions of the 911 regulations.

§ 268-3. Correct assigned number to be furnished to owner or occupant.

The City Council, through the City Tax Assessor, shall furnish to the United States Post Office, as well as to the owner or occupant of every house, premises or property situate upon any highway, street or public place in the City of Estell Manor, a written copy of the correct number assigned to such house, premises or property.

§ 268-4. Numbers to be displayed. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

Each owner or occupant shall, within 30 days after receiving each number, cause the number to be placed in a conspicuous place upon such house (if clearly visible and within 50 feet of the street) or at the driveway entrance in a permanent and durable manner. Each number shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm) in compliance with the requirements of Section 304.3 of the Property Maintenance Code, as adopted by Chapter 292 of the Code of the City of Estell Manor.

§ 268-5. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

Any owner or occupant who shall fail to comply with the provisions of this section shall be subject to the penalty provided in Chapter 1, General Provisions, Article II, General Penalty, and the jurisdiction as to the enforcement of this section shall be in the Municipal Court. Each day that the offense shall continue shall constitute a separate and new offense.

Chapter 280

PARKS, PLAYGROUNDS AND RECREATION AREAS

§ 280-1. Purpose.

§ 280-4. Permits.

§ 280-2. Definitions.

§ 280-5. Hours.

§ 280-3. Rules and regulations.

§ 280-6. Violations and penalties.

[HISTORY: Adopted by the City Council of the City of Estell Manor 8-13-2014 by Ord. No. 10-2014. Amendments noted where applicable.]

§ 280-1. Purpose.

The City of Estell Manor hereby determines that the establishment of regulations concerning permissible activities, proper permitting, facility maintenance, and the establishment of hours of use of Township-owned parks and property is necessary to further the public health, safety, morals and general welfare of the Township and to preserve and protect Township-owned parks and property.

§ 280-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CITY — City of Estell Manor.

GROUP or ORGANIZATION — A collective number of persons, being 15 or more in number, whether related or unrelated, participating in an activity or outing involving the use of any park, playground or recreational area.

PARK, PLAYGROUND, AND RECREATION AREA — Any park, playground, or recreation area owned or operated by the City of Estell Manor.

§ 280-3. Rules and regulations.

The following rules and regulations are hereby established for all municipal parks, playgrounds and recreational areas presently or hereafter established by the City of Estell Manor. It shall be unlawful to violate any of these rules and regulations or such additional regulations may subsequently be adopted by the City Council:

- A. No alcoholic beverage shall be consumed in or about the City parks, playgrounds or recreational areas.
- B. No person, other than City personnel engaged in the performance of their prescribed duties shall drive or move any vehicle on any park, playground or recreational areas without specific authorization from the City Council.

- C. No person shall possess or use any motorized vehicles, all-terrain vehicles (ATVs), mopeds motorized bikes or similar apparatus of any description on or within any of the parks, playgrounds or recreational areas of the City.
- D. No person shall operate any bicycle on or within any park, playground, or recreational area except as posted in such areas. All bicycles are to be stored and placed in areas designated and posted for such purposes. This provision shall not apply to police or other public safety personnel during the course of their prescribed duties.
- E. No camping shall be permitted in any park, playground or recreational area without specific written permission off the Estell Manor City Council.
- F. No person shall build, start or maintain a fire within the City Park, playground or recreational area except in those areas where a grill fireplace or fire pit has been provided and is maintained for such purpose by the City.
- G. No person shall take upon any park, playground, or recreational area any glass container of any size or description.
- H. No person shall deposit or leave any cans, ashes, paper, litter, food waste, or other refuse within a City park, playground, or recreational area except in those containers specifically provided and designed for such use by the City.
- I. No person shall possess, discharge, or use any firearm, bow and arrow, knife or weapon of any description within, in or on any of the City parks, playgrounds or recreational areas.
- J. No domestic animals and pets are permitted on any City parks, playgrounds or recreational areas unless specifically designated as an authorized pet friendly area.
- K. These rules and regulations may be supplemented by such additional rules and regulations as the City shall promulgate and post at one or more of the City parks, playgrounds or recreational areas. Such rules and regulations shall have the same force and effect as those rules and regulations set forth in this section.

§ 280-4. Permits.

Any group wishing to use a park, playground or recreational area must first request and receive a permit from City Council at least 48 hours in advance of such contemplated usage. Permit applications may be obtain from the City Clerk's office.

§ 280-5. Hours.

All parks, playgrounds and recreational areas of the City of Estell Manor shall be closed each day at sunset until 8:00 a.m.

PARKS, PLAYGROUNDS AND RECREATION

§ 280-6

AREAS

§ 280-6

§ 280-6. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

Any persons in violation of the provisions of this chapter or any of the rules and regulations adopted hereunder shall, upon conviction thereof, be subject to the penalty in Chapter 1, Article II, General Penalty.

Chapter 285

PEDDLING AND SOLICITING

ARTICLE I
Peddlers, Hawkers, Canvassers and
Vendors

§ 285-1. Authorization.

§ 285-2. Definitions.

§ 285-3. Nonsolicitation sticker.

§ 285-4. Exceptions.

§ 285-5. Regulations.

§ 285-6. Violations and penalties.

ARTICLE II
Roadway Solicitations by Charitable
Organizations

§ 285-7. Authorization.

§ 285-8. Request to be filed.

[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Peddlers, Hawkers, Canvassers and Vendors
[Adopted by Ord. No. 86-9 (Ch. IV, Sec. 4-2, of the 1974 Revised General Ordinances);
amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art.
III)]

§ 285-1. Authorization.

Persons are authorized to engage in the business of an itinerant vendor, peddler, hawker, solicitor or canvasser, as those terms are defined in § 285-2, subject to compliance with the regulations set forth in § 285-5.

§ 285-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ITINERANT VENDOR — A person in the business of selling personal property or services who conducts his business from a fixed location but who does not intend to continue in business within the City permanently. A proprietor of a business which is seasonal in nature who suspends business during the off-season shall not for that reason alone be considered an "itinerant vendor."

NONPROFIT ORGANIZATION —

- A. Any organization tax exempt under Section 501(c)(3) of the Internal Revenue Code;
- B. Any organization created under or otherwise subject to the provisions of Title 15A of the New Jersey Statutes;

- C. Any organization, whether or not qualified under Section 501(c)(3) of the Internal Revenue Code or subject to the provisions of Title 15A of the New Jersey Statutes, whose primary purpose is to benefit the school-age children of the City of Estell Manor;
- D. Any organization whose primary purpose is to advocate for religious or political causes, whether or not qualified under Section 501(c)(3) of the Internal Revenue Code or subject to the provisions of Title 15A of the New Jersey Statutes; or
- E. Any Police Department and any volunteer fire or first aid company that is located in, has a substantial membership from or serves the City.

PEDDLER or HAWKER — A person who sells or delivers tangible goods, services or commodities from house to house, store to store, place to place or on the streets or in any public place, whether on foot or in a vehicle, whose sales are not made from one established spot, except where they are made in a street or public place, and who makes delivery at the time of his sale.

PERSON — An individual, firm, partnership, corporation (either profit or nonprofit), voluntary association, incorporated association, unincorporated association, society, club, trust or other similar entity or a trustee, principal or agent thereof.

SOLICITOR or CANVASSER — A person who goes from house to house or from place to place selling merchandise by sample or by taking orders for future delivery, with or without accepting advance payments for the goods and regardless of whether advance solicitation is made by mail, telephone or personal contact. The provisions of this definition shall apply to the person who comes in personal contact with the buyer, whether he obtains the order, delivers the goods or accepts money in payment for them. "Solicitor" also means any person who goes from house to house or from place to place for the purpose of obtaining alms, contributions or subscriptions, or who does research analyses, makes surveys or opinion polls or obtains rating data or similar information, or who engages in any similar work which involves a door-to-door or place-to-place activity.

§ 285-3. Nonsolicitation sticker.

- A. Notwithstanding any provisions to the contrary herein, any resident may choose to bar all canvassing and soliciting at their residence, which shall be communicated through the placement of a sticker or sign on the premises at a place visible to the public, stating that canvassing or soliciting at that premises is not permitted.
- B. Any person that canvasses or solicits a resident that has a sticker or sign on display shall be in violation of this article.

§ 285-4. Exceptions.

Activities of the following described persons are deemed not to constitute the business of vending, peddling, hawking, soliciting or canvassing, provided that the person must comply with the specific requirements of this § 285-4 and the regulations of § 285-5:

- A. Any nonprofit organization as defined in § 285-2 of this article, provided that the means of identification assigned by such organization, if any, is carried by the peddler, solicitor or transient merchant. If no means of identification is assigned by such organization, the peddler, solicitor or transient merchant shall be required to carry a bona fide means of identification, including, but not limited to, a valid driver's license or other government-issued identification.
- B. Any person intending to distribute noncommercial or not-for-profit handbills, pamphlets, leaflets, circulars, advertisements or printed material.
- C. Any person:
 - (1) Campaigning for any elected public office or public question, which is to be voted upon in the City at a general election; special, primary or school board election; or in a national or state election;
 - (2) Distributing handbills, pamphlets, leaflets, circulars, advertisements or printed material with respect thereto; or
 - (3) Otherwise engaging in political speech.
- D. Any person engaging in advocacy of noncommercial or not-for-profit causes, whether or not in connection with a larger organization, or engaging in spontaneous speech, including, but not limited, to speech between neighbors.
- E. Any person honorably discharged from the military of the United States as defined by N.J.S.A. 45:24-9 and N.J.S.A. 45:24-10, possessing corresponding identification in conformity with said statute.
- F. Any person holding a solicitation license or permit issued under any legislation of the United States government or by any state agency pursuant to statute.
- G. Federal census takers, or those taking other polls or surveys pursuant to federal, state or local laws.
- H. Any person engaged in delivering goods, products or wares or other articles or things in the regular course of business to the premises of the person ordering or entitled to receive the same.

§ 285-5. Regulations.

The following regulations shall apply to all activities conducted pursuant to §§ 285-1 and 285-4:

- A. No person or vehicle shall stand or be parked for the purpose of display or selling goods, products or services on any public or private property within a distance of 200 feet from the nearest public, private or parochial school in the City of Estell Manor

during school hours. "School hours" shall mean any time during which school may be in session.

- B. No person shall sell or attempt to sell in accordance with the terms of this article before 9:00 a.m. or after 8:00 p.m. prevailing time. The aforesaid time limitation shall not apply to persons who are expressly invited into homes by the occupants thereof.
- C. No person shall park his vehicle for a period of time longer than necessary.
- D. No person or vehicle shall stand or be parked in a fixed location for the purpose of displaying or selling goods, products or services on any public or private property where to do so is likely to cause a crowd, impede vehicular or pedestrian traffic or produce annoying sounds, voices or disturbances which interfere with the comfort of residents.
- E. No person shall strew or litter or cause to be strewn or littered the public streets and highways with refuse or waste matter of any kind or to in anywise interfere with the comfort or convenience of the residents or business of the occupants or owners of adjacent property.
- F. All circulars, samples or other matter shall be handed to an occupant of the property and not left on or about the same.
- G. No person shall enter or attempt to enter the house of any resident in the City without an express invitation from the occupant of the house.
- H. No person shall conduct themselves in such manner as to become objectionable to or annoy an occupant of any house.
- I. No person shall enter upon any public property, including City parks, for the purpose of peddling or soliciting without express written consent of the City.

§ 285-6. Violations and penalties.

Any violations of this article shall be subject to the general penalty provision of Chapter 1, Article II, General Penalty, of the Code of the City of Estell Manor.

ARTICLE II

Roadway Solicitations by Charitable Organizations

[Adopted by Ord. No. 97-5 (Ch. XVII of the 1974 Revised General Ordinances)]

§ 285-7. Authorization.

The City of Estell Manor shall permit charitable organizations as defined in Section III of P.L. 1994, c. 16 (N.J.S.A. 45:17A-20), to solicit contributions in the roadways and highways of the City of Estell Manor in accordance with the provisions contained herein.

§ 285-8. Request to be filed.

Contents of request. All charitable organizations herein who wish to solicit contributions in the roadways and highways of the City of Estell Manor shall file a request with the City Clerk specifying the following information:

- A. The name of the organization.
- B. The address of the organization.
- C. The telephone number of the organization.
- D. The contact person of the organization.
- E. The location of the proposed charitable solicitation.
- F. The dates and times of the proposed charitable solicitation.
- G. If said request involves a county roadway and/or highway, said request shall include a copy of authorization from the Atlantic County Board of Chosen Freeholders to permit said charitable solicitation.
- H. If said request involves a state roadway and/or highway, said request shall include a copy of an authorization from the State of New Jersey Commissioner of Transportation to permit said charitable solicitation.
- I. A list of all proposed safety regulations, safety devices and training for individuals who shall participate in the charitable solicitation and/or a report as to the procedures to be used to ensure the safety of the members of the public who will be traversing the roadways and/or highways of the City of Estell Manor.

Chapter 289

PROPERTY, ABANDONED AND VACANT

ARTICLE I

Abandoned Property List; Maintenance Requirements

§ 289-1. Purpose and intent.

§ 289-2. Definitions.

§ 289-3. Applicability.

§ 289-4. Establishment of a registry.

§ 289-5. Registration of abandoned real property.

§ 289-6. Maintenance requirements.

§ 289-7. Security requirements.

§ 289-8. Public nuisance.

§ 289-9. Violations and penalties; schedule of civil penalties.

§ 289-10. Inspections for violations.

§ 289-11. Additional authority.

§ 289-12. Opposing, obstructing enforcement officer; penalty.

§ 289-13. Immunity of enforcement officer.

§ 289-14. Establishment of Public Officer.

[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Abandoned Property List; Maintenance Requirements

[Adopted 2-10-2016 by Ord. No. 02-2016]

§ 289-1. Purpose and intent.

It is the purpose and intent of the City of Estell Manor to establish a process to address the deterioration and blight of City of Estell Manor neighborhoods caused by an increasing amount of abandoned, foreclosed or distressed real property located within the City of Estell Manor, and to identify, regulate, limit and reduce the number of abandoned properties located within the City of Estell Manor. It is the City of Estell Manor's further intent to participate in the County-wide registration program established by the Atlantic County Improvement Authority and administered by Community Champions Corporation as a mechanism to protect neighborhoods from becoming blighted due to the lack of adequate maintenance and security of abandoned and foreclosed properties.

§ 289-2. Definitions.

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

ABANDONED REAL PROPERTY — Any real property located in the City of Estell Manor, whether vacant or occupied, that is in default on a mortgage, has had a lis pendens filed against it by the lender holding a mortgage on the property, is subject to an ongoing

foreclosure action by the lender, is subject to an application for a tax deed or pending Tax Assessor's lien sale, or has been transferred to the lender under a deed in lieu of foreclosure. The designation of a property as "abandoned" shall remain in place until such time as the property is sold or transferred to a new owner, the foreclosure action has been dismissed, and any default on the mortgage has been cured.

ACCESSIBLE PROPERTY/STRUCTURE — A property that is accessible through a comprised/breached gate, fence, wall, etc., or a structure that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

APPLICABLE CODES — To include, but not be limited to, the City of Estell Manor's Zoning Code, the City of Estell Manor's Code of Ordinances ("Estell Manor Code"), and the New Jersey Building Code.

BLIGHTED PROPERTY —

- A. Properties that have broken or severely damaged windows, doors, walls, or roofs which create hazardous conditions and encourage trespassing; or
- B. Properties whose maintenance is not in conformance with the maintenance of other neighboring properties causing a decrease in value of the neighboring properties; or
- C. Properties cited for a public nuisance pursuant to the Estell Manor Code; or
- D. Properties that endanger the public's health, safety, or welfare because the properties or improvements thereon are dilapidated, deteriorated, or violate minimum health and safety standards or lack maintenance as required by the Estell Manor City and Zoning Codes.

ENFORCEMENT OFFICER — Any law enforcement officer, building official, zoning inspector, Code Enforcement Officer, fire inspector or Building Inspector, public officer, or other person authorized by the City of Estell Manor to enforce the applicable codes.

OWNER — Any person, legal entity or other party having any ownership interest whether legal or equitable, in real property. This term shall also apply to any person, legal entity or agent responsible for the construction, maintenance or operation of the property involved.

PROPERTY MANAGEMENT COMPANY — A local property manager, property maintenance company or similar entity responsible for the maintenance of abandoned real property.

VACANT — Any building or structure that is not legally occupied.

§ 289-3. Applicability.

These sections shall be considered cumulative and not superseding or subject to any other law or provision for same, but rather are an additional remedy available to the City of Estell Manor above and beyond any other state, county or local provisions for same.

§ 289-4. Establishment of a registry.

Pursuant to the provisions of this article, the City of Estell Manor shall participate in the County-wide registration program established by the Atlantic County Improvement Authority and administered by Community Champions Corporation cataloging each abandoned property within the City of Estell Manor, containing the information required by this article.

§ 289-5. Registration of abandoned real property.

- A. Any mortgagee who holds a mortgage on real property located within the City of Estell Manor shall perform an inspection of the property to determine vacancy or occupancy, upon default by the mortgagor. The mortgagee shall, within 10 days of the inspection, register the property with the Division of Code Enforcement, or designee, on forms or website access provided by the City of Estell Manor, and indicate whether the property is vacant or occupied. A separate registration is required for each property, whether it is found to be vacant or occupied.
- B. If the property is occupied but remains in default, it shall be inspected by the mortgagee or his designee monthly until 1) the mortgagor or other party remedies the default, or 2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the mortgagee shall, within 10 days of that inspection, update the property registration to a vacancy status on forms provided by the City of Estell Manor.
- C. Registration pursuant to this section shall contain the name of the mortgagee and the server, the direct mailing address of the mortgagee and the server, a direct contact name and telephone number for both parties, facsimile number and e-mail address for both parties, the folio or tax number, and the name and twenty-four-hour contact telephone number of the property management company responsible for the security and maintenance of the property.
- D. A nonrefundable annual registration fee in the amount per property as provided in Chapter 185, Article III, Fees for City Services, shall accompany the registration form or website registration. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- E. All registration fees must be paid directly from the mortgagee, servicer, trustee, or owner. Third-party registration fees are not allowed without the consent of the City of Estell Manor and/or its authorized designee.
- F. This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.
- G. Properties subject to this section shall remain under the annual registration requirement, and the inspection, security and maintenance standards of this section as long as they remain vacant or in default.
- H. Any person or legal entity that has registered a property under this section must report any change of information contained in the registration within 10 days of the change.

- I. Failure of the mortgagee and/or owner to properly register or to modify the registration from time to time to reflect a change of circumstances as required by this article is a violation of the article and shall be subject to enforcement.
- J. Pursuant to any administrative or judicial finding and determination that any property is in violation of this article, the City of Estell Manor may take the necessary action to ensure compliance with and place a lien on the property for the cost of the work performed to benefit the property and bring it into compliance.

§ 289-6. Maintenance requirements.

- A. Properties subject to this chapter shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded personal items, including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.
- B. The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.
- C. Front, side, and rear yards, including landscaping, shall be maintained in accordance with the applicable codes at the time registration was required.
- D. Yard maintenance shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Acceptable maintenance of yards and/or landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.
- E. Maintenance shall include, but not be limited to, watering, irrigation, cutting and mowing of required ground cover or landscape and removal of all trimmings.
- F. Pools and spas shall be maintained so the water remains free and clear of pollutants and debris and shall comply with the regulations set forth in the applicable codes.
- G. Failure of the mortgagee and/or owner to properly maintain the property may result in a violation of the applicable codes and issuance of a citation or notice of violation in accordance with this article of the Code of the City of Estell Manor. Pursuant to a finding and determination by the City of Estell Manor's Public Officer or a court of competent jurisdiction, the City of Estell Manor may take the necessary action to ensure compliance with this section.
- H. In addition to the above, the property is required to be maintained in accordance with the applicable codes.

§ 289-7. Security requirements.

- A. Properties subject to these sections shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

- B. A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure. Broken windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure must be repaired. Broken windows shall be secured by reglazing of the window.
- C. If a mortgage on a property is in default, and the property has become vacant or abandoned, a property manager shall be designated by the mortgagee to perform the work necessary to bring the property into compliance with the applicable codes, and the property manager must perform regular inspections to verify compliance with the requirements of this article and any other applicable laws.

§ 289-8. Public nuisance.

All abandoned real property is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare and safety of the residents of the City of Estell Manor.

§ 289-9. Violations and penalties; schedule of civil penalties.

Any person who shall violate the provisions of this article may be cited and fined as provided in this article and N.J.S.A. 55:19-78 et seq. The following table shows violations of these sections, as may be amended from time to time, which may be enforced pursuant to the provisions of this regulation; and the dollar amount of civil penalty for the violation of these sections as it may be amended. The descriptions of violations below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the Estell Manor Code sections, except to the extent that different types of violations of the Estell Manor Code section may carry different civil penalties. For each Estell Manor Code section listed in the schedule of civil penalties, the entirety of the section may be enforced by the mechanism provided in this section, regardless of whether all activities prescribed or required are described in the "Description of Violation" column. To determine whether a particular activity is prescribed or required by this Code, the relevant Estell Manor Code sections shall be examined.

Description of Violation	Civil Penalty
Failure to register abandoned real property on annual basis and/or any violation of the sections stated within	\$500

§ 289-10. Inspections for violations.

Adherence to this article does not relieve any person, legal entity or agent from any other obligations set forth in any applicable codes which may apply to the property. Upon sale or transfer of title to the property, the owner shall be responsible for all violations of the applicable codes and the owner shall be responsible for meeting with the City's Code Enforcement Division within 45 days for a final courtesy inspection report.

§ 289-11. Additional authority.

- A. If the enforcement officer has reason to believe that a property subject to the provisions of this article is posing a serious threat to the public health, safety and welfare, the Code Enforcement Officer may temporarily secure the property at the expense of the mortgagee and/or owner, and may bring the violations before the City's public officer or court of competent jurisdiction as soon as possible to address the conditions of the property.
- B. The public officer shall have the authority to require the mortgagee and/or owner of record of any property affected by this section to implement additional maintenance and/or security measure, including, but not limited to, securing any and all doors, windows or other openings, employment of an on-site security guard or other measures as may be reasonably required to help prevent further decline of the property.
- C. If there is a finding that the condition of the property is posing a serious threat to the public health, safety and welfare, then the public officer may direct the City to abate the violations and charge the mortgagee with the cost of the abatement.
- D. If the mortgagee does not reimburse the City of Estell Manor for the cost of temporarily securing the property, or of any abatement directed by the public officer, within 30 days of the City of Estell Manor sending the mortgagee the invoice, then the City of Estell Manor may lien the property with such cost, along with an administrative fee to recover the administrative personnel services, in such amount as provided in Chapter 185, Article III, Fees for City Services. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

§ 289-12. Opposing, obstructing enforcement officer; penalty.

Whoever opposes, obstructs or resists any enforcement officer or any person authorized by the enforcement office in the discharge of duties as provided in this chapter shall be punishable as provided in the applicable codes or a court of competent jurisdiction.

§ 289-13. Immunity of enforcement officer.

Any enforcement officer or any person authorized by the City of Estell Manor to enforce the sections here within shall be immune from prosecution, civil or criminal, for reasonable, good-faith entry upon real property while in the discharge of duties imposed by this article.

§ 289-14. Establishment of Public Officer.

The Public Officer for the City of Estell Manor shall be Zoning Officer of the City of Estell Manor. The Public Officer shall have all of the authority prescribed under this section, N.J.S.A. 55:19-78 et seq. and N.J.S.A. 40:48-1 et seq.

Chapter 292

PROPERTY MAINTENANCE

§ 292-1. Adoption of standards.

§ 292-4. When effective.

§ 292-2. Impact on other proceedings.

Property Maintenance Code

§ 292-3. Publication.

[HISTORY: Adopted by the City Council of the City of Estell Manor 4-9-2014 by Ord. No. 3-2014. Amendments noted where applicable.]

§ 292-1. Adoption of standards.

A certain document, three copies of which are on file in the office of the City Clerk of the City of Estell Manor, and which will be included in the Code Book for the City of Estell Manor and is hereby adopted as the Property Maintenance Code of the City of Estell Manor, in the State of New Jersey, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the City of Estell Manor are hereby referred to, adopted, and made apart hereof, as if fully set out in this legislation.

§ 292-2. Impact on other proceedings. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

Nothing in this legislation or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation.

§ 292-3. Publication. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

The City Clerk is hereby ordered and directed to cause this legislation to be published.

§ 292-4. When effective.

This law and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect immediately from and after the date of its final passage and adoption.

PROPERTY MAINTENANCE

292 Attachment 1

City of Estell Manor

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Chapter 1 SCOPE AND ADMINISTRATION

PART 1 — SCOPE AND APPLICATION

SECTION 101 GENERAL

[A] **101.1 Title.** These regulations shall be known as the *International Property Maintenance Code of City of Estell Manor*, hereinafter referred to as “this code.”

[A] **101.2 Scope.** The provisions of this code shall apply to all existing residential and nonresidential structures and all existing *premises* and constitute minimum requirements and standards for *premises*, structures, equipment and facilities for light, *ventilation*, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of *owners, operators and occupants*; the *occupancy* of existing structures and *premises*, and for administration, enforcement and penalties.

[A] **101.3 Intent.** This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued *occupancy* and maintenance of structures and *premises*. Existing structures and *premises* that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

[A] **101.4 Severability.** If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 102 APPLICABILITY

[A] **102.1 General.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced

standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

[A] **102.2 Maintenance.** Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or *premises* was constructed, altered or repaired shall be maintained in good working order. No *owner, operator or occupant* shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the *owner* or the *owner's* designated agent shall be responsible for the maintenance of buildings, structures and *premises*.

[A] **102.3 Application of other codes.** Repairs, additions or alterations to a structure, or changes of *occupancy*, shall be done in accordance with the procedures and provisions of the *International Building Code, International Energy Conservation Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Residential Code, International Plumbing Code* and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any provision of the *International Zoning Code*.

[A] **102.4 Existing remedies.** The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and insanitary.

[A] **102.5 Workmanship.** Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a

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workmanlike manner and installed in accordance with the manufacturer's instructions.

[A] 102.6 Historic buildings. The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the *code official* to be safe and in the public interest of health, safety and welfare.

[A] 102.7 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 8 and considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.7.1 and 102.7.2.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

[A] 102.7.1 Conflicts. Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

[A] 102.7.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

[A] 102.8 Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the *code official*.

[A] 102.9 Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

[A] 102.10 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

PART 2 — ADMINISTRATION AND ENFORCEMENT

SECTION 103 DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION

[A] 103.1 General. The Department of Property Maintenance Inspection is hereby created and the executive official in charge thereof shall be known as the *code official*.

[A] 103.2 Appointment. The *code official* shall be appointed by the chief appointing authority of the jurisdiction.

[A] 103.3 Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the *code official* shall have the authority to appoint a deputy(s). Such employees shall have powers as delegated by the *code official*.

[A] 103.4 Liability. The *code official*, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The *code official* or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

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[A] **103.5 Fees.** The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the following schedule.

Department of Property Maintenance Inspection:
\$30 to \$50

SECTION 104 DUTIES AND POWERS OF THE CODE OFFICIAL

[A] **104.1 General.** The *code official* is hereby authorized and directed to enforce the provisions of this code. The *code official* shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

[A] **104.2 Inspections.** The *code official* shall make all of the required inspections, or shall accept reports of inspection by *approved* agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such *approved* agency or by the responsible individual. The *code official* is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

[A] **104.3 Right of entry.** Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the *code official* has reasonable cause to believe that there exists in a *structure* or upon a *premises* a condition in violation of this code, the *code official* is authorized to enter the *structure* or *premises* at reasonable times to inspect or perform the duties imposed by this code, provided that if such *structure* or *premises* is occupied the *code official* shall present credentials to the *occupant* and request entry. If such *structure* or *premises* is unoccupied, the *code official* shall first make a reasonable effort to locate the *owner* or other person having charge or control of the *structure* or *premises* and request entry. If entry is refused,

the *code official* shall have recourse to the remedies provided by law to secure entry.

[A] **104.4 Identification.** The *code official* shall carry proper identification when inspecting *structures* or *premises* in the performance of duties under this code.

[A] **104.5 Notices and orders.** The *code official* shall issue all necessary notices or orders to ensure compliance with this code.

[A] **104.6 Department records.** The *code official* shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

SECTION 105 APPROVAL

[A] **105.1 Modifications.** Whenever there are practical difficulties involved in carrying out the provisions of this code, the *code official* shall have the authority to grant modifications for individual cases upon application of the *owner* or *owner's* representative, provided the *code official* shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

[A] **105.2 Alternative materials, methods and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material or method of construction shall be *approved* where the *code official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

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[A] **105.3 Required testing.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *code official* shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

[A] **105.3.1 Test methods.** Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *code official* shall be permitted to approve appropriate testing procedures performed by an *approved* agency.

[A] **105.3.2 Test reports.** Reports of tests shall be retained by the *code official* for the period required for retention of public records.

[A] **105.4 Used material and equipment.** The use of used materials which meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and *approved* by the *code official*.

[A] **105.5 Approved materials and equipment.** Materials, equipment and devices *approved* by the *code official* shall be constructed and installed in accordance with such approval.

[A] **105.6 Research reports.** Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

SECTION 106 VIOLATIONS

[A] **106.1 Unlawful acts.** It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

[A] **106.2 Notice of violation.** The *code official* shall serve a notice of violation or order in accordance with Section 107.

[A] **106.3 Prosecution of violation.** Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a *strict liability offense*. If the notice of violation is not complied with, the *code official* shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful *occupancy* of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such *premises* shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

[A] **106.4 Violation penalties.** Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

[A] **106.5 Abatement of violation.** The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal *occupancy* of a building, structure or *premises*, or to stop an illegal act, conduct, business or utilization of the building, structure or *premises*.

SECTION 107 NOTICES AND ORDERS

[A] **107.1 Notice to person responsible.** Whenever the *code official* determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this

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code. Notices for condemnation procedures shall also comply with Section 108.3.

[A] 107.2 Form. Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.
5. Inform the property *owner* of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 106.3.

[A] 107.3 Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

[A] 107.4 Unauthorized tampering. Signs, tags or seals posted or affixed by the *code official* shall not be mutilated, destroyed or tampered with, or removed without authorization from the *code official*.

[A] 107.5 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Section 106.4.

[A] 107.6 Transfer of ownership. It shall be unlawful for the *owner* of any *dwelling unit* or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such *dwelling unit* or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such *owner* shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the *code official* and shall furnish to the *code official* a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

SECTION 108

UNSAFE STRUCTURES AND EQUIPMENT

[A] 108.1 General. When a structure or equipment is found by the *code official* to be unsafe, or when a structure is found unfit for human *occupancy*, or is found unlawful, such structure shall be *condemned* pursuant to the provisions of this code.

[A] 108.1.1 Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the *occupants* of the structure by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

[A] 108.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the *premises* or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or *occupants* of the *premises* or structure.

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[A] 108.1.3 Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the *code official* finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the *occupants* of the structure or to the public.

[A] 108.1.4 Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

[A] 108.1.5 Dangerous structure or premises. For the purpose of this code, any structure or *premises* that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration*, *neglect*, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become *detached* or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so *anchored*, attached or fastened in place so as to be capable of resisting natural or artificial loads of 1 1/2 the original designed value.
5. The building or structure, or part of the building or structure, because of dilapidation, *deterioration*, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and *occupancy*.
7. The building or structure is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the *approved* building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, *ventilation*, mechanical or plumbing system, or otherwise, is determined by the *code official* to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

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10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the *code official* to be a threat to life or health.
11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

[A] 108.2 Closing of vacant structures. If the structure is vacant and unfit for human habitation and *occupancy*, and is not in danger of structural collapse, the *code official* is authorized to post a placard of condemnation on the *premises* and order the structure closed up so as not to be an attractive nuisance. Upon failure of the *owner* to close up the *premises* within the time specified in the order, the *code official* shall cause the *premises* to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

[A] 108.2.1 Authority to disconnect service utilities. The *code official* shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 102.7 in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The *code official* shall notify the serving utility and, whenever possible, the *owner* and *occupant* of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the *owner* or *occupant* of the building structure or service system shall be notified in writing as soon as practical thereafter.

[A] 108.3 Notice. Whenever the *code official* has *condemned* a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the *owner* or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall also be placed on the *condemned* equipment. The notice shall be in the form prescribed in Section 107.2.

[A] 108.4 Placarding. Upon failure of the *owner* or person responsible to comply with the notice provisions within the time given, the *code official* shall post on the *premises* or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the *premises*, operating the equipment or removing the placard.

[A] 108.4.1 Placard removal. The *code official* shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the *code official* shall be subject to the penalties provided by this code.

[A] 108.5 Prohibited occupancy. Any occupied structure *condemned* and placarded by the *code official* shall be vacated as ordered by the *code official*. Any person who shall occupy a placarded *premises* or shall operate placarded equipment, and any *owner* or any person responsible for the *premises* who shall let anyone occupy a placarded *premises* or operate placarded equipment shall be liable for the penalties provided by this code.

[A] 108.6 Abatement methods. The *owner*, *operator* or *occupant* of a building, *premises* or equipment deemed unsafe by the *code official* shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other *approved* corrective action.

[A] 108.7 Record. The *code official* shall cause a report to be filed on an unsafe condition. The

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report shall state the *occupancy* of the structure and the nature of the unsafe condition.

SECTION 109 EMERGENCY MEASURES

[A] **109.1 Imminent danger.** When, in the opinion of the *code official*, there is *imminent danger* of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building *occupants* or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the *code official* is hereby authorized and empowered to order and require the *occupants* to vacate the *premises* forthwith. The *code official* shall cause to be posted at each entrance to such structure a notice reading as follows: “This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official.” It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

[A] **109.2 Temporary safeguards.** Notwithstanding other provisions of this code, whenever, in the opinion of the *code official*, there is *imminent danger* due to an unsafe condition, the *code official* shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the *code official* deems necessary to meet such emergency.

[A] **109.3 Closing streets.** When necessary for public safety, the *code official* shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, *public ways* and places adjacent to unsafe structures, and prohibit the same from being utilized.

[A] **109.4 Emergency repairs.** For the purposes of this section, the *code official* shall employ the

necessary labor and materials to perform the required work as expeditiously as possible.

[A] **109.5 Costs of emergency repairs.** Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the *owner* of the *premises* where the unsafe structure is or was located for the recovery of such costs.

[A] **109.6 Hearing.** Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

SECTION 110 DEMOLITION

[A] **110.1 General.** The *code official* shall order the *owner* of any *premises* upon which is located any structure, which in the *code official* judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the *owner's* option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the *code official* shall order the *owner* to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless *approved* by the building official.

[A] **110.2 Notices and orders.** All notices and orders shall comply with Section 107.

[A] **110.3 Failure to comply.** If the *owner* of a *premises* fails to comply with a demolition order within the time prescribed, the *code official* shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition

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and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

[A] 110.4 Salvage materials. When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

SECTION 111 STOP WORK ORDER

[A] 111.1 Authority. Whenever the *code official* finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the *code official* is authorized to issue a stop work order.

[A] 111.2 Issuance. A stop work order shall be in writing and shall be given to the *owner* of the property, to the *owner's* agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

[A] 111.3 Emergencies. Where an emergency exists, the *code official* shall not be required to give a written notice prior to stopping the work.

[A] 111.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$200 or more than \$2,000

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Chapter 2 DEFINITIONS

SECTION 201 GENERAL

201.1 Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

201.2 Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the *International Building Code*, *International Existing Building Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Plumbing Code*, *International Residential Code*, *International Zoning Code* or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes.

201.4 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

201.5 Parts. Whenever the words “*dwelling unit*,” “*dwelling*,” “*premises*,” “*building*,” “*rooming house*,” “*rooming unit*,” “*housekeeping unit*” or “*story*” are stated in this code, they shall be construed as though they were followed by the words “or any part thereof.”

SECTION 202 GENERAL DEFINITIONS

ANCHORED. Secured in a manner that provides positive connection.

[A] APPROVED. *Approved by the code official.*

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

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or *sleeping unit*.

[A] CODE OFFICIAL. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

CONDEMN. To adjudge unfit for *occupancy*.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

[B] DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

[Z] EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The *easement* shall be permitted to be for use under, on or above a said lot or lots.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

EXTERIOR PROPERTY. The open space on the *premises* and on adjoining property under the control of *owners* or *operators* of such *premises*.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

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[B] GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

[B] HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. *Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.*

HOUSEKEEPING UNIT. A room or group of rooms forming a single *habitable space* equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or *premises* of insects, rats, vermin or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

[A] LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-*labeled* items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LET FOR OCCUPANCY or LET. To permit, provide or offer possession or *occupancy* of a dwelling, *dwelling unit, rooming unit, building, premise or structure* by a person who is or is not the legal *owner* of record thereof, pursuant to a written or unwritten lease, agreement or license,

or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

NEGLECT. The lack of proper maintenance for a building or *structure*.

[A] OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed *ventilation* and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or *premises* which is let or offered for *occupancy*.

[A] OWNER. Any person, agent, *operator*, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PEST ELIMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other *approved pest elimination* methods.

[A] PREMISES. A lot, plot or parcel of land, *easement or public way*, including any structures thereon.

[A] PUBLIC WAY. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

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ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, *yard* trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

[B] SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a *dwelling unit* are not *sleeping units*.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed

to do an act which the defendant was legally required to do.

[A] STRUCTURE. That which is built or constructed or a portion thereof.

TENANT. A person, corporation, partnership or group, whether or not the legal *owner* of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

ULTIMATE DEFORMATION. The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80% or less of the maximum strength.

[M] VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

[Z] YARD. An open space on the same lot with a structure.

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Chapter 3 GENERAL REQUIREMENTS

SECTION 301 GENERAL

301.1 Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and *exterior property*.

301.2 Responsibility. The *owner* of the *premises* shall maintain the structures and *exterior property* in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy *premises* which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. *Occupants* of a *dwelling unit*, *rooming unit* or *housekeeping unit* are responsible for keeping in a clean, sanitary and safe condition that part of the *dwelling unit*, *rooming unit*, *housekeeping unit* or *premises* which they occupy and control.

301.3 Vacant structures and land. All vacant structures and *premises* thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

SECTION 302 EXTERIOR PROPERTY AREAS

302.1 Sanitation. All *exterior property* and *premises* shall be maintained in a clean, safe and sanitary condition. The *occupant* shall keep that part of the *exterior property* which such *occupant* occupies or controls in a clean and sanitary condition.

302.2 Grading and drainage. All *premises* shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: *Approved* retention areas and reservoirs.

302.3 Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

302.4 Weeds. All *premises* and *exterior property* shall be maintained free from weeds or plant growth in excess of eight inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the *owner* or agent responsible for the property.

302.5 Rodent harborage. All structures and *exterior property* shall be kept free from rodent harborage and *infestation*. Where rodents are found, they shall be promptly exterminated by *approved* processes which will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

302.6 Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another *tenant*.

302.7 Accessory structures. All accessory structures, including *detached* garages, fences and walls, shall be maintained structurally sound and in good repair.

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302.8 Motor vehicles. Except as provided for in other regulations, no more than three inoperative or unlicensed motor vehicles shall be parked, kept or stored on any *premises*, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an *approved* spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and *approved* for such purposes.

302.9 Defacement of property. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

SECTION 303 SWIMMING POOLS, SPAS AND HOT TUBS

303.1 Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

303.2 Enclosures. Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is a minimum of 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of six inches (152 mm) from the gatepost. No existing pool enclosure

shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

SECTION 304 EXTERIOR STRUCTURE

304.1 General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;
5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects;
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not

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- capable of supporting all nominal loads and resisting all load effects;
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
 8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;
 9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects;
 10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
 11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;
 12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including *guards* and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects; or

13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly *anchored*, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. When substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted when *approved* by the *code official*.

304.2 Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

[F] 304.3 Premises identification. Buildings shall have *approved* address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

304.4 Structural members. All structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads.

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304.5 Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

304.6 Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent *deterioration*.

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or *deterioration* in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

304.8 Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

304.9 Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weathercoating materials, such as paint or similar surface treatment.

304.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

304.11 Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by

periodic application of weather-coating materials, such as paint or similar surface treatment.

304.12 Handrails and guards. Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

304.13.1 Glazing. All glazing materials shall be maintained free from cracks and holes.

304.13.2 Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

304.14 Insect screens. During the period from June 1 to November 1, every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

304.15 Doors. All exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

304.16 Basement hatchways. Every *basement* hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

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304.17 Guards for basement windows. Every *basement* window that is openable shall be supplied with rodent shields, storm windows or other *approved* protection against the entry of rodents.

304.18 Building security. Doors, windows or hatchways for *dwelling units*, room units or *housekeeping units* shall be provided with devices designed to provide security for the *occupants* and property within.

304.18.1 Doors. Doors providing access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of one inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

304.18.2 Windows. Operable windows located in whole or in part within six feet (1828 mm) above ground level or a walking surface below that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a window sash locking device.

304.18.3 Basement hatchways. *Basement* hatchways that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

304.19 Gates. All exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

SECTION 305 INTERIOR STRUCTURE

305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every *owner* of a structure containing a *rooming house*, *housekeeping units*, a hotel, a dormitory, two or more *dwelling units* or two or more non-residential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and *exterior property*.

305.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Structural members are incapable of supporting nominal loads and load effects;
5. Stairs, landings, balconies and all similar walking surfaces, including *guards* and handrails, are not structurally sound, not properly *anchored* or are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;
6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly *anchored* or are not

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capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. When substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted when *approved* by the *code official*.

305.2 Structural members. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

305.3 Interior surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

305.4 Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

305.5 Handrails and guards. Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

305.6 Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

SECTION 306 COMPONENT SERVICEABILITY

306.1 General. The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

306.1.1 Unsafe conditions. Where any of the following conditions cause the component or system to be beyond its limit state,

the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:
 - 1.1. Collapse of footing or foundation system;
 - 1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion;
 - 1.3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;
 - 1.4. Inadequate soil as determined by a geotechnical investigation;
 - 1.5. Where the allowable bearing capacity of the soil is in doubt; or
 - 1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
2. Concrete that has been subjected to any of the following conditions:
 - 2.1. *Deterioration*;
 - 2.2. *Ultimate deformation*;
 - 2.3. Fractures;
 - 2.4. Fissures;
 - 2.5. Spalling;
 - 2.6. Exposed reinforcement; or
 - 2.7. *Detached*, dislodged or failing connections.

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3. Aluminum that has been subjected to any of the following conditions:
 - 3.1. *Deterioration*;
 - 3.2. Corrosion;
 - 3.3. Elastic deformation;
 - 3.4. *Ultimate deformation*;
 - 3.5. Stress or strain cracks;
 - 3.6. Joint fatigue; or
 - 3.7. *Detached*, dislodged or failing connections.
 4. Masonry that has been subjected to any of the following conditions:
 - 4.1. *Deterioration*;
 - 4.2. *Ultimate deformation*;
 - 4.3. Fractures in masonry or mortar joints;
 - 4.4. Fissures in masonry or mortar joints;
 - 4.5. Spalling;
 - 4.6. Exposed reinforcement; or
 - 4.7. *Detached*, dislodged or failing connections.
 5. Steel that has been subjected to any of the following conditions:
 - 5.1. *Deterioration*;
 - 5.2. Elastic deformation;
 - 5.3. *Ultimate deformation*;
 - 5.4. Metal fatigue; or
 - 5.5. *Detached*, dislodged or failing connections.
 6. Wood that has been subjected to any of the following conditions:
 - 6.1. *Ultimate deformation*;
 - 6.2. *Deterioration*;
 - 6.3. Damage from insects, rodents and other vermin;
 - 6.4. Fire damage beyond charring;
 - 6.5. Significant splits and checks;
 - 6.6. Horizontal shear cracks;
 - 6.7. Vertical shear cracks;
 - 6.8. Inadequate support;
 - 6.9. *Detached*, dislodged or failing connections; or
 - 6.10. Excessive cutting and notching.
- Exceptions:**
1. When substantiated otherwise by an *approved* method.
 2. Demolition of unsafe conditions shall be permitted when *approved* by the *code official*.

SECTION 307 HANDRAILS AND GUARDRAILS

307.1 General. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have *guards*. Handrails shall not be less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. *Guards* shall not be less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

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Exception: *Guards* shall not be required where exempted by the adopted building code.

SECTION 308 RUBBISH AND GARBAGE

308.1 Accumulation of rubbish or garbage. All *exterior property* and *premises*, and the interior of every structure, shall be free from any accumulation of *rubbish* or garbage.

308.2 Disposal of rubbish. Every *occupant* of a structure shall dispose of all *rubbish* in a clean and sanitary manner by placing such *rubbish* in *approved* containers.

308.2.1 Rubbish storage facilities. The *owner* of every occupied *premises* shall supply *approved* covered containers for *rubbish*, and the *owner* of the *premises* shall be responsible for the removal of *rubbish*.

308.2.2 Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on *premises* without first removing the doors.

308.3 Disposal of garbage. Every *occupant* of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an *approved* garbage disposal facility or *approved* garbage containers.

308.3.1 Containers. The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leakproof containers provided with closefitting covers for the storage of such materials until removed from the premises for disposal.

SECTION 309 PEST ELIMINATION

309.1 Infestation. All structures shall be kept free from insect and rodent *infestation*. All structures in which insects or rodents are found shall be promptly exterminated by *approved* processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation.

309.2 Owner. The *owner* of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.

309.3 Single occupant. The *occupant* of a one-family dwelling or of a single-tenant non-residential structure shall be responsible for pest elimination on the *premises*.

309.4 Multiple occupancy. The *owner* of a structure containing two or more *dwelling units*, a multiple *occupancy*, a *rooming house* or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and *exterior property*. If *infestation* is caused by failure of an *occupant* to prevent such *infestation* in the area occupied, the *occupant* and *owner* shall be responsible for pest elimination.

309.5 Occupant. The *occupant* of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

Exception: Where the *infestations* are caused by defects in the structure, the *owner* shall be responsible for pest elimination.

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Chapter 4 LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

SECTION 401 GENERAL

401.1 Scope. The provisions of this chapter shall govern the minimum conditions and standards for light, *ventilation* and space for occupying a structure.

401.2 Responsibility. The *owner* of the structure shall provide and maintain light, *ventilation* and space conditions in compliance with these requirements. A person shall not occupy as *owner-occupant*, or permit another person to occupy, any *premises* that do not comply with the requirements of this chapter.

401.3 Alternative devices. In lieu of the means for natural light and *ventilation* herein prescribed, artificial light or mechanical *ventilation* complying with the *International Building Code* shall be permitted.

SECTION 402 LIGHT

402.1 Habitable spaces. Every *habitable space* shall have at least one window of *approved* size facing directly to the outdoors or to a court. The minimum total glazed area for every *habitable space* shall be 8% of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than three feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8% of the floor area of the interior room or space, but a minimum of 25 square feet (2.33 m²). The exterior glazing

area shall be based on the total floor area being served.

402.2 Common halls and stairways. Every common hall and stairway in residential occupancies, other than in one and two-family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet (19 m²) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of one footcandle (11 lux) at floors, landings and treads.

402.3 Other spaces. All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe *occupancy* of the space and utilization of the appliances, equipment and fixtures.

SECTION 403 VENTILATION

403.1 Habitable spaces. Every *habitable space* shall have at least one operable window. The total operable area of the window in every room shall be equal to at least 45% of the minimum glazed area required in Section 402.1.

Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8% of the floor area of the interior room or space, but a minimum of 25 square feet (2.33 m²). The *ventilation* openings to the outdoors shall be based on a total floor area being ventilated.

403.2 Bathrooms and toilet rooms. Every *bathroom* and *toilet room* shall comply with the *ventilation* requirements for *habitable spaces* as required by Section 403.1, except that a window

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shall not be required in such spaces equipped with a mechanical *ventilation* system. Air exhausted by a mechanical *ventilation* system from a *bathroom* or *toilet room* shall discharge to the outdoors and shall not be recirculated.

403.3 Cooking facilities. Unless *approved* through the certificate of *occupancy*, cooking shall not be permitted in any *rooming unit* or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the *rooming unit* or dormitory unit.

Exceptions:

1. Where specifically *approved* in writing by the *code official*.
2. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

403.4 Process ventilation. Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust *ventilation* system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

403.5 Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the structure in accordance with the manufacturer's instructions.

Exception: Listed and *labeled* condensing (ductless) clothes dryers.

SECTION 404 OCCUPANCY LIMITATIONS

404.1 Privacy. *Dwelling units*, hotel units, *housekeeping units*, *rooming units* and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

404.2 Minimum room widths. A habitable room, other than a kitchen, shall be a minimum of seven feet (2134 mm) in any plan dimension. Kitchens shall have a minimum clear passageway of three feet (914 mm) between counterfronts and appliances or counterfronts and walls.

404.3 Minimum ceiling heights. *Habitable spaces*, hallways, corridors, laundry areas, *bathrooms*, *toilet rooms* and habitable *basement* areas shall have a minimum clear ceiling height of seven feet (2134 mm).

Exceptions:

1. In one- and two-family dwellings, beams or girders spaced a minimum of four feet (1219 mm) on center and projecting a maximum of six inches (152 mm) below the required ceiling height.
2. *Basement* rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a minimum ceiling height of six feet eight inches (2033 mm) with a minimum clear height of six feet four inches (1932 mm) under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a minimum clear ceiling height of seven feet (2134 mm) over a minimum of one third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a minimum clear ceiling height of five feet (1524 mm) shall be included.

404.4 Bedroom and living room requirements. Every *bedroom* and living room shall comply with the requirements of Sections 404.4.1 through 404.4.5.

404.4.1 Room area. Every living room shall contain at least 120 square feet (11.2 m²) and every bedroom shall contain a minimum of 70 square feet (6.5 m²) and every bedroom occupied by more than one person shall contain a minimum of 50 square feet (4.6 m²) of floor area for each occupant thereof.

404.4.2 Access from bedrooms. *Bedrooms* shall not constitute the only means of access to other *bedrooms* or *habitable spaces* and shall not serve as the only means of egress from other *habitable spaces*.

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Exception: Units that contain fewer than two *bedrooms*.

404.4.3 Water closet accessibility. Every *bedroom* shall have access to at least one water closet and one lavatory without passing through another *bedroom*. Every *bedroom* in a *dwelling unit* shall have access to at least one water closet and lavatory located in the same story as the *bedroom* or an adjacent story.

404.4.4 Prohibited occupancy. Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

404.4.5 Other requirements. *Bedrooms* shall comply with the applicable provisions of this code including, but not limited to, the light, *ventilation*, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Chapter 5; the heating facilities and electrical receptacle requirements of Chapter 6; and the smoke detector and emergency escape requirements of Chapter 7.

404.5 Overcrowding. Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5.

**TABLE 404.5
MINIMUM AREA REQUIREMENTS**

Space	Minimum Area In Square Feet		
	1-2 Occupants	3-5 Occupants	6 or More Occupants
Living room ^{a, b}	120	120	150
Dining room ^{a, b}	No requirement	80	100
Bedrooms	Shall comply with Section 404.4.1		

For SI: 1 square foot = 0.093 m².

- a. See Section 404.5.2 for combined living room/dining room spaces.
- b. See Section 404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

404.5.1 Sleeping area. The minimum occupancy area required by Table 404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Section 404.4.

404.5.2 Combined spaces. Combined living room and dining room spaces shall comply with the requirements of Table 404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

404.6 Efficiency unit. Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than one occupant shall have a minimum clear floor area of 120 square feet (11.2 m²). A unit occupied by not more than two *occupants* shall have a minimum clear floor area of 220 square feet (20.4 m²). A unit occupied by three *occupants* shall have a minimum clear floor area of 320 square feet (29.7 m²). These required areas shall be exclusive of the areas required by Items 2 and 3.
2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a minimum clear working space of 30 inches (762 mm) in front. Light and *ventilation* conforming to this code shall be provided.
3. The unit shall be provided with a separate *bathroom* containing a water closet, lavatory and bathtub or shower.
4. The maximum number of *occupants* shall be three.

404.7 Food preparation. All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

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Chapter 5 PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

SECTION 501 GENERAL

501.1 Scope. The provisions of this chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

501.2 Responsibility. The *owner* of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any structure or *premises* which does not comply with the requirements of this chapter.

SECTION 502 REQUIRED FACILITIES

[P] 502.1 Dwelling units. Every *dwelling unit* shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

[P] 502.2 Rooming houses. At least one water closet, lavatory and bathtub or shower shall be supplied for each four *rooming units*.

[P] 502.3 Hotels. Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each 10 *occupants*.

[P] 502.4 Employees' facilities. A minimum of one water closet, one lavatory and one drinking facility shall be available to employees.

[P] 502.4.1 Drinking facilities. Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser.

Drinking facilities shall not be located in *toilet rooms* or *bathrooms*.

[P] 502.5 Public toilet facilities. Public toilet facilities shall be maintained in a safe sanitary and working condition in accordance with the *International Plumbing Code*. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during *occupancy* of the *premises*.

SECTION 503 TOILET ROOMS

[P] 503.1 Privacy. *Toilet rooms* and *bathrooms* shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared *bathrooms* and *toilet rooms* in a multiple dwelling.

[P] 503.2 Location. *Toilet rooms* and *bathrooms* serving hotel units, *rooming units* or dormitory units or *housekeeping units*, shall have access by traversing a maximum of one flight of stairs and shall have access from a common hall or passageway.

[P] 503.3 Location of employee toilet facilities. Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located a maximum of one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). Employee facilities shall either be separate facilities or combined employee and public facilities.

Exception: Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet (152 m) from the employees' regular working area to the facilities.

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[P] **503.4 Floor surface.** In other than *dwelling units*, every *toilet room* floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

SECTION 504 PLUMBING SYSTEMS AND FIXTURES

[P] **504.1 General.** All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

[P] **504.2 Fixture clearances.** Plumbing fixtures shall have adequate clearances for usage and cleaning.

[P] **504.3 Plumbing system hazards.** Where it is found that a plumbing system in a structure constitutes a hazard to the *occupants* or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, *deterioration* or damage or for similar reasons, the *code official* shall require the defects to be corrected to eliminate the hazard.

SECTION 505 WATER SYSTEM

505.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an *approved* private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the *International Plumbing Code*.

[P] **505.2 Contamination.** The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are

attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

505.3 Supply. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

505.4 Water heating facilities. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a minimum temperature of 110° F. (43° C.). A gas-burning water heater shall not be located in any *bathroom*, *toilet room*, *bedroom* or other occupied room normally kept closed, unless adequate combustion air is provided. An *approved* combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

SECTION 506 SANITARY DRAINAGE SYSTEM

[P] **506.1 General.** All plumbing fixtures shall be properly connected to either a public sewer system or to an *approved* private sewage disposal system.

[P] **506.2 Maintenance.** Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

[P] **506.3 Grease interceptors.** Grease interceptors and automatic grease removal devices shall be maintained in accordance with this code and the manufacturer's installation instructions. Grease interceptors and automatic grease removal devices shall be regularly serviced and cleaned to prevent the discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system or the sewage treatment plant or processes. All records of

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maintenance, cleaning and repairs shall be available for inspection by the code official.

SECTION 507 STORM DRAINAGE

[P] 507.1 General. Drainage of roofs and paved areas, *yards* and courts, and other open areas on the *premises* shall not be discharged in a manner that creates a public nuisance.

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Chapter 6 MECHANICAL AND ELECTRICAL REQUIREMENTS

SECTION 601 GENERAL

601.1 Scope. The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

601.2 Responsibility. The *owner* of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any *premises* which does not comply with the requirements of this chapter.

SECTION 602 HEATING FACILITIES

602.1 Facilities required. Heating facilities shall be provided in structures as required by this section.

602.2 Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68° F. (20° C.) in all habitable rooms, *bathrooms* and *toilet rooms* based on the winter outdoor design temperature for the locality indicated in Appendix D of the *International Plumbing Code*. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

Exception: In areas where the average monthly temperature is above 30° F. (-1° C.), a minimum temperature of 65° F. (18° C.) shall be maintained.

602.3 Heat supply. Every *owner* and *operator* of any building who rents, leases or lets one or more *dwelling units* or *sleeping units* on terms, either expressed or implied, to furnish heat to the *occupants* thereof shall supply heat during the period from November 1 to April 30 to maintain a minimum temperature of 68° F. (20° C.) in all habitable rooms, *bathrooms* and *toilet rooms*.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the *International Plumbing Code*.
2. In areas where the average monthly temperature is above 30° F. (-1° C.) a minimum temperature of 65° F. (18° C.) shall be maintained.

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from November 1 to April 30 to maintain a minimum temperature of 65° F. (18° C.) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

602.5 Room temperature measurement. The required room temperatures shall be measured three feet (914 mm) above the floor near the center of the room and two feet (610 mm) inward from the center of each exterior wall.

SECTION 603 MECHANICAL EQUIPMENT

603.1 Mechanical appliances. All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and

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maintained in a safe working condition, and shall be capable of performing the intended function.

603.2 Removal of combustion products. All fuel-burning equipment and appliances shall be connected to an *approved* chimney or vent.

Exception: Fuel-burning equipment and appliances which are *labeled* for unvented operation.

603.3 Clearances. All required clearances to combustible materials shall be maintained.

603.4 Safety controls. All safety controls for fuel-burning equipment shall be maintained in effective operation.

603.5 Combustion air. A supply of air for complete combustion of the fuel and for *ventilation* of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

603.6 Energy conservation devices. Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping there from, shall not be installed unless *labeled* for such purpose and the installation is specifically *approved*.

SECTION 604 ELECTRICAL FACILITIES

604.1 Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 605.

604.2 Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70. *Dwelling units* shall be served by a three-wire, 120/240 volt, single-phase electrical service having a minimum rating of 60 amperes.

604.3 Electrical system hazards. Where it is found that the electrical system in a structure constitutes a hazard to the *occupants* or the structure by reason of inadequate service,

improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, *deterioration* or damage, or for similar reasons, the *code official* shall require the defects to be corrected to eliminate the hazard.

604.3.1 Abatement of electrical hazards associated with water exposure. The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to water.

604.3.1.1 Electrical equipment.

Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors and electronic control, signaling and communication equipment that have been exposed to water shall be replaced in accordance with the provisions of the *International Building Code*.

Exception: The following equipment shall be allowed to be repaired where an inspection report from the equipment manufacturer or *approved* manufacturer's representative indicates that the equipment has not sustained damage that requires replacement:

1. Enclosed switches, rated a maximum of 600 volts or less;
2. Busway, rated a maximum of 600 volts;
3. Panelboards, rated a maximum of 600 volts;
4. Switchboards, rated a maximum of 600 volts;
5. Fire pump controllers, rated a maximum of 600 volts;
6. Manual and magnetic motor controllers;

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7. Motor control centers;
8. Alternating current high-voltage circuit breakers;
9. Low-voltage power circuit breakers;
10. Protective relays, meters and current transformers;
11. Low- and medium-voltage switchgear;
12. Liquid-filled transformers;
13. Cast-resin transformers;
14. Wire or cable that is suitable for wet locations and whose ends have not been exposed to water;
15. Wire or cable, not containing fillers, that is suitable for wet locations and whose ends have not been exposed to water;
16. Luminaires that are listed as submersible;
17. Motors;
18. Electronic control, signaling and communication equipment.

604.3.2 Abatement of electrical hazards associated with fire exposure. The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to fire.

604.3.2.1 Electrical equipment. Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits, that have been exposed to fire, shall be replaced in accordance with the provisions of the *International Building Code*.

Exception: Electrical switches, receptacles and fixtures that shall be

allowed to be repaired where an inspection report from the equipment manufacturer or *approved* manufacturer's representative indicates that the equipment has not sustained damage that requires replacement.

SECTION 605 ELECTRICAL EQUIPMENT

605.1 Installation. All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and *approved* manner.

605.2 Receptacles. Every *habitable space* in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every *bathroom* shall contain at least one receptacle. Any new *bathroom* receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

605.3 Luminaires. Every public hall, interior stairway, *toilet room*, kitchen, *bathroom*, laundry room, boiler room and furnace room shall contain at least one electric luminaire. Pool and spa luminaires over 15 V shall have ground fault circuit interrupter protection.

605.4 Wiring. Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings.

SECTION 606 ELEVATORS, ESCALATORS AND DUMBWAITERS

606.1 General. Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, be available for public inspection in the office of the building *operator* or be posted in a publicly conspicuous location *approved* by the *code official*. The inspection and tests shall be performed at not less than the periodic intervals

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listed in ASME A17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.

606.2 Elevators. In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

Exception: Buildings equipped with only one elevator shall be permitted to have the

elevator temporarily out of service for testing or servicing.

SECTION 607 DUCT SYSTEMS

607.1 General. Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

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Chapter 7 FIRE SAFETY REQUIREMENTS

SECTION 701 GENERAL

701.1 Scope. The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior *premises*, including fire safety facilities and equipment to be provided.

701.2 Responsibility. The *owner* of the *premises* shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any *premises* that do not comply with the requirements of this chapter.

SECTION 702 MEANS OF EGRESS

[F] **702.1 General.** A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the *public way*. Means of egress shall comply with the *International Fire Code*.

[F] **702.2 Aisles.** The required width of aisles in accordance with the *International Fire Code* shall be unobstructed.

[F] **702.3 Locked doors.** All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the *International Building Code*.

[F] **702.4 Emergency escape openings.** Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in

effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

SECTION 703 FIRE-RESISTANCE RATINGS

[F] **703.1 Fire-resistance-rated assemblies.** The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

[F] **703.2 Opening protectives.** Required opening protectives shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

SECTION 704 FIRE PROTECTION SYSTEMS

[F] **704.1 General.** All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the *International Fire Code*.

[F] **704.1.1 Automatic sprinkler systems.** Inspection, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25.

[F] **704.2 Smoke alarms.** Single- or multiple-station smoke alarms shall be installed and maintained in Group R or I-1 occupancies, regardless of *occupant* load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of *bedrooms*.

PROPERTY MAINTENANCE

2. In each room used for sleeping purposes.
3. In each story within a *dwelling unit*, including *basements* and cellars but not including crawl spaces and uninhabitable attics. In dwellings or *dwelling units* with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

[F] 704.3 Power source. In Group R or I-1 occupancies, single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exception: Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide

access for building wiring without the removal of interior finishes.

[F] 704.4 Interconnection. Where more than one smoke alarm is required to be installed within an individual *dwelling unit* in Group R or I-1 occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all *bedrooms* over background noise levels with all intervening doors closed.

Exceptions:

1. Interconnection is not required in buildings which are not undergoing alterations, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or *basement* available which could provide access for interconnection without the removal of interior finishes.

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Chapter 8 REFERENCED STANDARDS

This chapter lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in Section 102.7.

ASME	American Society of Mechanical Engineers Three Park Avenue New York, NY 10016-5990	
Standard Reference Number	Title	Referenced in Code Section Number
A17.1/CSA B44 — 2007	Safety Code for Elevators and Escalators	606.1

ASTM	ASTM International 100 Barr Harbor Drive West Conshohocken, PA 19428-2959	
Standard Reference Number	Title	Referenced in Code Section Number
F 1346 — 91 (2003)	F 1346 — 91 (2003) Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs	303.2

ICC	International Code Council 500 New Jersey Avenue, NW 6th Floor Washington, DC 20001	
Standard Reference Number	Title	Referenced in Code Section Number
IBC — 12	International Building Code®	102.3, 201.3, 401.3, 702.3
IEBC — 12	International Existing Building Code®	305.1.1, 306.1.1
IFC — 12	International Fire Code®	201.3, 604.3.1.1, 604.3.2.1, 702.1, 702.2, 704.1, 704.2
IFGC — 12	International Fuel Gas Code®	102.3
IMC — 12	International Mechanical Code®	102.3, 201.3
IPC — 12	International Plumbing Code®	201.3, 505.1, 602.2, 602.3
IRC — 12	International Residential Code®	201.3
IZC — 12	International Zoning Code®	102.3, 201.3

NFPA	National Fire Protection Association 1 Batterymarch Park Quincy, MA 02269	
Standard Reference Number	Title	Referenced in Code Section Number
25 — 11	Inspection, Testing and Maintenance of Water-Based Fire Protection Systems	704.1.1
70 — 11	National Electrical Code	102.4, 201.3, 604.2

PROPERTY MAINTENANCE

Appendix A BOARDING STANDARD

The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

A101 GENERAL

A101.1 General. All windows and doors shall be boarded in an *approved* manner to prevent entry by unauthorized persons and shall be painted to correspond to the color of the existing structure.

A102 MATERIALS

A102.1 Boarding sheet material. Boarding sheet material shall be minimum 1/2-inch (12.7 mm) thick wood structural panels complying with the *International Building Code*.

A102.2 Boarding framing material. Boarding framing material shall be minimum nominal two-inch by four-inch (51 mm by 102 mm) solid sawn lumber complying with the *International Building Code*.

A102.3 Boarding fasteners. Boarding fasteners shall be minimum 3/8-inch (9.5 mm) diameter carriage bolts of such a length as required to penetrate the assembly and as required to adequately attach the washers and nuts. Washers and nuts shall comply with the *International Building Code*.

A103 INSTALLATION

A103.1 Boarding installation. The boarding installation shall be in accordance with Figures A103.1(1) and A103.1(2) and Sections A103.2 through A103.5.

A103.2 Boarding sheet material. The boarding sheet material shall be cut to fit the door or window opening neatly or shall be cut to provide

an equal overlap at the perimeter of the door or window.

A103.3 Windows. The window shall be opened to allow the carriage bolt to pass through or the window sash shall be removed and stored. The two-inch by four-inch (51 mm by 102 mm) strong back framing material shall be cut minimum two inches (51 mm) wider than the window opening and shall be placed on the inside of the window opening six inches minimum above the bottom and below the top of the window opening. The framing and boarding shall be predrilled. The assembly shall be aligned and the bolts, washers and nuts shall be installed and secured.

A103.4 Door walls. The door opening shall be framed with minimum two-inch by four-inch (51 mm by 102 mm) framing material secured at the entire perimeter and vertical members at a maximum of 24 inches (610 mm) on center. Blocking shall also be secured at a maximum of 48 inches (1219 mm) on center vertically. Boarding sheet material shall be secured with screws and nails alternating every six inches (152 mm) on center.

A103.5 Doors. Doors shall be secured by the same method as for windows or door openings. One door to the structure shall be available for authorized entry and shall be secured and locked in an *approved* manner.

A104 REFERENCED STANDARDS

IBC — 12 International Building Code	A102.1, A102.2, A102.3
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ESTELL MANOR CODE

Appendix A

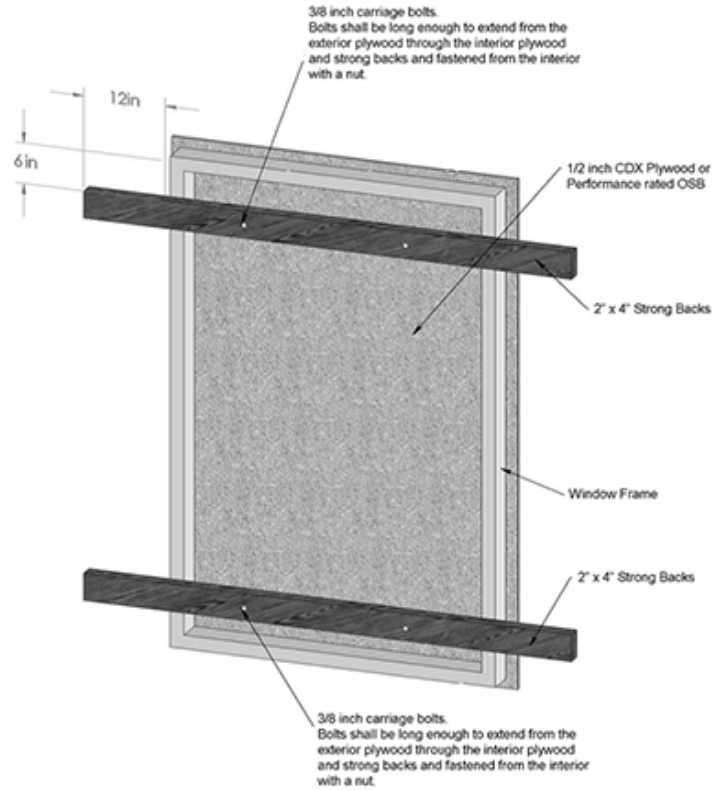


FIGURE A103.1(1)
BOARDING OF DOOR OR WINDOW

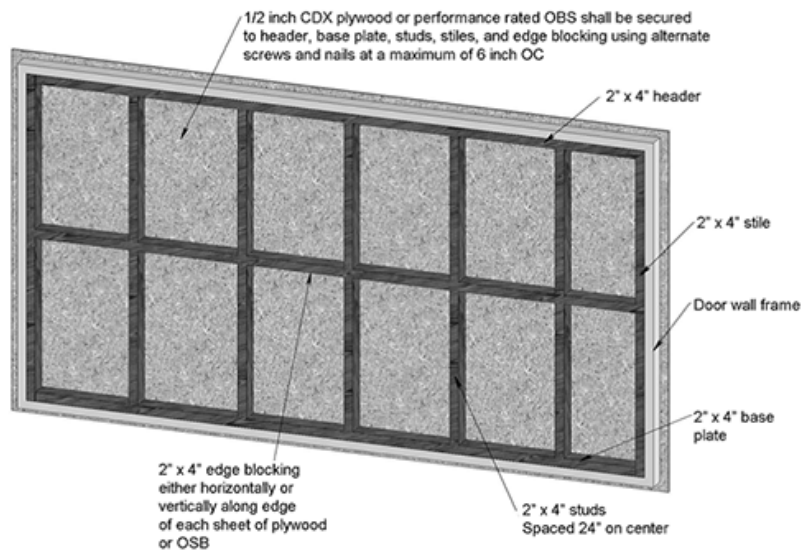


FIGURE A103.1(2)
BOARDING OF DOOR WALL

Chapter 310

SMOKING AND TOBACCO PRODUCTS

ARTICLE I

Smoke-Free City-Owned Property

building or other improvements are constructed; designated smoking areas.

§ 310-1. Definitions.

§ 310-3. Signage.

§ 310-2. Smoking or use of tobacco products prohibited on City property on which a public

§ 310-4. Enforcement.

§ 310-5. Violations and penalties.

[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Smoke-Free City-Owned Property [Adopted 3-11-2015 by Ord. No. 04-2015]

§ 310-1. Definitions.

Whenever used in this article, the following terms shall have the following meanings:

CITY BUILDINGS AND IMPROVEMENTS — All lands, structures owned, leased, rented and/or operated by the City of Estell Manor, and/or occupied by the City employees which are open to the public or to which the public may be invited.

ELECTRONIC SMOKING DEVICE — The use of an electronic device that can be used to deliver nicotine or other substance to the person inhaling the device, including, but not limited to, an electronic cigarette, cigar, cigarillo or pipe. This definition shall not include any medically prescribed inhalation devices, including, but not limited to, inhalers, respirators, or oxygen tanks.

SMOKING — The burning or inhaling the smoke from, exhaling the smoke from, or possession of a lighted cigar, cigarette, cigarillo or pipe or any other matter or substance which contains tobacco.

TOBACCO PRODUCT — Any product containing tobacco or nicotine, including, but not limited to, electronic cigarette cartridges.

§ 310-2. Smoking or use of tobacco products prohibited on City property on which a public building or other improvements are constructed; designated smoking areas.

- A. No person shall engage in smoking or the use of tobacco products while on the grounds upon which are constructed City buildings and/or improvements, including contiguous properties owned, leased, rented and/or operated by the City of Estell Manor regardless of whether any City building and improvement is constructed thereon.

- B. Smoking optional areas. Notwithstanding the prohibitions contained in the foregoing provisions, outdoor smoking areas may be designated by the City by resolution of same. Smoking areas, once approved, shall bear signs specifically designating that they are smoking areas. Smoking areas shall be clear of any public entrance or exit areas of any public buildings where smoke may enter the air people breathe through such entrances, exits, windows or ventilation systems. Except as approved by resolution, no smoking shall be permitted in any other areas of any public buildings and grounds.

§ 310-3. Signage.

The City of Estell Manor shall post and maintain appropriate signage throughout all City buildings and upon all City-owned property advising all persons regarding the prohibiting of smoking upon said property.

§ 310-4. Enforcement.

- A. This article shall be enforced by City of Estell Manor, the City Code Enforcement Officer, or any other person charged with the enforcement of ordinances in the City of Estell Manor.
- B. It shall be unlawful for any person to willfully oppose, verbally abuse or otherwise obstruct any person in the enforcement of this article.
- C. Citizens may bring complaints against violators of this article.

§ 310-5. Violations and penalties.

Any person found to be violation of this chapter shall be issued a summons and complaint for the violation. Any person found guilty of this chapter shall be fined \$100 plus court costs, except that any person found guilty of or pleading guilty to a first violation of this chapter may be sentenced to not less than 10 hours of community service.

Chapter 315

SOIL REMOVAL

- | | |
|---|---|
| <p>§ 315-1. Definitions.</p> <p>§ 315-2. Purpose.</p> <p>§ 315-3. Permit required; limitations on number of permits.</p> <p>§ 315-4. Permit application details.</p> <p>§ 315-5. License term and fee.</p> <p>§ 315-6. Appeals.</p> | <p>§ 315-7. Pinelands Area permits; effective date of approval.</p> <p>§ 315-8. Pinelands Area standards.</p> <p>§ 315-9. Conformance with provisions of this chapter.</p> <p>§ 315-10. Enforcement.</p> <p>§ 315-11. Violations and penalties.</p> |
|---|---|

[HISTORY: Adopted by the City Council of the City of Estell Manor by Ord. No. 66-8; amended by Ord. No. 77-1 (Ch. VIII, Sec. 8-3, of the 1974 Revised General Ordinances). Amendments noted where applicable.]

§ 315-1. Definitions. [Amended by Ord. No. 82-12; Ord. No. 84-3; Ord. No. 89-6]

In addition to the definitions contained in Chapter 380, Zoning, § 380-3, of this Code, the following shall apply:

COMMERCIAL PURPOSE — Refers to the sale or commercial use of the sand or other product which is excavated as distinguished from personal use of the product by the owner of the ground at the place where the same is excavated.

EXCAVATION — Includes digging or mining and applies to all topsoil, sand, gravel, solid or mineral products of the soil.

RESOURCE EXTRACTION — The dredging, digging, extraction, mining and quarrying of sand, gravel, clay or ilmenite for commercial purposes, not including, however, the private or agricultural extraction and use of extracted material by a landowner.

ROAD OR HIGHWAY — Refers to all state, county, city or local roads, but has no reference to private roads or private rights-of-way.

§ 315-2. Purpose.

- A. In their interpretation and application, the provisions of this section shall be held to be for the promotion of the public health, morals and general welfare, for the elimination of dust and noise, for the elimination of danger from deep pits in the close proximity to highways, for the conservation of the soil and for the betterment of the community.
- B. The provisions and requirements of this section shall be held paramount to any corresponding or similar provision of any existing law, ordinance, rule or regulation.

§ 315-3. Permit required; limitations on number of permits. [Amended by Ord. No. 82-12; Ord. No. 86-3; Ord. No. 86-12; Ord. No. 89-6]

No excavating, dredging, digging or mining of topsoil, sand or gravel may be done for commercial purposes in the City without first obtaining a permit therefor from the City Council in the manner as hereinafter set forth. No more than two permits for private mining operations shall be issued hereunder in the City of Estell Manor. Except as otherwise authorized in this chapter or in Chapter 380, Zoning, of the Code of the City of Estell Manor, the extraction or mining of mineral resources other than sand, gravel, clay and ilmenite is prohibited in the Pinelands Area.

§ 315-4. Permit application details. [Amended by Ord. No. 81-3; Ord. No. 82-12; Ord. No. 84-3; Ord. No. 86-3; Ord. No. 89-6]

Applications for permits for excavating, dredging, digging or mining of topsoil, sand or gravel in the City shall be made to the City Clerk, and no permit shall be issued by the City Council unless the following have been complied with:

- A. A deposit of \$250 shall accompany the application for the purpose of paying the costs of engineering fees necessary in making an investigation of the license application, and the applicant shall generally be responsible for payment of all engineering fees and costs incurred in connection with any application or permit hereunder.
- B. Attached to the application shall be a survey or blueprint drawn by a licensed engineer, which shall show the area proposed to be excavated, dug or mined. The survey shall indicate the distance to the closest highway, road or property line. In addition, the application shall include all information required by § 380-61A of the Code of the City of Estell Manor.
- C. No permit shall be issued by the City Council if the survey indicates that the proposed excavating, digging or mining shall be within 200 feet of a public road or any road shown on the Tax Map, 50 feet from any property line or within 200 feet of any church, schoolhouse or public building, or any residential or commercial building which is not related to the operation. In the Pinelands Area, the applicant shall adhere to the requirements of § 315-8 of this chapter.
- D. The City Council shall grant the permit subject to the applicant's filing with the City Clerk a bond executed by the applicant and owners of the lands as principals and a satisfactory surety company specifically conditioned that the applicant will reclaim the area excavated in accordance with requirements of this chapter and without cost to the City.
- E. No permit shall be issued hereunder by the City Council without prior certification by the Cape Atlantic Soil Conservation District of a plan for soil erosion and sediment control pursuant to N.J.S.A. 4:24-43, and in the Pinelands Area, a certificate of filing from the Pinelands Commission pursuant to § 380-78 of the Code of the City of Estell Manor.
- F. Within the Pinelands Area, no permit shall authorize excavation for a period exceeding two years following the issuance of a permit.

§ 315-5. License term and fee. [Amended by Ord. No. 80-1; Ord. No. 86-3; at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

Licenses for excavating, digging or mining of topsoil, sand or gravel in the City for commercial purposes shall have a two-year term effective on June 1 of the year of issuance. The license fee shall be as provided in Chapter 185, Fees, Article III, Fees for City Services, payable in advance.

§ 315-6. Appeals.

- A. Where, by reason of exceptional conditions, the strict applications of any regulation enacted under this section would result in difficulties and undue hardship upon the owner, the owner may appeal to the City Council, relating to the property, for a variance so as to relieve such difficulties and hardships.
- B. No relief may be granted or action taken under terms of this section unless the relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of this section.
- C. In the event that such relief may be granted by the City Council as aforesaid, the person to whom or to which the relief may be granted shall not excavate, dig or mine so that the slope shall be in excess of one foot vertical excavation for every two feet horizontal, and further provided that the person shall keep and maintain the excavated, dug or mined area free of water deposits.

§ 315-7. Pinelands Area permits; effective date of approval. [Added by Ord. No. 82-12; amended by Ord. No. 89-6]

- A. Notice of all applications for permits for resources extraction operations, all meetings or hearings regarding such applications and all approvals and denials of such applications shall be provided to the Pinelands Commission in accordance with § 380-77D of the Code of the City of Estell Manor.
- B. Any soil removal permit issued in the Pinelands Area which is subject to Pinelands Commission notification shall take effect 15 days after receipt of such notification by the Pinelands Commission or when the provisions of the New Jersey Administrative Code have been met, whichever is later. If the Commission disapproves of the final plan, the same shall be deemed to be rejected within 30 days of the Commission's action. If the Commission fails to approve said final plan because of the failure of the applicant to provide information deemed sufficient to it, the applicant shall, within 10 days after a request is made of it by the Commission, provide said information to the Commission, during which period the above time limitation is suspended. If the Pinelands Commission approves the proposed development subject to conditions, the City Council may within 30 days modify its final approval to include some or all of said conditions. If the City Council does not accept all of the conditions so imposed, the application shall be considered to have been rejected.

§ 315-8. Pinelands Area standards. [Added by Ord. No. 82-12; amended by Ord. No. 89-6; Ord. No. 97-3]

The following standards shall be applicable to all operations hereunder located within the Pinelands Area:

- A. The operation shall comply with the requirements of Chapter 380, Zoning, of this Code.
- B. The operation shall be designed so that no area of excavation, sedimentation pond, storage area equipment or machinery or other structure or facility is closer than:
 - (1) Two hundred feet to any property line.
 - (2) Five hundred feet to any residential or nonresource-extraction-related commercial use which is in existence on the date the permit is issued.
- C. The operation shall be located on a parcel of land at least 20 acres in size.
- D. The plan shall provide that all topsoil that is necessary for restoration will be stored on the site and will be protected from wind or water erosion.
- E. The property shall be fenced or blocked so as to prevent unauthorized entry into the resource extraction operation through access roads.
- F. Ingress and egress to the resource extraction area from public roads shall be by way of gravel or porous paved roadways.
- G. The plan shall be so designed that the surface runoff will be maintained on the parcel in a manner that will provide for on-site recharge to groundwater.
- H. Excavation shall not be allowed below the seasonal high water table, as determined by the Municipal Engineer, unless the excavation will serve as a recreational resource in connection with major subdivision approval or a water reservoir for public or agricultural use, provided that in no case shall excavation have a depth exceeding 15 feet below the natural surface of the ground existing prior to excavation unless it can be demonstrated that a depth greater than 15 feet will result in no significant adverse impact relative to the proposed final use or on- or off-site areas.
- I. The operation shall be carried out in accordance with an extraction schedule which depicts the anticipated sequence as well as anticipated length of time that each portion of the parcel proposed for extraction will be worked.
- J. The operation shall not involve clearing adjacent to ponds in excess of 20 acres or an area necessary to complete scheduled operations or will not involve unreclaimed clearing exceeding 100 acres or 50% of the area to be mined, whichever is less, for surface excavation at any time.
- K. The plan will provide for restoration of disturbed areas at the completion of the resource extraction operation in accordance with the following requirements:
 - (1) Restoration shall be a continuous process and each portion of the parcel shall be restored such that the ground cover be established within two years and tree cover established within three years after resource extraction is completed for each portion of the site mined.

- (2) Restoration shall proceed in the same sequence and time frame set out in the extraction schedule required in Subsection I above.
- (3) All restored areas shall be graded so as to conform to the natural contours of the parcel to the maximum extent practical; grading techniques that help to control erosion and foster revegetation shall be utilized; and the slope of the surface of restored surfaces shall not exceed one foot vertical to three feet horizontal except as provided in Subsection K hereof.
- (4) All topsoil shall be restored in approximately the same quality and quantity as existed at the time the resource extraction operation was initiated. All topsoil removed shall be stockpiled and used for the next area to be restored, unless it is immediately reused for reclamation that is currently underway.
- (5) Drainage flows, including direction and volume, shall be restored to the maximum extent practical to those flows existing at the time the resource extraction operation was initiated.
- (6) Any body of water created by the resource extraction operation shall have a shoreline not less than three feet above and three feet below the projected average water table elevation. The shoreline both above and below the surface water elevation shall have a slope of not less than five feet horizontal to one foot vertical. This requirement shall apply to any water body or portion of a water body created after December 5, 1994. For any water body or portion of a water body created prior to December 5, 1994, this requirement shall apply to the extent that it does not require grading of areas which have not been disturbed by mining activities. Where grading would require such disturbance, a reduction in the distance of the graded shoreline above and below the average water table elevation shall be permitted.
- (7) All equipment, machinery and structures, except for structures that are usable for recreational purposes or any other use authorized in the area, shall be removed within six months after the resource extraction operation is terminated and restoration is completed.
- (8) Reclamation shall to the maximum extent practical result in the reestablishment of the vegetation association which existed prior to the extraction activity and shall include:
 - (a) Stabilization of exposed areas by establishing ground cover vegetation; and
 - (b) Reestablishment of the composition of the natural forest and shrub types that existed prior to the extraction activity through one of the following:
 - [1] The planting of a minimum of 1,000 one-year-old pitch pine seedlings or other native Pinelands tree species per acre in a random pattern;
 - [2] Cluster planting of characteristic Pinelands oak species, such as blackjack oak, bear oak, chestnut oak and black oak, and shrubs such as black huckleberry, sheep laurel and mountain laurel, at a spacing sufficient to ensure establishment of these species;

- [3] A combination of the planting techniques set forth in Subsections K(8)(b)[1] and [2] above; or
 - [4] The use of other planting techniques or native Pinelands species as may be necessary to restore the vegetation association which existed prior to the extraction activity.
- (9) Slopes beyond a water body's shoreline shall be permitted at the natural angle of repose to the bottom of the pond.
- (10) The letter of credit, surety bond or other guaranty of performance which secures restoration of each section shall be released after the City has determined that the requirements of Subsection K(1) through (9) above are being met and the guarantee of performance is replaced with a maintenance guaranty for a period of two years.
- (11) The operation shall not result in a substantial adverse impact upon those significant resources depicted in the Special Areas Map appearing as Figure 7.1 in the Pinelands Comprehensive Management Plan.

§ 315-9. Conformance with provisions of this chapter. [Amended by Ord. No. 82-12]

As of January 14, 1981, all existing sand and gravel pits shall be operated as provided under this chapter, and in the event there are any deviations now existing and not in accordance with this chapter, then such deviations shall not be enlarged upon.

§ 315-10. Enforcement. [Amended by Ord. No. 82-12]

This chapter shall be administered and enforced by the City Council or any other public official who shall be designated by the City Council, and who shall in no case grant any permit unless this chapter shall have been fully complied with.

§ 315-11. Violations and penalties. [Added at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

Any violations of this chapter shall be subject to the general penalty provision of Chapter 1, Article II, General Penalty, of the Code of the City of Estell Manor.

Chapter 321
SOLID WASTE

ARTICLE I
Recycling

- § 321-1. Short title.
- § 321-2. Definitions.
- § 321-3. Establishment of program.
- § 321-4. Separation; placement for disposal.
- § 321-5. Condominium, apartment or multifamily unit regulations.
- § 321-6. Commercial and institutional establishments.
- § 321-7. Alternative collection.
- § 321-8. Collection by unauthorized persons.
- § 321-9. Incorporation of provisions in site plans for new developments.

- § 321-10. Enforcement and administration.
- § 321-11. Violations and penalties.

ARTICLE II
Storage and Collection of Solid Waste

- § 321-12. Procedures to be followed.
- § 321-13. Proper receptacles to be provided.
- § 321-14. Standards for receptacles.
- § 321-15. Placement and removal of receptacles; limit on number.
- § 321-16. Applicability.
- § 321-17. Deposit of solid waste in public thoroughfares.
- § 321-18. Effect on other provisions.
- § 321-19. Violations and penalties.

[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Recycling

[Adopted by Ord. No. 90-3 (Ch. XVI, Sec. 16-1, of the 1974 Revised General Ordinances)]

§ 321-1. Short title.

This section shall be known and may be cited as the "Recycling Ordinance of the City of Estell Manor."

§ 321-2. Definitions.

The words, terms and phrases used in this section shall have the following meanings:

ALUMINUM CANS — All aluminum beverage containers and aluminum pet food or other containers.

BULKY WASTE — Furniture, wood waste, textiles and carpet. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

CARDBOARD or CORRUGATED PAPER — Clean, heavy box materials commonly known as "cardboard boxes" and similar heavy paper packaging containers that are free of plastic, foam and other contaminants, also including food packaging boxes and other commercial packaging that is free of food contaminants, plastic, wax and foam materials that would make it undesirable for recycling purposes. All cardboard and packaging must be opened and flattened for ease of handling.

COMMERCIAL ESTABLISHMENTS — Those properties used primarily for commercial purposes.

CONSTRUCTION DEBRIS — Any scrap lumber, metal, earth, bricks, stone, plaster, roofing and siding material, and other debris of a similar nature which accumulates and is incidental to the construction or renovation of homes, buildings, public works or other projects. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

FERROUS CONTAINERS — Empty steel or tin food or beverage containers.

GARBAGE — Any animal or vegetable waste solids resulting from the handling, preparation, cooking or consumption of foods, but not including human wastes. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

GLASS CONTAINERS — Bottles and jars made of clear, green or brown glass. Expressly excluded are noncontainer glass, plate glass, blue glass and porcelain and ceramic products.

HAZARDOUS WASTE — All waste which is deemed to be chemical waste, hazardous waste, or infectious waste, as defined by N.J.A.C. 7:26-1.4, and which shall include, but not be limited to, wastes which are flammable, corrosive or explosive or which by themselves or in combination with other waste would be hazardous to life or property. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

INSTITUTIONAL ESTABLISHMENTS — Those facilities that house or serve groups of people, including but not limited to hospitals, schools, nursing homes, libraries and government offices.

MULTIFAMILY RESIDENCES — All residential living units containing four or more dwelling units.

NONRESIDENTIAL USER — Any type of commercial, industrial or business establishment, conducting a business, whether for pecuniary profit or not for pecuniary profit, and any apartment house, hotel, country club, or dwelling house having more than four dwelling units. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

PAPER — Newsprint and other forms of paper and paper products, such as magazines, telephone books, catalogs, white office paper, computer paper, etc., excluding those soiled (i.e., containing carbon, adhesive or plastic) or unfit due to health and/or sanitary reasons. Newspapers shall also be deemed soiled if they have been exposed to substances rendering them unusable for recycling. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

PERSON — Every owner, lessee and occupant of a residence, commercial or institutional establishment within the boundaries of the City of Estell Manor.

PLASTICS — Plastic soda, juice and liquor bottles, plastic laundry and dish detergent bottles and plastic bleach bottles. In addition, any plastic bottles or containers that have the recycling symbol or the initials P.E.T.E. or H.D.P.E. stamped on the container.

RECYCLABLE MATERIALS — Those materials which would otherwise become municipal solid waste and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

RESIDENCE — Any occupied single- or multifamily dwelling having up to four dwelling units per structure from which a municipal or private hauler collects solid waste.

SOLID WASTE — Garbage, refuse and other discarded solid material normally collected by a municipal or private hauler.

SOLID WASTE COLLECTION CONTRACTOR — A person or firm for hire, properly licensed in the State of New Jersey, for the purpose of collection of solid waste and solid waste materials. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

TRADE WASTE — All material resulting from the prosecution of any business, trade, or industry, whether or not conducted for profit, and shall include paper, rags, leather, rubber, cartons, boxes, wood, sawdust, garbage, combustible and noncombustible solids except manure, metals, metal shavings, wire, tin cans, cinders, and other materials exclusive of wastes resulting from building construction or alteration work. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

WASTE MATERIAL — Includes any and all garbage, refuse papers, ashes and waste from building construction or alteration work, regardless of how originating, and shall also include cellar and yard dirt. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

§ 321-3. Establishment of program. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

There is hereby established a mandatory program for the separation of recyclable materials from the municipal solid waste stream by all persons within the City of Estell Manor, hereinafter referred to as the "municipality," according to the guidelines published by the Atlantic County Utilities Authority (ACUA).

§ 321-4. Separation; placement for disposal. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

All the materials accepted for recycling shall be separated from solid waste in accordance with the rules and regulations for same promulgated, from time to time, by the designated municipal waste hauler or, in default thereof, by the ACUA which may require delivery to a designated collection site outside of the City of Estell Manor when provision is not made for the curbside collection of the same. General placement for curbside collection shall otherwise conform to the requirements of § 321-5 below.

§ 321-5. Condominium, apartment or multifamily unit regulations.

- A. The owner/manager or association of every multifamily dwelling (apartment, townhouse or condominium) shall designate space for the placement and storage of all recyclable materials. The owner/manager or association also has the option of arranging for curbside pickup service from the ACUA. All lessees/owners of these dwelling units shall be required to separate items as mentioned in § 321-3 and place them in a designated place. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- B. All multifamily residences that provide private collection for recyclable materials named in § 321-3 shall submit written documentation to the municipality and to the Atlantic County Utilities Authority by June 1, the total amounts of recyclables collected in the prior calendar year. The only exception to this collection and documentation method will be if the multifamily dwelling is serviced by the Atlantic County Utilities Authority Collection Program. Multifamily residences have the choice of private or county collection for recycled materials, but the Municipal Recycling Coordinator and A.C.U.A. must be notified of the collection method selected.

§ 321-6. Commercial and institutional establishments.

Commercial and institutional establishments may transport their recyclables to the containers at a municipal dropoff facility or to the Atlantic County Intermediate Processing Facility or contract with a private hauler to collect them. It is the responsibility of the commercial or institutional establishment to properly separate or have separated and store or have stored all recyclable items on their premises prior to periodic disposal of these materials. Yearly documentation of amounts recycled by a private hauler must be made to the City Clerk-Administrator and the A.C.U.A. prior to June 1 for the preceding calendar year. Materials taken to the county facility will be recorded for the municipality. Municipal records will be maintained for materials disposed of at the dropoff facility and credit given to those participating commercial and institutional establishments accordingly. The only exception to this collection method is if the commercial or institutional establishment participates in the Atlantic County Collection Service Program.¹

§ 321-7. Alternative collection.

Any person may donate or sell recyclable materials to individuals or organizations authorized by the municipality in its recycling regulations. These materials may either be delivered to the individual's or organization's site or they may be placed at the curb for collection by said individual or organization on days set in the municipality's recycling regulations. Said individuals or organizations may not collect recyclable materials on or within the 24 hours immediately preceding a regularly scheduled curbside collection day and shall, prior to June 1 of each year, provide written documentation to the municipality of the total amount of material recycled during the preceding calendar year.

1. Editor's Note: Original Sec. 16-1.7, Leaves, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

§ 321-8. Collection by unauthorized persons.

It shall be a violation of this article for any unauthorized person or organization to collect, pick up or cause to be collected or picked up within the boundaries of the municipality any of the recyclable materials designated in § 321-3 of this article. Each such collection in violation of this article shall constitute a separate and distinct offense punishable as hereinafter provided.

§ 321-9. Incorporation of provisions in site plans for new developments.

In accordance with the New Jersey Statewide Mandatory Source Separation Recycling Act of 1987,² proposals for new developments of 50 or more single family units and/or five multifamily units and/or 100 square feet or more of commercial or industrial space must incorporate provisions in the site plan for recycling.

§ 321-10. Enforcement and administration.

- A. The municipal governing body is hereby authorized to establish and promulgate reasonable regulations to be adopted by resolution detailing the manner, days and times for the collection of the recyclable materials designated in § 321-3 of this article. Such regulations shall take effect only upon the approval of the City Council by adoption of a resolution implementing the same. The municipality is hereby authorized and directed to enforce the provisions of the section and any implementing regulations adopted hereunder. The position of the Municipal Recycling Coordinator as per N.J.S.A. 13:1E-99.16 is hereby established and will be held by the person who shall be appointed by resolution of the City Council. The Municipal Recycling Coordinator's name and telephone number shall be forwarded to the Atlantic County Utilities Authority. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- B. Noncollection of solid waste contaminated by designated recyclables. The municipality or any other person collecting solid waste generated within the municipality may refuse to collect solid waste from any person who has clearly failed to source separate recyclables designated under any applicable section of this chapter.

§ 321-11. Violations and penalties.

- A. Any person, firm or corporation violating the provisions of any section of this article shall be issued a warning for the first and second offense and will then be subject to the penalty provided in Chapter 1, General Provisions, Article II, General Penalty. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- B. Each and every day in which a violation of any of the provisions of this section exists shall constitute a separate offense.

2. Editor's Note: See N.J.S.A. 13:1E-99.11 et seq.

- C. Any person, firm or corporation placing nonrecyclable materials at the recycling dropoff facility within the City of Estell Manor shall be subject to the penalty provided in Chapter 1, General Provisions, Article II, General Penalty. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

ARTICLE II

Storage and Collection of Solid Waste

[Adopted by Ord. No. 91-16 (Ch. XVI, Sec. 16-2, of the 1974 Revised General Ordinances)]

§ 321-12. Procedures to be followed.

From and after the effective date of this section, all solid waste materials that may accumulate and which are subject to collection by the municipal contractor charged with such duties may only be collected, removed and disposed of as provided in this section.

§ 321-13. Proper receptacles to be provided.

Every owner, lessee, agent, occupant or other person having control of any property covered by the terms of this section shall provide, place, keep and make readily accessible for collection and removal of all solid waste materials suitable and sufficient covered receptacles for such purpose in accordance with the provisions hereinafter set forth.

§ 321-14. Standards for receptacles. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

All receptacles for solid waste materials shall be of such size and shape that can be handled by one man and so constructed as to prevent the spilling or leakage of their contents, and such receptacles shall not be filled higher than the top of the container. Such receptacles shall be either metallic or rigid plastic containers, barrels, baskets or boxes, but where the waste material is of such a nature that it cannot be deposited in such receptacles, it must be securely bundled in such manner as to permit easy handling and to prevent the contents thereof from being scattered. All receptacles in which solid waste accumulations are deposited shall have a separate cover, close-fitting when in place, shall not exceed a size larger than 32 gallons, and shall, when placed for collection, not weigh in excess of 49 pounds. Such containers or receptacles that have deteriorated to the extent of having jagged or sharp edges capable of causing injuries to collectors and to others who may have to handle the same shall be removed by the collector and disposed of as refuse.

§ 321-15. Placement and removal of receptacles; limit on number. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

All receptacles for solid waste materials shall be placed by the occupant near the curblineline so as to be easily collected from the roadway, but not so near the curb or roadway as to project therein or as to interfere with vehicles lawfully using said street or roadway. All receptacles shall be placed for collection just prior to the regular collection time so as not to remain near the curblineline for a longer period of time than is necessary to permit the collection thereof, and

empty receptacles or containers shall be removed immediately following the collection of the solid waste. The number of receptacles per residential dwelling unit, campground or commercial property that may be placed for collection at one time is determined by the contract with the solid waste contractor.

§ 321-16. Applicability.

This section shall apply only to the disposal of normal household waste. This section shall not apply to the disposal of recyclable materials, construction debris or hazardous waste as defined in N.J.S.A. 13:1E-51. The disposal of any substances not covered by this section and/or disposal from properties not covered by this section shall be the responsibility of the individual property owner to accomplish in a lawful manner.

§ 321-17. Deposit of solid waste in public thoroughfares.

No person shall throw, lay, deposit or leave or cause to be thrown, laid, deposited or left, in or upon any street, avenue, roadway, sidewalk or public thoroughfare, any household solid waste material of any kind whatsoever, except in a manner specified for collection as herein provided.

§ 321-18. Effect on other provisions.

Nothing in this section shall be interpreted to repeal or modify any provision of any separate ordinance, rule or regulation for the recycling of waste materials, and any such past, present or future recycling ordinances, rules or regulations shall take precedence over the regulations established in this section.

§ 321-19. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

Any person violating the provisions of this section shall, upon conviction thereof, be subject to the penalty provided in Chapter 1, General Provisions, Article II, General Penalty.

Chapter 330

STORMWATER MANAGEMENT

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[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in part histories. Amendments noted where applicable.]

Part 1
Locations Within Pinelands Management Areas
[Adopted 2-7-2007 by Ord. No. 01-2007 (Ch. XVIII, Part 1, of the 1974 Revised General Ordinances)]

ARTICLE I
Scope and Purpose

§ 330-1. Purpose.

A. It is hereby determined that:

- (1) Land development projects and associated disturbance of vegetation and soil and changes in land cover, including increases in impervious cover, alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes. If inadequately or improperly managed, this stormwater runoff can deplete groundwater resources and increase flooding, stream channel erosion, and sediment transport and deposition.
- (2) This stormwater runoff contributes to increased quantities of waterborne pollutants.
- (3) Increases of stormwater runoff, soil erosion and nonpoint source pollutants have occurred in the past as a result of land development, and contribute to the degradation of the water resources of the City of Estell Manor (the City) and downstream municipalities.
- (4) Certain lands of the City lie within the Pinelands Area, and therefore, development in this portion of the City is subject to the requirements of the Pinelands Protection Act (N.J.S.A. 13:18A-1 et seq.) and the implementing regulations and minimum standards contained in the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-1.1 et seq.) (CMP). The purpose and intent of these regulations and standards is to promote orderly development of the Pinelands so as to preserve and protect the significant and unique natural, ecological, agricultural, archaeological, historical, scenic, cultural and recreational resources of the Pinelands.
- (5) Pinelands Area resources are to be protected in accordance with the Pinelands Comprehensive Management Plan at N.J.A.C. 7:50-1.1 et seq., New Jersey's Stormwater Management Rules at N.J.A.C. 7:8-1.1 et seq. and New Jersey's surface water quality antidegradation policies contained in the New Jersey Surface Water Quality Standards at N.J.A.C. 7:9B-1.1 et seq. Permitted uses shall maintain the ecological character and quality of the Pinelands, including good water quality and natural rates and volumes of flow.
- (6) Increased stormwater rates and volumes and the sediments and pollutants associated with stormwater runoff from future development projects within the Pinelands Area have the potential to adversely affect the City's streams and water resources and the streams and water resources of downstream municipalities.

- (7) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.
 - (8) It is in the public interest to regulate the discharge of stormwater runoff from major development projects, as defined in § 330-31 of this Part 1, conducted within the Pinelands Area, as provided in this Part 1, in order to control and minimize increases in stormwater runoff rates and volumes, to maintain groundwater recharge, and to control and minimize soil erosion, stream channel erosion and nonpoint source pollution associated with stormwater runoff.
- B. Therefore, it is the purpose of this Part 1 to establish minimum stormwater management requirements and controls for major development, consistent with the statewide stormwater requirements at N.J.A.C. 7:8, the regulations and standards contained in the Pinelands CMP, and the provisions of the adopted master plan and land use ordinances of the City.

§ 330-2. Goals and techniques.

- A. Through this Part 1, the City has established the following goals for stormwater control:
- (1) To reduce flood damage, including damage to life and property;
 - (2) To minimize any increase in stormwater runoff from new development;
 - (3) To reduce soil erosion from any development or construction project;
 - (4) To ensure the adequacy of existing and proposed culverts and bridges, and other in-stream structures;
 - (5) To maintain groundwater recharge;
 - (6) To minimize any increase in nonpoint pollution;
 - (7) To maintain the integrity of stream channels for their biological functions, as well as for drainage;
 - (8) To restore, protect, maintain and enhance the quality of the streams and water resources of the City and the ecological character and quality of the Pinelands Area;
 - (9) To minimize pollutants in stormwater runoff from new and existing development in order to restore, protect, enhance and maintain the chemical, physical and biological integrity of the surface waters and groundwaters of the City, to protect public health and to enhance the domestic, municipal, recreational, industrial and other uses of water; and
 - (10) To protect public safety through the proper design and operation of stormwater management basins.
- B. In order to achieve the goals for stormwater control set forth in this Part 1, the City has identified the following management techniques:

- (1) Implementation of multiple stormwater management best management practices (BMPs) may be necessary to achieve the performance standards for stormwater runoff quantity and rate, groundwater recharge, erosion control, and stormwater runoff quality established through this Part 1.
- (2) Compliance with the stormwater runoff quantity and rate, groundwater recharge, erosion control, and stormwater runoff quality standards established through N.J.A.C. 7:8-1.1 et seq., and this Part 1, shall be accomplished to the maximum extent practicable through the use of nonstructural BMPs, before relying on structural BMPs. Nonstructural BMPs are also known as "low-impact development" (LID) techniques.
- (3) Nonstructural BMPs shall include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater.
- (4) Source control plans shall be developed based upon physical site conditions and the origin, nature and the anticipated quantity or amount of potential pollutants.
- (5) Structural BMPs, where necessary, shall be integrated with nonstructural stormwater management strategies and proper maintenance plans.
- (6) When using structural BMPs, multiple stormwater management measures, smaller in size and distributed spatially throughout the land development site, shall be used wherever possible to achieve the performance standards for water quality, quantity and groundwater recharge established through this Part 1 before relying on a single, larger stormwater management measure to achieve these performance standards.

§ 330-3. Applicability.

This Part 1 shall apply to:

- A. All site plans and subdivisions for major developments occurring within the Pinelands Area that require preliminary or final site plan or subdivision review; and
- B. All major development projects undertaken by the City shall comply with this Part 1.

§ 330-4. Procedures.

In addition to other development review procedures set forth in the Code of the City of Estell Manor, major developments located within the Pinelands Area shall comply with the stormwater management requirements and specifications set forth in this Part 1. New agricultural development that meets the definition of major development in § 330-31 of this Part 1 shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of N.J.A.C. 7:8-5.4(b).

§ 330-5. Compatibility with other permit and ordinance requirements.

- A. Development approvals issued for subdivisions and site plans pursuant to this Part 1 are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable ordinance, code, rule, regulation, statute, act or other provision of law.
- B. In their interpretation and application, the provisions of this Part 1 shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This Part 1 is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except that, where any provision of this Part 1 imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive or stringent provisions or higher standards shall control.
- C. In the event that a regional stormwater management plan(s) is prepared and formally adopted pursuant to N.J.A.C. 7:8-1.1 et seq. for any drainage area(s) or watershed(s) of which the City is a part, the stormwater provisions of such a plan(s) shall be adopted by the City of Estell Manor within one year of the adoption of a regional stormwater management plan (RSWMP) as an amendment to an area-wide water quality management plan. Local ordinances proposed to implement the RSWMP shall be submitted to the Commission for certification within six months of the adoption of the RSWMP per N.J.A.C. 7:8 and the Pinelands CMP (N.J.A.C. 7:50).

ARTICLE II

Requirements for Site Development Stormwater Plan**§ 330-6. Submission of site development stormwater plan.**

- A. Whenever an applicant seeks municipal approval of a site development that is subject to this Part 1, the applicant shall submit all of the required components of the checklist for the site development stormwater plan at § 330-8 below as part of the applicant's application for subdivision or site plan approval. These required components are in addition to any other information required under any provisions of the City of Estell Manor's Land Use Ordinance¹ or by the Pinelands Commission pursuant to N.J.A.C. 7:50-1.1 et seq.
- B. The applicant shall demonstrate that the site development project meets the standards set forth in this Part 1.
- C. The applicant shall submit three copies of the materials listed in the checklist for site development stormwater plans in accordance with § 330-8 of this Part 1.

1. Editor's Note: See Ch. 142, Campgrounds, Ch. 200, Flood Damage Prevention, and Ch. 340, Subdivision of Land.

§ 330-7. Site development stormwater plan approval.

The applicant's site development stormwater plan shall be reviewed as a part of the subdivision or site plan review process by the municipal board or official from whom municipal approval is sought. That municipal board or official shall consult the engineer retained by the Planning Board to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this Part 1.

§ 330-8. Checklist requirements.

Any application for approval of a major development shall include at least the following information. All required engineering plans shall be submitted to the City and the Pinelands Commission in AutoCAD (.dwg) files of AutoCAD 2004 format or higher, registered and rectified to NJ State Plane Feet NAD 83 or Shape Format NJ State Plan Feet NAD 83, and all other documents shall be submitted in both paper and commonly used electronic file formats such as PDF, Microsoft Word (.doc), database or Microsoft Excel (.xls). Three copies of each item shall be submitted.

- A. Topographic base map. The applicant shall submit a topographic base map of the site which extends a minimum of 300 feet beyond the limits of the proposed development, at a scale of one inch equals 200 feet or greater, showing one-foot contour intervals. The map shall indicate the following: existing surface water drainage, shorelines, steep slopes, soils, highly erodible soils, perennial or intermittent streams that drain into or upstream of any Category One or Pinelands waters, wetlands and floodplains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing surface and subsurface human-made structures, roads, bearing and distances of property lines, and significant natural and man-made features not otherwise shown. The City or the Pinelands Commission may require upstream tributary drainage system information as necessary.
- B. Environmental site analysis. The applicant shall submit a written description along with the drawings of the natural and human-made features of the site and its environs. This description should include:
 - (1) A discussion of environmentally critical areas, soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual or environmentally sensitive features and to those that provide particular opportunities for or constraints on development; and
 - (2) Detailed soil and other environmental conditions on the portion of the site proposed for installation of any stormwater BMPs, including, at a minimum, soils report based on on-site soil tests; locations and spot elevations in plan view of test pits and permeability tests; permeability test data and calculations; and any other required soil data (e.g., mounding analyses results) correlated with location and elevation of each test site; cross section of proposed stormwater BMP with side-by-side depiction of soil profile drawn to scale and seasonal high water table elevation identified; and any other information necessary to demonstrate the suitability of the specific proposed structural and nonstructural stormwater management measures relative to the environmental conditions on the portion(s) of the site proposed for implementation of those measures.

- C. Project description and site plan(s). The applicant shall submit a map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations will occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification for proposed changes in natural conditions shall also be provided.
- D. Land use planning and source control plan.
- (1) The applicant shall submit a detailed land use planning and source control plan which provides a description of how the site will be developed to meet the erosion control, groundwater recharge and stormwater runoff quantity and quality standards at Article IV of this Part 1 through use of nonstructural or low-impact development techniques and source controls to the maximum extent practicable before relying on structural BMPs. The land use planning and source control plan shall include a detailed narrative and associated illustrative maps and/or plans that specifically address how each of the following nine nonstructural strategies identified in Subchapter 5 of the NJDEP Stormwater Management Rules (N.J.A.C. 7:8-5) and set forth below [§ 330-8D(1)(a) through (i)] will be implemented to the maximum extent practicable to meet the standards at Article IV of this Part 1 on the site. If one or more of the nine nonstructural strategies will not be implemented on the site, the applicant shall provide a detailed rationale establishing a basis for the contention that use of the strategy is not practicable on the site.
- (a) Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
 - (b) Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
 - (c) Maximize the protection of natural drainage features and vegetation;
 - (d) Minimize the decrease in the pre-development time of concentration;
 - (e) Minimize land disturbance, including clearing and grading;
 - (f) Minimize soil compaction and all other soil disturbance;
 - (g) Provide low-maintenance landscaping that provides for the retention and planting of native plants and minimizes the use of lawns, fertilizers and pesticides, in accordance with N.J.A.C. 7:50-6.24;
 - (h) Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas; and
 - (i) Provide other source controls to prevent or minimize the use or exposure of pollutants at the site in order to prevent or minimize the release of those pollutants into stormwater runoff. These source controls shall include, but are not limited to:

- [1] Site design features that help to prevent accumulation of trash and debris in drainage systems;
 - [2] Site design features that help to prevent discharge of trash and debris from drainage systems;
 - [3] Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
 - [4] Applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules when establishing vegetation after land disturbance.
- (2) For sites where stormwater will be generated from "high pollutant loading areas" or where stormwater will be exposed to "source material," as defined in § 330-31 of this Part 1, the applicant shall also demonstrate in the land use planning and source control plan that the requirements of Article IV of this Part 1 have been met.
 - (3) The use of nonstructural strategies to meet the performance standards in Article IV of this Part 1 is not required for development sites creating less than one acre of disturbance. However, each application for major development and any other application where the City otherwise requires a landscaping plan shall contain a landscaping or revegetation plan in accordance with the CMP standards at N.J.A.C. 7:50-6.24(c). In addition, the applicant shall demonstrate that, at a minimum, existing trees and vegetation on the development site will be preserved and protected according to the minimum standards established by provisions of the City of Estell Manor's Land Use Ordinance,² Chapter 380, Zoning, of the Code of the City of Estell Manor or by conditions of zoning or variance approval.
- E. Stormwater management facilities map. The applicant shall submit a map, at the same scale as the topographic base map, depicting the following information:
- (1) The total area to be disturbed, paved and/or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to manage and dispose of stormwater; and
 - (2) Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention (if applicable) and emergency spillway provisions with maximum discharge capacity of each spillway.
- F. Calculations (groundwater recharge and stormwater runoff rate, volume and quality). The applicant shall submit comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Article III. The standards for groundwater recharge and stormwater runoff

2. Editor's Note: See Ch. 142, Campgrounds, Ch. 200, Flood Damage Prevention, and Ch. 340, Subdivision of Land.

rate, volume and quality required by Article IV shall be met using the methods, calculations and assumptions provided in Article III.

- G. Inspection, maintenance and repair plan. The applicant shall submit a detailed plan describing how the proposed stormwater management measure(s) shall meet the maintenance and repair requirements of Article VI of this Part 1. Said plan shall include, at a minimum, the following elements:
- (1) The frequency with which inspections will be made;
 - (2) The specific maintenance tasks and requirements for each proposed structural and nonstructural BMP;
 - (3) The name, address and telephone number for the entity responsible for implementation of the maintenance plan;
 - (4) The reporting requirements; and
 - (5) Copies of the inspection and maintenance reporting sheets.
- H. Exception from submission requirements. An exception may be granted from submission of any of these required components (except § 330-8G above, Inspection, maintenance and repair plan) if its absence will not materially affect the review process. However, items required pursuant to the application requirements in the Pinelands CMP [N.J.A.C. 7:50-4.2(b)] shall be submitted to the NJ Pinelands Commission unless the Executive Director waives or modifies the application requirements.

ARTICLE III

Methodologies for Calculation of Runoff Rate and Volume, Runoff Quality, and Groundwater Recharge

§ 330-9. Method of calculating stormwater runoff rate and volume.

- A. In complying with the stormwater runoff quantity and rate standards in § 330-13, the design engineer shall calculate the stormwater runoff rate and volume using the USDA Natural Resources Conservation Service (NRCS) runoff equation, runoff curve numbers, and dimensionless unit hydrograph, as described in the NRCS National Engineering Handbook Part 630 - Hydrology and Technical Release 55 - Urban Hydrology for Small Watersheds, incorporated herein by reference, as amended and supplemented. Alternative methods of calculation may be utilized, provided such alternative methods are at least as protective as the NRCS methodology when considered on a regional stormwater management basis.
- B. In calculating stormwater runoff using the NRCS methodology, the design engineer shall separately calculate and then combine the runoff volumes from pervious and directly connected impervious surfaces within each drainage area within the parcel.
- C. Calculation of stormwater runoff from unconnected impervious surfaces shall be based, as applicable, upon the two-step method described in the current New Jersey Stormwater Best Management Practices Manual or the NRCS methodology.

- D. In calculating stormwater runoff using the NRCS methodology, the design engineer shall use appropriate twenty-four-hour rainfall depths as developed for the project site by the National Oceanic and Atmospheric Administration, available online at <http://hdsc.nws.noaa.gov/hdsc/pfds/index.html>.
- E. When calculating stormwater runoff for pre-developed site conditions, the design engineer shall use the following criteria:
- (1) When selecting or calculating runoff curve numbers (CNs) for pre-developed project site conditions, the project site's land cover shall be assumed to be woods in good condition. However, another land cover may be used to calculate runoff coefficients if:
 - (a) Such land cover has existed at the site or portion thereof without interruption for at least five years immediately prior to the time of application; and
 - (b) The design engineer can document the character and extent of such land cover through the use of photographs, affidavits, and/or other acceptable land use records.
 - (2) If more than one land cover has existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations.
 - (3) All pre-developed land covers shall be assumed to be in good hydrologic condition and, if cultivated, shall be assumed to have conservation treatment.
 - (4) In calculating pre-developed site stormwater runoff, the design engineer shall include the effects of all land features and structures, such as ponds, wetlands, depressions, hedgerows, and culverts, that affect pre-developed site stormwater runoff rates and/or volumes.
 - (5) Where tailwater will affect the hydraulic performance of a stormwater management measure, the design engineer shall include such effects in the measure's design.

§ 330-10. Method of calculating stormwater runoff quality.

- A. In complying with the stormwater runoff quality standards in § 330-17A, the design engineer shall calculate the stormwater runoff rate and volume using the USDA Natural Resources Conservation Service (NRCS) runoff equation, runoff curve numbers, and dimensionless unit hydrograph, as described in the NRCS National Engineering Handbook Part 630 - Hydrology and Technical Release 55 - Urban Hydrology for Small Watersheds, as amended and supplemented.
- B. The design engineer shall also use the NJDEP water quality design storm, which is 1.25 inches of rainfall falling in a nonlinear pattern in two hours. Details of the water quality design storm are shown in Table 1.

- C. Calculation of runoff volumes, peak rates, and hydrographs for the water quality design storm may take into account the implementation of nonstructural and structural stormwater management measures.

Time (minutes)	Cumulative Rainfall (inches)	Time (minutes)	Cumulative Rainfall (inches)
0	0.0000	65	0.8917
5	0.0083	70	0.9917
10	0.0166	75	1.0500
15	0.0250	80	1.0840
20	0.0500	85	1.1170
25	0.0750	90	1.1500
30	0.1000	95	1.1750
35	0.1330	100	1.2000
40	0.1660	105	1.2250
45	0.2000	110	1.2334
50	0.2583	115	1.2417
55	0.3583	120	1.2500
60	0.6250		

NOTE:

¹ Source: N.J.A.C. 7:8-5.5(a).

- D. Total suspended solids (TSS) reduction calculations.
- (1) If more than one stormwater BMP in series is necessary to achieve the required 80% TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:
- $$R = A + B - (A \times B)/100$$
- Where:
- R = Total TSS percent load removal from application of both BMPs.
 - A = The TSS percent removal rate applicable to the first BMPs.
 - B = The TSS percent removal rate applicable to the second BMP.
- (2) If there is more than one on-site drainage area, the eighty-percent TSS removal rate shall apply to each drainage area, unless the runoff from the subareas

converge on site, in which case the removal rate can be demonstrated through a calculation using a weighted average.

E. TSS removal rates for stormwater BMPs.

- (1) For purposes of TSS reduction calculations, Table 2 presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey BMP Manual. The BMP Manual may be obtained from the address identified in § 330-38 or found on the NJDEP's website at www.njstormwater.org. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2.
- (2) Alternative stormwater management measures, removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the City. Any alternative stormwater management measure, removal rate or method of calculating the removal rate shall be subject to approval by the City, and a copy shall be provided to the following:
 - (a) The Division of Watershed Management, New Jersey Department of Environmental Protection, P.O. Box 418, Trenton, NJ 08625-0418; and
 - (b) The New Jersey Pinelands Commission, P.O. Box 7, New Lisbon, NJ 08064.

Best Management Practice	TSS Percent Removal Rate	Total Phosphorus Percent Removal Rate	Total Nitrogen Percent Removal Rate
Bioretention systems	90%	60%	30%
Constructed stormwater wetland	90%	50%	30%
Extended detention basin	40% to 60% (final rate based upon detention time; see New Jersey BMP Manual, Chapter 9)	20%	20%
Infiltration basin	80%	60%	50%

Table 2 Pollutant Removal Rates for BMPs¹			
Best Management Practice	TSS Percent Removal Rate	Total Phosphorus Percent Removal Rate	Total Nitrogen Percent Removal Rate
Manufactured treatment device	Pollutant removal rates as certified by NJDEP; see Article III of Part 1	Pollutant removal rates as certified by NJDEP; see Article III of Part 1	Pollutant removal rates as certified by NJDEP; see Article III of Part 1
Pervious paving systems			
Porous paving	80%	60%	50%
Permeable pavers with storage bed	80%	60%	50%
Volume reduction only (permeable pavers without storage bed)	0%	0%	0%
Sand filter	80%	50%	35%
Vegetative filter strip (For filter strips with multiple vegetated covers, the final TSS removal rate should be based upon a weighted average of the adopted rates shown in Table 2, based upon the relative flow lengths through each cover type.)			
Turf grass	60%	30%	30%
Native grasses, meadow and planted woods	70%	30%	30%

Table 2 Pollutant Removal Rates for BMPs¹			
Best Management Practice	TSS Percent Removal Rate	Total Phosphorus Percent Removal Rate	Total Nitrogen Percent Removal Rate
Indigenous woods	80%	30%	30%
Wet pond/retention basin	50% to 90% (final rate based upon pool volume and detention time; see NJ BMP Manual)	50%	30%

NOTE:

¹ Source: N.J.A.C. 7:8-5.5(c) and New Jersey BMP Manual Chapter 4.

- F. Nutrient removal rates for stormwater BMPs. For purposes of post-development nutrient load reduction calculations, Table 2 presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey BMP Manual. If alternative stormwater BMPs are proposed, the applicant shall demonstrate that the selected BMPs will achieve the nutrient removal standard required in § 330-17.

§ 330-11. Methods of calculating groundwater recharge.

- A. In complying with the groundwater recharge requirements in § 330-14A(1), the design engineer may calculate groundwater recharge in accordance with the New Jersey Groundwater Recharge Spreadsheet (NJGRS) computer program incorporated herein by reference as amended and supplemented. Information regarding the methodology is available in § 330-33 or from the New Jersey BMP Manual.
- B. Alternative groundwater recharge calculation methods to meet these requirements may be used upon approval by the municipal engineer.
- C. In complying with the City's designated groundwater recharge requirements in § 330-14A(2), the design engineer shall:
 - (1) Calculate stormwater runoff volumes in accordance with the USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS runoff equation and runoff curve numbers, as described in the NRCS National Engineering Handbook Part 630 - Hydrology and Technical Release 55 - Urban Hydrology for Small Watersheds as amended and supplemented; and

- (2) Use appropriate two-year, twenty-four-hour rainfall depths as developed for the project site by the National Oceanic and Atmospheric Administration, available online at <http://hdsc.nws.noaa.gov/hdsc/pfds/index.html>.
- D. When calculating groundwater recharge or stormwater runoff for pre-developed site conditions, the design engineer shall use the following criteria:
- (1) When selecting land covers or calculating runoff curve numbers (CNs) for pre-developed project site conditions, the project site's land cover shall be assumed to be woods. However, another land cover may be used to calculate runoff coefficients if:
 - (a) Such land cover has existed at the site or portion thereof without interruption for at least five years immediately prior to the time of application; and
 - (b) The design engineer can document the character and extent of such land cover through the use of photographs, affidavits, and/or other acceptable land use records.
 - (2) If more than one land cover, other than woods, has existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential (including woods) shall be used for the computations.
 - (3) All pre-developed land covers shall be assumed to be in good hydrologic condition and, if cultivated, shall be assumed to have conservation treatment.

ARTICLE IV

Performance Standards for Major Development

§ 330-12. Nonstructural stormwater management strategies.

- A. To the maximum extent practicable, the performance standards in this Article IV for major development shall be met by incorporating the nine nonstructural strategies identified in Subchapter 5 of the NJ Stormwater Management Rules (N.J.A.C. 7:8-5), and set forth in § 330-8D(1), into the design. The applicant shall identify within the land use planning and source control plan required by § 330-8D of this Part 1 how each of the nine nonstructural measures will be incorporated into the design of the project to the maximum extent practicable.
- B. If the applicant contends that it is not practical for engineering, environmental or safety reasons to incorporate any of the nine nonstructural strategies into the design of a particular project, the applicant shall provide a detailed rationale establishing a basis for the contention that use of the strategy is not practical on the site. This rationale shall be submitted in accordance with the checklist requirements established by Article II to the City. A determination by the City that this rationale is inadequate or without merit shall result in a denial of the application unless one of the following conditions is met:
 - (1) The land use planning and source control plan is amended to include a description of how all nine nonstructural measures will be implemented on the development site, and the amended plan is approved by the City;

- (2) The land use planning and source control plan is amended to provide an alternative nonstructural strategy or measure that is not included in the list of nine nonstructural measures, but still meets the performance standards in Article IV, and the amended plan is approved by the City; or
 - (3) The land use planning and source control plan is amended to provide an adequate rationale for the contention that use of the particular strategy is not practical on the site, and the amended plan is approved by the City.
- C. In addition to all other requirements of this section, each applicant shall demonstrate that, at a minimum, existing trees and vegetation on the development site will be preserved, protected and maintained according to the minimum standards established by provisions of the City of Estell Manor's Land Use Ordinance,³ Chapter 380, Zoning, of the Code of the City of Estell Manor or by conditions of zoning or variance approval. Existing trees and vegetation shall be protected during construction activities in accordance with the Standard for Tree Protection During Construction provided in the NJ State Soil Conservation Committee Standards for Soil Erosion and Sediment Control in New Jersey, which is incorporated herein by reference as amended and supplemented.
- D. In addition to all other requirements of this section, each application for major development, and any other application where the City otherwise requires a landscaping plan, shall contain a landscaping or revegetation plan in accordance with the Pinelands CMP standards at N.J.A.C. 7:50-6.24(c).
- E. Any land area used as a nonstructural stormwater management measure to meet the performance standards in Article IV shall be dedicated to a government entity; shall be subjected to a conservation easement filed with the appropriate County Clerk's office; or shall be subjected to an equivalent form of restriction approved by the City that ensures that that measure, or equivalent stormwater management measure, is maintained in perpetuity, as detailed in Article VI of this Part 1.
- F. Guidance for nonstructural stormwater management strategies is available in the New Jersey BMP Manual, which may be obtained from the address identified in § 330-38 or found on the NJDEP's website at www.njstormwater.org.
- G. Exception for major development sites creating less than one acre of disturbance. The use of nonstructural strategies to meet the performance standards in Article IV of this Part 1 is not required for major development creating less than one acre of disturbance. However, the following requirements shall be met:
 - (1) Each application for major development and any other application where the City otherwise requires a landscaping plan shall contain a landscaping or revegetation plan prepared in accordance with the Pinelands CMP standards [N.J.A.C. 7:50-6.24(c)];
 - (2) Each applicant shall demonstrate that, at a minimum, existing trees and vegetation on the development site will be preserved and protected according to the minimum standards established by provisions of the City of Estell Manor's Land

3. Editor's Note: See Ch. 142, Campgrounds, Ch. 200, Flood Damage Prevention, and Ch. 340, Subdivision of Land.

Use Ordinance,⁴ Chapter 380, Zoning, of the Code of the City of Estell Manor or by conditions of zoning or variance approval; and

- (3) Existing trees and vegetation shall be protected during construction activities in accordance with the Standard for Tree Protection During Construction provided in the NJ State Soil Conservation Committee Standards for Soil Erosion and Sediment Control in New Jersey, which is incorporated herein by reference as amended and supplemented.

§ 330-13. Stormwater runoff quantity and rate standards.

- A. There shall be no direct discharge of stormwater runoff from any point or nonpoint source to any wetland, wetlands transition area or surface water body. In addition, stormwater runoff shall not be directed in such a way as to increase the volume and/or rate of discharge into any surface water body from that which existed prior to development of the site.
- B. To the maximum extent practical, there shall be no direct discharge of stormwater runoff onto farm fields so as to protect farm crops from damage due to flooding, erosion and long-term saturation of cultivated crops and cropland.
- C. For all major developments, the total runoff volume generated from the net increase in impervious surfaces by a ten-year, twenty-four-hour storm shall be retained and infiltrated on site.
- D. In addition, the design engineer, using the assumptions and factors for stormwater runoff and groundwater recharge calculations contained in Article III, shall either:
 - (1) Demonstrate through hydrologic and hydraulic analysis that the post-developed stormwater runoff hydrographs from the project site for the two-, ten-, and one-hundred-year storms do not exceed, at any point in time, the site's pre-developed runoff hydrographs for the same storms;
 - (2) Demonstrate through hydrologic and hydraulic analysis that under post-developed site conditions:
 - (a) There is no increase in pre-developed stormwater runoff rates from the project site for the two-, ten-, and one-hundred-year storms; and
 - (b) Any increased stormwater runoff volume or change in stormwater runoff timing for the two-, ten-, and one-hundred-year storms will not increase flood damage at or downstream of the project site. When performing this analysis for pre-developed site conditions, all off-site development levels shall reflect existing conditions. When performing this analysis for post-developed site conditions, all off-site development levels shall reflect full development in accordance with current zoning and land use ordinances; or
 - (3) Demonstrate that the peak post-developed stormwater runoff rates from the project site for the two-, ten-, and one-hundred-year storms are 50%, 75% and

4. Editor's Note: See Ch. 142, Campgrounds, Ch. 200, Flood Damage Prevention, and Ch. 340, Subdivision of Land.

80%, respectively, of the site speak pre-developed stormwater runoff rates for the same storms. Peak outflow rates from on-site stormwater measures for these storms shall be adjusted where necessary to account for the discharge of increased stormwater runoff rates and/or volumes from project site areas not controlled by the on-site measures. These percentages do not have to be applied to those portions of the project site that are not proposed for development at the time of application, provided that such areas are:

- (a) Protected from future development by imposition of a conservation easement, deed restriction, or other acceptable legal measures; or
 - (b) Would be subject to review under these standards if they are proposed for any degree of development in the future.
- E. In tidal flood hazard areas, a stormwater runoff quantity analysis in accordance with § 330-13D(1), (2) and (3) above shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.
- F. The standards for stormwater runoff quantity and rate required by this section shall be met using the methods, calculations and assumptions provided in Article III.

§ 330-14. Groundwater recharge standards.

- A. For all major developments, with the exception of those described in § 330-14D, below, the design engineer, using the assumptions and factors for stormwater runoff and groundwater recharge calculations contained in Article III, shall either:
- (1) Demonstrate through hydrologic and hydraulic analysis that the post-developed project site maintains 100% of the site's pre-developed average annual groundwater recharge volume; or
 - (2) Demonstrate through hydrologic and hydraulic analysis that any increase in the project site's stormwater runoff volume for the two-year, twenty-four-hour storm from pre-developed to post-developed conditions is infiltrated on site.
- B. The design engineer shall assess the hydraulic impact on the groundwater table and design the project site and all site groundwater recharge measures so as to avoid adverse hydraulic impacts. Adverse hydraulic impacts include, but are not limited to, raising the groundwater table so as to cause surface ponding; flooding of basements and other subsurface structures and areas; preventing a stormwater infiltration basin from completely draining via infiltration within 72 hours of a design storm event; and interference with the proper operation of subsurface sewage disposal systems and other surface and subsurface facilities in the vicinity of the groundwater recharge measure.
- C. The standards for groundwater recharge required by this section shall be met using the methods, calculations and assumptions provided in Article III.
- D. Exceptions. The preceding groundwater recharge standards shall not apply to sites that create less than one acre of disturbance.

§ 330-15. Erosion control standards.

The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and its implementing regulations, N.J.A.C. 2:90-1.1 through 2:90-1.4.

§ 330-16. Stormwater runoff quality standards.

- A. There shall be no direct discharge of stormwater runoff from any point or nonpoint source to any wetland, wetland transition area or surface water body.
- B. Stormwater management measures shall be designed to reduce the total suspended solids (TSS) load in the stormwater runoff from the post-developed site by 80%, expressed as an annual average.
- C. Stormwater management measures shall also be designed to reduce the nutrient load in the stormwater runoff from the post-developed site by the maximum extent practicable. In achieving this reduction, the design of the development site shall include nonstructural and structural stormwater management measures that optimize nutrient removal while still achieving the groundwater recharge, runoff quantity and rate, and TSS removal standards in this section.
- D. The standards for stormwater runoff quality required by this section shall be met using the methods, calculations, assumptions and pollutant removal rates provided in Article III.
- E. Exceptions.
 - (1) The preceding stormwater runoff quality standards shall not apply to the following major development sites:
 - (a) Major development sites where less than 0.25 acre of additional impervious surface is proposed; or
 - (b) Major residential development sites that create less than one acre of disturbance.
 - (2) The TSS reduction requirement in § 330-17B shall not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the NJPDES rules (N.J.A.C. 7:14A) or in a discharge specifically exempt under a NJPDES permit from this requirement.
 - (3) The stormwater runoff quantity and rate standards in § 330-13 shall still be met for all major development sites.

§ 330-17. Additional stormwater quality standards for high pollutant loading areas and areas where stormwater runoff is exposed to source material.

- A. This section applies to the following areas of a major development as defined in § 330-31 of this Part 1:
 - (1) High pollutant loading areas (HPLAs); and

- (2) Areas where stormwater is exposed to source material.
- B. For a major development in areas described in § 330-17A(1) or (2) above, in addition to the infiltration requirements specified in § 330-13B and the groundwater recharge requirements specified in § 330-14, the applicant shall demonstrate in the land use planning and source control plan required in § 330-8D that the following requirements have been met:
- (1) The extent of the areas described in § 330-17A(1) and (2) above have been minimized on the development site to the maximum extent practicable;
 - (2) The stormwater runoff from the areas described in § 330-17A(1) and (2) above is segregated to the maximum extent practicable from the stormwater runoff generated from the remainder of the site such that co-mingling of the stormwater runoff from the areas described in § 330-17A(1) and (2) above and the remainder of the site will be minimized;
 - (3) The amount of precipitation falling directly on the areas described in § 330-17A(1) and (2) above is minimized to the maximum extent practicable by means of a canopy, roof or other similar structure that reduces the generation of stormwater runoff; and
 - (4) The stormwater runoff from or co-mingled with the areas described in § 330-17A(1) and (2) above for the water quality design storm, defined in § 330-10, Table 1, shall be subject to pretreatment by one or more of the following stormwater BMPs, designed in accordance with the New Jersey BMP Manual to provide 90% TSS removal:
 - (a) Bioretention system;
 - (b) Sand filter;
 - (c) Wet ponds which shall be hydraulically disconnected by a minimum of two feet of vertical separation from the seasonal high water table and shall be designed to achieve a minimum 80% TSS removal rate;
 - (d) Constructed stormwater wetlands; and/or
 - (e) Media filtration system manufactured treatment device with a minimum 80% TSS removal as verified by the New Jersey Corporation for Advanced Technology and as certified by NJDEP.
 - (5) If the potential for contamination of stormwater runoff by petroleum products exists on site, prior to being conveyed to the pretreatment BMP required in § 330-17B(4) above, the stormwater runoff from the areas described in § 330-17A(1) and (2) above shall be conveyed through an oil/grease separator or other equivalent manufactured filtering device to remove the petroleum hydrocarbons. The applicant shall provide the reviewing agency with sufficient data to demonstrate acceptable performance of the device.

§ 330-18. Threatened and endangered species and associated habitat standards.

Stormwater management measures shall address the impacts of the development on habitat for threatened and endangered species, in accordance with N.J.A.C. 7:8-5.2(c), N.J.A.C. 7:50-6.27, and N.J.A.C. 7:50-6.33 and 7:50-6.34.

§ 330-19. Exceptions and mitigation requirements.

A. Exceptions from strict compliance with the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements established by this Part 1 may be granted, at the discretion of the City, and subject to approval by the Pinelands Commission, provided that all of the following conditions are met:

- (1) The exception is consistent with that allowed by the City;
- (2) The City has an adopted and effective municipal stormwater management plan in accordance with N.J.A.C. 7:8-4.4, which includes a mitigation plan in accordance with N.J.A.C. 7:8-4.2(c)11, and is also certified by the Pinelands Commission. The mitigation plan shall identify what measures are necessary to offset the deficit created by granting the exception, and the municipality shall submit a written report to the county review agency and the NJDEP describing the exception and the required mitigation. Guidance for developing municipal stormwater management plans, including mitigation plans, is available from the NJDEP, Division of Watershed Management and the New Jersey BMP Manual.
- (3) The applicant demonstrates that mitigation, in addition to the requirements of mitigation plan discussed in § 330-19A(2) above, will be provided consistent with one of the following options:
 - (a) Mitigation may be provided off site, but within the Pinelands Area and within the same drainage area as the development site, and shall meet or exceed the equivalent recharge, quality or quantity performance standard which is lacking on the development site due to the exception; or
 - (b) In lieu of the required mitigation, a monetary in-lieu contribution may be provided by the applicant to the City in accordance with the following:
 - [1] The amount of the in-lieu contribution shall be determined by the City, but the maximum in-lieu contribution required shall be equivalent to the cost of implementing and maintaining the stormwater management measure(s) for which the exception is granted.
 - [2] The in-lieu contribution shall be used to fund an off-site stormwater control mitigation project(s) located within the Pinelands Area, within the same drainage area as the development site, and shall meet or exceed the equivalent recharge, quality or quantity performance standards which are lacking on the development site. Such mitigation project shall be identified by the City in its adopted municipal stormwater management plan. The stormwater control project to which the monetary contribution will be applied shall be identified by

the City at the time the exception is granted. The applicant shall amend the project description and site plan required in § 330-8C to incorporate a description of both the standards for which an on-site exception is being granted and of the selected off-site mitigation project.

- [3] The City shall expend the in-lieu contribution to implement the selected off-site mitigation project within five years from the date that payment is received. Should the City fail to expend the in-lieu contribution within the required time frame, the mitigation option provided in § 330-19A(3)(b) of this Part 1 shall be void and the City shall be prohibited from collecting in-lieu contributions.

- B. An exception from strict compliance granted in accordance with § 330-19A above shall not constitute a waiver of strict compliance from the requirements of the Pinelands Comprehensive Management Plan at N.J.A.C. 7:50. An applicant should contact the Pinelands Commission to determine whether a waiver of strict compliance is also required in accordance with N.J.A.C. 7:50, Subchapter 4, Part V.

ARTICLE V

Design, Construction, and Safety Standards for Structural Stormwater Management Measures

§ 330-20. General design and construction standards.

- A. Structural stormwater management measures shall be designed to meet the standards established in this section. These standards have been developed to protect public safety, conserve natural features, create an aesthetically pleasing site and promote proper on-site stormwater management.
- B. The following structural stormwater management measures may be utilized as part of a stormwater management system at a major land development in the Pinelands, provided that the applicant demonstrates that they are designed, constructed and maintained so as to meet the standards and requirements established by this Part 1. If alternative stormwater management measures are proposed, the applicant shall demonstrate that the selected measures will achieve the standards established by this Part 1.
- (1) Bioretention systems;
 - (2) Constructed stormwater wetlands;
 - (3) Extended detention basins;
 - (4) Infiltration basins;
 - (5) Vegetated filter strips;
 - (6) Infiltration basins and trenches;
 - (7) Wet ponds with suitable liners;
 - (8) Pervious paving systems; and

- (9) Manufactured treatment devices, provided their pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the NJDEP.
- C. Structural stormwater management measures shall be designed to take into account the existing site conditions, including environmentally critical areas, wetlands, flood-prone areas, slopes, depth to seasonal high water table, soil type, permeability and texture, and drainage area and drainage patterns.
 - D. Structural stormwater management measures shall be designed and constructed to be strong, durable, and corrosion-resistant (Measures that are consistent with the relevant portions of the residential site improvement standards at N.J.A.C. 5:21-7.3, 5:21-7.4, and 5:21-7.8 shall be deemed to meet this requirement.); to minimize and facilitate maintenance and repairs; and to ensure proper functioning.
 - E. For all stormwater management measures at a development site, each applicant shall submit a detailed inspection, maintenance and repair plan consistent with the requirements of Article V of this Part 1.
 - F. To the maximum extent practicable, the design engineer shall design structural stormwater management measures on the development site in a manner that:
 - (1) Limits site disturbance, maximizes stormwater management efficiencies, and maintains or improves aesthetic conditions;
 - (2) Utilizes multiple stormwater management measures, smaller in size and distributed spatially throughout the land development site, instead of a single larger structural stormwater management measure;
 - (3) Incorporates pretreatment measures. Pretreatment can extend the functional life and increase the pollutant removal capability of a structural stormwater management measure. Pretreatment measures may be designed in accordance with the New Jersey BMP Manual or other sources approved by the City's designated engineer.
 - G. Stormwater management basins shall be designed in a manner that complements and mimics the existing natural landscape, including but not limited to the following design strategies:
 - (1) Use of natural, nonwetland wooded depressions for stormwater runoff storage; and
 - (2) Establishment of attractive landscaping in and around the basin that mimics the existing vegetation and incorporates native Pinelands plants, including, but not limited to, the species listed in N.J.A.C. 7:50-6.25 and 7:50-6.26.
 - H. Stormwater management basins shall be designed with gently sloping sides. The maximum allowable basin side slope shall be three horizontal to one vertical.
 - I. Guidance on the design and construction of structural stormwater management measures may be found in the New Jersey BMP Manual. Other guidance sources may also be used upon approval by the City's designated engineer.

- J. After all construction activities and required field testing have been completed on the development site, as-built plans depicting design and as-built elevations of all stormwater management measures shall be prepared by a licensed land surveyor and submitted to the City's designated engineer. Based upon the City's designated engineer's review of the as-built plans, all corrections or remedial actions deemed by the City's designated engineer to be necessary due to the failure to comply with the standards established by this Part 1 and/or any reasons of public health or safety shall be completed by the applicant. In lieu of review by the City's designated engineer, the City reserves the right to engage a professional engineer to review the as-built plans. The applicant shall pay all costs associated with such review.

§ 330-21. Design and construction standards for stormwater infiltration BMPs.

- A. Stormwater infiltration BMPs, such as bioretention systems with infiltration, dry wells, infiltration basins, pervious paving systems with storage beds, and sand filters with infiltration, shall be designed, constructed and maintained to completely drain the total runoff volume generated by the basin's maximum design storm within 72 hours after a storm event. Runoff storage for greater times can render the BMP ineffective and may result in anaerobic conditions, odor and both water quality and mosquito breeding problems.
- B. Stormwater infiltration BMPs shall be designed, constructed and maintained to provide a minimum separation of at least two feet between the elevation of the lowest point of the bottom of the infiltration BMP and the seasonal high water table.
- C. A stormwater infiltration BMP shall be sited in suitable soils verified by field testing to have permeability rates between one and 20 inches per hour. If such site soils do not exist or if the design engineer demonstrates that it is not practical for engineering, environmental or safety reasons to site the stormwater infiltration BMP(s) in such soils, then the stormwater infiltration BMP(s) may be sited in soils verified by field testing to have permeability rates in excess of 20 inches per hour, provided that a bioretention system, designed, installed and maintained in accordance with the New Jersey BMP Manual, is installed to meet one of the following conditions:
- (1) The bioretention system is constructed as a separate measure designed to provide pretreatment of stormwater and to convey the pretreated stormwater into the infiltration BMP; or
 - (2) The bioretention system is integrated into and made part of the infiltration BMP and, as such, does not require an underdrain system. If this option is selected, the infiltration BMP shall be designed and constructed so that the maximum water depth in the bioretention system portion of the BMP during treatment of the stormwater quality design storm is 12 inches in accordance with the New Jersey BMP Manual.
- D. The minimum design permeability rate for the soil within a BMP that relies on infiltration shall be 0.5 inch per hour. A factor of safety of two shall be applied to the soil's field-tested permeability rate to determine the soil's design permeability rate. For example, if the field-tested permeability rate of the soil is four inches per hour, its design permeability rate would be two inches per hour. The minimum design

permeability rate for the soil within a stormwater infiltration basin shall also be sufficient to achieve the minimum seventy-two-hour drain time described in § 330-21A above. The maximum design permeability shall be 10 inches per hour.

- E. A soil's field-tested permeability rate shall be determined in accordance with the following:
- (1) The pre-development field test permeability rate shall be determined according to the methodologies provided in § 330-35C of this Part 1;
 - (2) The results of the required field permeability tests shall demonstrate a minimum tested infiltration rate of one inch per hour;
 - (3) After all construction activities have been completed on the site and the finished grade has been established in the infiltration BMP, post-development field permeability tests shall also be conducted according to the methodologies provided in § 330-35C of this Part 1;
 - (4) If the results of the post-development field permeability tests fail to achieve the minimum required design permeability rates in § 330-21E above utilizing a factor of safety of two the stormwater infiltration BMP shall be renovated and re-tested until such minimum required design permeability rates are achieved; and
 - (5) The results of all field permeability tests shall be certified by a professional engineer and transmitted to the City's designated engineer.
- F. To help ensure maintenance of the design permeability rate over time, a six-inch layer of K5 soil shall be placed on the bottom of a stormwater infiltration BMP. This soil layer shall meet the textural and permeability specifications of a K5 soil as provided at N.J.A.C. 7:9A, Appendix A, Figure 6, and be certified to meet these specifications by a professional engineer licensed in the State of New Jersey. The depth to the seasonal high water table shall be measured from the bottom of the K5 sand layer.
- G. The design engineer shall assess the hydraulic impact on the groundwater table and design the project site and all stormwater infiltration basins so as to avoid adverse hydraulic impacts. Adverse hydraulic impacts include, but are not limited to, raising the groundwater table so as to cause surface ponding; flooding of basements and other subsurface structures and areas; preventing a stormwater infiltration basin from completely draining via infiltration within 72 hours of a design storm event; and interference with the proper operation of subsurface sewage disposal systems and other surface and subsurface structures in the vicinity of the stormwater infiltration basin.
- H. The design engineer shall conduct a mounding analysis, as defined in § 330-31, of all stormwater infiltration BMPs. The mounding analysis shall be conducted in accordance with the requirements in § 330-35C(12). Where the mounding analysis identifies adverse impacts, the stormwater infiltration BMP shall be redesigned or relocated, as appropriate.
- I. Stormwater infiltration BMPs shall be constructed in accordance with the following:
- (1) To avoid sedimentation that may result in clogging and reduce the basin's permeability rate, stormwater infiltration basins shall be constructed according to the following:

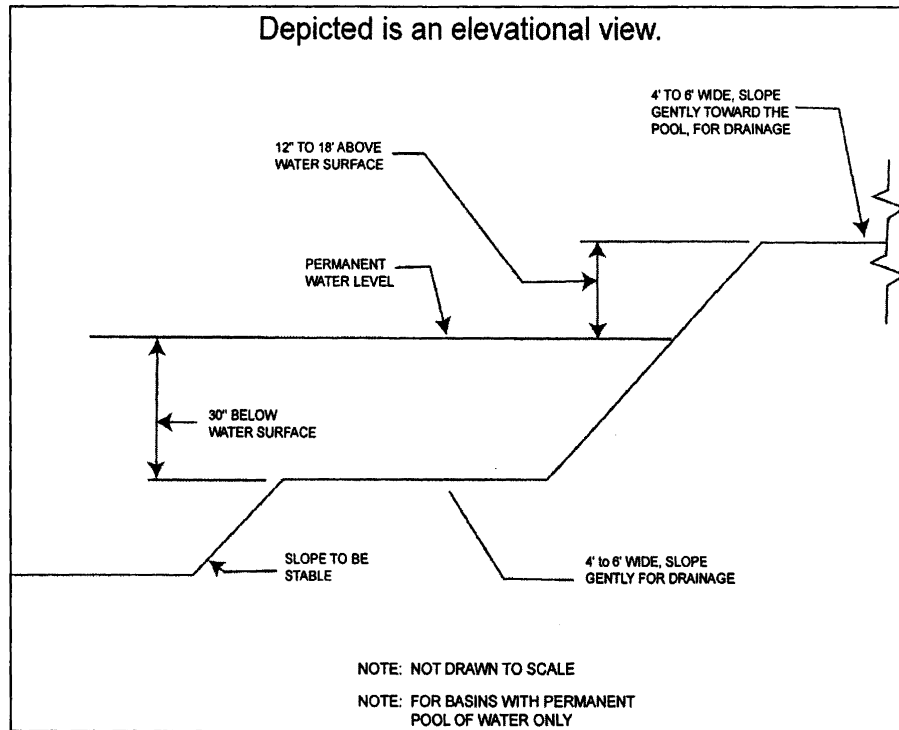
- (a) Unless the conditions in Subsection I(1)(b) below are met, a stormwater infiltration basin shall not be placed into operation until its drainage area is completely stabilized. Instead, upstream runoff shall be diverted around the basin and into separate, temporary stormwater management facilities and sediment basins. Such temporary facilities and basins shall be installed and utilized for stormwater management and sediment control until stabilization is achieved in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey, which is incorporated herein by reference as amended and supplemented.
 - (b) If the design engineer determines that, for engineering, environmental or safety reasons, temporary stormwater management facilities and sediment basins cannot be constructed on the site, the stormwater infiltration basin may be placed into operation prior to the complete stabilization of its drainage area, provided that the basin's bottom during this period is constructed at a depth at least two feet higher than its final design elevation. All other infiltration BMP construction requirements in this section shall be followed. When the drainage area is completely stabilized, all accumulated sediment shall be removed from the infiltration BMP, which shall then be excavated to its final design elevation in accordance with the construction requirements of this section and the performance standards in Article IV.
- (2) To avoid compaction of subgrade soils of BMPs that rely on infiltration, no heavy equipment such as backhoes, dump trucks or bulldozers shall be permitted to operate within the footprint of the BMP. All excavation required to construct a stormwater infiltration BMP shall be performed by equipment placed outside the BMP. If this is not possible, the soils within the excavated area shall be renovated and tilled after construction is completed to reverse the effects of compaction. In addition, post-development soil permeability testing shall be performed in accordance with § 330-21E of this section.
 - (3) Earthwork associated with stormwater infiltration BMP construction, including excavation, grading, cutting or filling, shall not be performed when soil moisture content is above the lower plastic limit.

§ 330-22. Safety standards for structural stormwater management measures.

- A. If a structural stormwater management measure has an outlet structure, escape provisions shall be incorporated in or on the structure. "Escape provisions" means the permanent installation of ladders, steps, rungs, or other features that provide readily accessible means of ingress and egress from the outlet structure.
- B. A trash rack is a device intended to intercept runoff-borne trash and debris that might otherwise block the hydraulic openings in an outlet structure of a structural stormwater management measure. Trash racks shall be installed upstream of such outlet structure openings as necessary to ensure proper functioning of the structural stormwater management measure in accordance with the following:
 - (1) The trash rack should be constructed primarily of bars aligned in the direction of flow with one-inch spacing between the bars to the elevation of the water quality

design storm. For elevations higher than the water quality design storm, the bars shall be spaced no greater than 1/3 the width of the hydraulic opening it is protecting or six inches, whichever is less. Transverse bars aligned perpendicular to flow should be sized and spaced as necessary for rack stability and strength.

- (2) The trash rack shall not adversely affect the hydraulic performance of either the outlet structure opening it is protecting or the overall outlet structure.
 - (3) The trash rack shall have sufficient net open area under clean conditions to limit the peak design storm velocity through it to a maximum of 2.5 feet per second.
 - (4) The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.
- C. An overflow grate is a device intended to protect the opening in the top of a stormwater management measure outlet structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
- (1) The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance;
 - (2) The overflow grate spacing shall be no more than two inches across the smallest dimension; and
 - (3) The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.
- D. The maximum side slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical.
- E. Safety ledges shall be constructed on the slopes of all new structural stormwater management measures having a permanent pool of water deeper than 2 1/2 feet. Such safety ledges shall be comprised of two steps. Each step shall be four feet to six feet in width. One step shall be located approximately 2 1/2 feet below the permanent water surface, and the second step shall be located one foot to 1 1/2 feet above the permanent water surface. See § 330-22E(1) below, for an illustration of safety ledges in a stormwater management basin.
- (1) Illustration of safety ledges.



ARTICLE VI
Inspection, Maintenance and Repair

§ 330-23. Applicability.

Projects subject to review pursuant to § 330-3 of this Part 1 shall comply with the requirements of §§ 330-24 and 330-25 below.

§ 330-24. General inspection, maintenance and repair plan.

- A. The design engineer shall prepare an inspection, maintenance and repair plan for the stormwater management measures, including both structural and nonstructural measures incorporated into the design of a major development. This plan shall be submitted as part of the checklist requirements established in § 330-8. Inspection and maintenance guidelines for stormwater management measures are available in the New Jersey BMP Manual.
- B. The inspection, maintenance and repair plan shall contain the following:
 - (1) Accurate and comprehensive drawings of the site's stormwater management measures;
 - (2) Specific locations of each stormwater management measure identified by means of longitude and latitude as well as block and lot number;

- (3) Specific preventative and corrective maintenance tasks and schedules for such tasks for each stormwater BMP;
 - (4) Cost estimates, including estimated cost of sediment, debris or trash removal; and
 - (5) The name, address and telephone number of the person or persons responsible for regular inspections and preventative and corrective maintenance (including repair and replacement). If the responsible person or persons is a corporation, company, partnership, firm, association, municipality or political subdivision of this state, the name and telephone number of an appropriate contact person shall also be included.
- C. The person responsible for inspection, maintenance and repair identified under § 330-24B above shall maintain a detailed log of all preventative and corrective maintenance performed for the site's stormwater management measures, including a record of all inspections and copies of all maintenance-related work orders in the inspection, maintenance and repair plan. Said records and inspection reports shall be retained for a minimum of five years.
- D. If the inspection, maintenance and repair plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for inspection and maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management measure to such person under an applicable ordinance or regulation.
- E. If the person responsible for inspection, maintenance and repair identified under § 330-24C above is not a public agency, the maintenance plan and any future revisions based on § 330-24F below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan shall be undertaken.
- F. The person responsible for inspection, maintenance and repair identified under § 330-24B above shall evaluate the effectiveness of the inspection, maintenance and repair plan at least once per year and update the plan and the deed as needed.
- G. The person responsible for inspection, maintenance and repair identified under § 330-24B above shall submit the updated inspection, maintenance and repair plan and the documentation required by § 330-24B and C above to the City once per year.
- H. The person responsible for inspection, maintenance and repair identified under § 330-24B above shall retain and make available, upon request by any public entity with administrative, health, environmental or safety authority over the site the inspection, maintenance and repair plan and the documentation required by § 330-24B and C above.

§ 330-25. Responsibility for inspection, repair and maintenance.

Responsibility for inspection, repair and maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project unless such owner or tenant owns or leases the entire residential development or project.

§ 330-26. Preventative and corrective maintenance.

Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including, but not limited to, repairs or replacement to any associated appurtenance of the measure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; repair or replacement of linings; and restoration of infiltration function.

§ 330-27. Easements.

Stormwater management measure easements shall be provided by the property owner as necessary for facility inspections and maintenance and preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities. The purpose of the easement shall be specified in the maintenance agreement.

§ 330-28. Notice of danger to public health or safety; time frame for repair.

In the event that the stormwater management measure becomes a public health nuisance or danger to public safety or public health, or if it is in need of maintenance or repair, the City shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have 14 days to effect maintenance and repair of the facility in a manner that is approved by the City's designated engineer or designee. The City, at its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair within the allowable time, the City may immediately proceed to do so with its own forces and equipment and/or through contractors. The costs and expenses of such maintenance and repair by the City shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the maintenance and repair was performed.

§ 330-29. Requirements for inspection, maintenance and repair of stormwater BMPs that rely on infiltration.

- A. If a stormwater infiltration BMP is incorporated into the design of a major development, the applicant shall include the following requirements in its inspection, maintenance and repair plan:
- (1) Once per month (if needed): mow side slopes, remove litter and debris, stabilize eroded banks, repair erosion at inflow structure(s);
 - (2) After every storm exceeding one inch of rainfall: ensure that infiltration BMPs drain completely within 72 hours after the storm event. If stored water fails to infiltrate 72 hours after the end of the storm, corrective measures shall be taken. Raking or tilling by light equipment can assist in maintaining infiltration capacity and break up clogged surfaces;
 - (3) Four times per year (quarterly): inspect stormwater infiltration BMPs for clogging and excessive debris and sediment accumulation within the BMP, remove sediment (if needed) when completely dry;

- (4) Two times per year: inspect for signs of damage to structures, repair eroded areas, check for signs of petroleum contamination and remediate;
 - (5) Once per year: inspect BMPs for unwanted tree growth and remove if necessary, disc or otherwise aerate bottom of infiltration basin to a minimum depth of six inches; and
 - (6) After every storm exceeding one inch of rainfall, inspect and, if necessary, remove and replace K5 sand layer and accumulated sediment to restore original infiltration rate.
- B. Additional guidance for the inspection, maintenance and repair of stormwater infiltration BMPs can be found in the New Jersey BMP Manual.

§ 330-30. Financing of inspection, maintenance and repair of stormwater BMPs.

An adequate means of ensuring permanent financing of the inspection, maintenance and repair of stormwater BMPs shall be implemented and detailed in the inspection, maintenance and repair plan. Permanent financing of the inspection, maintenance and repair of stormwater BMPs shall be accomplished by the assumption of the inspection and maintenance program by a municipality, county, public utility or homeowners' association.

ARTICLE VII

Definitions

§ 330-31. Terms defined.

Unless specifically defined below, words or phrases used in this Part 1 shall be interpreted so as to give them the meaning they have in common usage and to give this Part 1 its most reasonable application. When used in this Part 1, the following terms shall have the meanings herein ascribed to them.

AQUACULTURE — The propagation, rearing and subsequent harvesting of aquatic organisms in controlled or selected environments, and their subsequent processing, packaging and marketing, including, but not limited to, activities to intervene in the rearing process to increase production, such as stocking, feeding, transplanting and providing for protection from predators.

CERTIFICATION — Either a written statement signed and sealed by a licensed New Jersey professional engineer attesting that a BMP design or stormwater management system conforms to or meets a particular set of standards or to action taken by the Commission pursuant to N.J.A.C. 7:50-3, Part II or Part IV. Depending upon the context in which the term is used, the terms "certify" and "certified" shall be construed accordingly.

CITY — The Planning Board or other board, agency or official of the City with authority to approve or disapprove subdivisions, site plans, construction permits, building permits or other applications for development approval. For the purposes of reviewing development applications and ensuring compliance with the requirements of this Part 1, the City may designate the municipal engineer or other qualified designee to act on behalf of the City.

COMPACTION — The increase in soil bulk density caused by subjecting soil to greater-than-normal loading. Compaction can also decrease soil infiltration and permeability rates.

CONSTRUCTION — The construction, erection, reconstruction, alteration, conversion, demolition, removal or equipping of buildings, structures or components of a stormwater management system, including, but not limited to, collection inlets, stormwater piping, swales and all other conveyance systems, and stormwater BMPs.

COUNTY REVIEW AGENCY — An agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

- A. A county planning agency; or
- B. A county water resource association created under N.J.S.A. 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

DESIGN ENGINEER — A person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

DESIGN PERMEABILITY — The tested permeability rate with a factor of safety of two applied to it (e.g., if the tested permeability rate of the soils is four inches per hour, the design rate would be two inches per hour).

DEVELOPMENT —

- A. The change of or enlargement of any use or disturbance of any land, the performance of any building or mining operation, the division of land into two or more parcels, and the creation or termination of rights of access or riparian rights, including, but not limited to:
 - (1) A change in type of use of a structure or land;
 - (2) A reconstruction, alteration of the size, or material change in the external appearance of a structure or land;
 - (3) A material increase in the intensity of use of land, such as an increase in the number of businesses, manufacturing establishments, offices or dwelling units in a structure or on land;
 - (4) Commencement of resource extraction or drilling or excavation on a parcel of land;
 - (5) Demolition of a structure or removal of trees;
 - (6) Commencement of forestry activities;
 - (7) Deposit of refuse, solid or liquid waste or fill on a parcel of land;
 - (8) In connection with the use of land, the making of any material change in noise levels, thermal conditions, or emissions of waste material; and

(9) Alteration, either physically or chemically, of a shore, bank, or floodplain, seacoast, river, stream, lake, pond, wetlands or artificial body of water.

B. In the case of development on agricultural land, i.e., lands used for an agricultural use or purpose as defined at N.J.A.C. 7:50-2.11, "development" means any activity that requires a state permit; any activity reviewed by the County Agricultural Boards (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A. 4:1C-1 et seq.

DEVELOPMENT, MAJOR — Any division of land into five or more lots; any construction or expansion of any housing development of five or more dwelling units; any construction or expansion of any commercial or industrial use or structure on a site of more than three acres; or any development, grading, clearing or disturbance of an area in excess of 5,000 square feet. "Disturbance" for the purpose of this Part 1 is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting or removing of vegetation.

DEVELOPMENT, MINOR — All development other than major development.

DRAINAGE AREA — A geographic area within which stormwater, sediments, or dissolved materials drain to a BMP, a stormwater management system, a particular receiving water body or a particular point along a receiving water body.

ENVIRONMENTALLY CRITICAL AREA — An area or feature which is of significant environmental value, including, but not limited to, stream corridors; natural heritage priority sites; habitat of endangered or threatened animal species; threatened or endangered plants of the Pinelands pursuant to N.J.A.C. 7:50-6.27(a); large areas of contiguous open space or upland forest; steep slopes; and wellhead protection and groundwater recharge areas. Threatened and endangered habitat constitutes habitat that is critical for the survival of a local population of threatened and endangered species or habitat that is identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program, whichever is more inclusive. Threatened and endangered wildlife shall be protected in conformance with N.J.A.C. 7:50-6.33.

EXCEPTION — The approval by the approving authority of a variance or other material departure from strict compliance with any section, part, phrase or provision of this Part 1. An exception may be granted only under certain specific, narrowly defined conditions described herein and does not constitute a waiver of strict compliance with any section, part, phrase or provision of the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-1.1 et seq.).

EXTENDED DETENTION BASIN — A facility constructed through filling and/or excavation that provides temporary storage of stormwater runoff. It has an outlet structure that detains and attenuates runoff inflows and promotes the settlement of pollutants. An extended detention basin is normally designed as a multistage facility that provides runoff storage and attenuation for both stormwater quality and quantity management. The term "stormwater detention basin" shall have the same meaning as "extended detention basin."

FINISHED GRADE — The elevation of the surface of the ground after completion of final grading, either via cutting, filling or a combination thereof.

GRADING — Modification of a land slope by cutting and filling with the native soil or redistribution of the native soil which is present at the site.

GROUNDWATER — Water below the land surface in a zone of saturation.

GROUNDWATER MOUNDING ANALYSIS — A test performed to demonstrate that the groundwater below a stormwater infiltration basin will not mound up, encroach on the unsaturated zone, break the surface of the ground at the infiltration area or downslope, and create an overland flow situation.

HEAVY EQUIPMENT — Equipment, machinery, or vehicles that exert ground pressure in excess of eight pounds per square inch.

HIGH POLLUTANT LOADING AREA — An area in an industrial or commercial development site where solvents and/or petroleum products are loaded/unloaded, stored, or applied; where pesticides are loaded/unloaded or stored; where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; where recharge would be inconsistent with NJDEP-approved remedial action work plan or landfill closure plan; and/or where a high risk exists for spills of toxic materials, such as gas stations and vehicle maintenance facilities. The term "HPLA" shall have the same meaning as "high pollutant loading area."

IMPERVIOUS SURFACE — A surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

INFILTRATION — The process by which precipitation enters the soil through its surface.

IN-LIEU CONTRIBUTION — A monetary fee collected by the City in lieu of requiring strict on-site compliance with the groundwater recharge, stormwater runoff quantity and/or stormwater runoff quality standards established in this Part 1.

INSTALL — To assemble, construct, put in place or connect components of a stormwater management system.

MITIGATION — Acts necessary to prevent, limit, remedy or compensate for conditions that may result from those cases where an applicant has demonstrated the inability or impracticality of strict compliance with the stormwater management requirements set forth in N.J.A.C. 7:8, in an adopted regional stormwater management plan, or in a local ordinance which is as protective as N.J.A.C. 7:8, and an exception from strict compliance is granted by the City and the Pinelands Commission.

NEW JERSEY STORMWATER BEST MANAGEMENT PRACTICES MANUAL — Guidance developed by the New Jersey Department of Environmental Protection, in coordination with the New Jersey Department of Agriculture, the New Jersey Department of Community Affairs, the New Jersey Department of Transportation, municipal engineers, County Engineers, consulting firms, contractors, and environmental organizations to address the standards in the New Jersey Stormwater Management Rules, N.J.A.C. 7:8. The BMP Manual provides examples of ways to meet the standards contained in the rule. An applicant may demonstrate that other proposed management practices will also achieve the standards established in the rules. The manual, and notices regarding future versions of the manual, are available from the Division of Watershed Management, NJDEP, P.O. Box 418, Trenton, New Jersey 08625; and on the NJDEP's website, www.njstormwater.org. The term "New Jersey BMP Manual" shall have the same meaning as "New Jersey Stormwater Best Management Practices Manual."

NJDEP — The New Jersey Department of Environmental Protection.

NJPDES — The New Jersey Pollutant Discharge Elimination System as set forth in N.J.S.A. 58:10A-1 et seq. and in N.J.A.C. 7:14A.

NJPDES PERMIT — A permit issued by the NJDEP pursuant to the authority of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and N.J.A.C. 7:14A for a discharge of pollutants.

NONPOINT SOURCE —

- A. Any human-made or human-induced activity, factor, or condition, other than a point source, from which pollutants are or may be discharged;
- B. Any human-made or human-induced activity, factor, or condition, other than a point source, that may temporarily or permanently change any chemical, physical, biological, or radiological characteristic of waters of the state from what was or is the natural, pristine condition of such waters, or that may increase the degree of such change; or
- C. Any activity, factor, or condition, other than a point source, that contributes or may contribute to water pollution.
- D. The term "NPS" shall have the same meaning as "nonpoint source."

NONSTRUCTURAL BMP — A stormwater management measure, strategy or combination of strategies that reduces adverse stormwater runoff impacts through sound site planning and design. Nonstructural BMPs include such practices as minimizing site disturbance, preserving important site features, reducing and disconnecting impervious cover, flattening slopes, utilizing native vegetation, minimizing turf grass lawns, maintaining natural drainage features and characteristics and controlling stormwater runoff and pollutants closer to the source. The term "low-impact development technique" shall have the same meaning as "nonstructural BMP."

NUTRIENT — A chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

PERMEABILITY — The rate at which water moves through a saturated unit area of soil or rock material at hydraulic gradient of one, determined as prescribed in N.J.A.C. 7:9A-6.2 (tube permeameter test), N.J.A.C. 6.5 (pit bailing test) or N.J.A.C. 6.6 (piezometer test). Alternative permeability test procedures may be accepted by the approving authority, provided the test procedure attains saturation of surrounding soils, accounts for hydraulic head effects on infiltration rates, provides a permeability rate with units expressed in inches per hour and is accompanied by a published source reference. Examples of suitable sources include hydrogeology, geotechnical, or engineering text and design manuals, proceedings of American Society for Testing and Materials (ASTM) symposia, or peer-review journals. Neither a soil permeability class rating test, as described in N.J.A.C. 7:9A-6.3, nor a percolation test, as described in N.J.A.C. 7:9A-6.4, are acceptable tests for establishing permeability values for the purpose of complying with this Part 1.

PERMEABLE — Having a permeability of one inch per hour or faster. The terms "permeable soil," "permeable rock" and "permeable fill" shall be construed accordingly.

PERSON — Any individual, corporation, company, partnership, firm, association, municipality or political subdivision of this state subject to municipal jurisdiction pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

PINELANDS COMMISSION or COMMISSION — The Commission created pursuant Section 5 of the Pinelands Protection Act, N.J.S.A. 13:18A-5.

PINELANDS CMP — The New Jersey Pinelands Comprehensive Management Plan (N.J.A.C. 7:50 1.1 et seq).

POINT SOURCE — Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

POLLUTANT — Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substances [except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C.A. § 2011 et seq.)], thermal waste, wrecked or discarded equipment, rock, sand, suspended solids, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, groundwaters or surface waters of the state, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

PROFESSIONAL ENGINEER — A person licensed to practice professional engineering in the State of New Jersey pursuant to N.J.S.A. 45:8-27 et seq.

RECHARGE — The amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

REPLICATE — One of two or more soil samples or tests taken at the same location (within five feet of each other) and depth, within the same soil horizon or substratum. In the case of fill material, replicate tests are tests performed on sub-samples of the same bulk sample packed to the same bulk density.

SAND — A particle size category consisting of mineral particles which are between 0.05 millimeter and 2.0 millimeters in equivalent spherical diameter. Also, a soil textural class having 85% or more of sand and a content of silt and clay such that the percentage of silt plus 1.5 times the percentage of clay does not exceed 15, as shown in § 330-35A, USDA soil textural triangle.

SEASONALLY HIGH WATER TABLE — The upper limit of the shallowest zone of saturation which occurs in the soil, identified as prescribed in N.J.A.C. 7:9A-5.8.

SEDIMENT — Solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

SITE — The lot or lots upon which a major development is to occur or has occurred.

SOIL — All unconsolidated mineral and organic material of any origin which is not a rock substratum, including sediments below the biologically active and/or weathered zones.

SOURCE MATERIAL — Any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products;

waste materials; by-products; industrial machinery and fuels; and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

STORMWATER — Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

STORMWATER INFILTRATION BMP — A basin or other facility constructed within permeable soils that provides temporary storage of stormwater runoff. An infiltration BMP does not normally have a structural outlet to discharge runoff from the stormwater quality design storm. Instead, outflow from an infiltration BMP is through the surrounding soil. The terms "infiltration measure" and "infiltration practice" shall have the same meaning as "stormwater infiltration basin."

STORMWATER MANAGEMENT MEASURE — Any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal nonstormwater discharges into stormwater conveyances. This includes, but is not limited to, structural and nonstructural stormwater best management practices described in the New Jersey BMP Manual and designed to meet the standards for stormwater control contained within this Part 1. The terms "stormwater best management practice" and "stormwater BMP" shall have the same meaning as "stormwater management measure."

STORMWATER RUNOFF — Water flow on the surface of the ground or in storm sewers resulting from precipitation.

SUITABLE SOIL — Unsaturated soil, above the seasonally high water table, which contains less than 50% by volume of coarse fragments and which has a tested permeability rate of between one inch and 20 inches per hour.

SURFACE WATER — Any waters of the state which are not groundwater.

TIDAL FLOOD HAZARD AREA — A flood hazard area, which may be influenced by stormwater runoff from inland areas, but which is primarily caused by the Atlantic Ocean.

TIME OF CONCENTRATION — The time it takes for runoff to travel from the hydraulically most distant point of the drainage area to the point of interest within a watershed.

TOTAL SUSPENDED SOLIDS — The insoluble solid matter suspended in water and stormwater that is separable by laboratory filtration in accordance with the procedure contained in the Standard Methods for the Examination of Water and Wastewater prepared and published jointly by the American Public Health Association, American Water Works Association and the Water Pollution Control Federation. The term "TSS" shall have the same meaning as "total suspended solids."

WATERS OF THE STATE — The ocean and its estuaries, all springs, streams and bodies of surface and groundwater, whether natural or artificial, within the boundaries of New Jersey or subject to its jurisdiction.

WATER TABLE — The upper surface of a zone of saturation.

WELL — A bored, drilled or driven shaft, or a dug hole, which extends below the seasonally high water table and which has a depth which is greater than its largest surface dimension.

WETLANDS — Those lands which are inundated or saturated by water at a magnitude, duration and frequency sufficient to support the growth of hydrophytes. Wetlands include lands with poorly drained or very poorly drained soils as designated by the National Cooperative Soils Survey of the Soil Conservation Service of the United States Department of Agriculture. Wetlands include coastal wetlands and inland wetlands, including submerged lands. The New Jersey Pinelands Commission Manual for Identifying and Delineating Pinelands Area Wetlands: A Pinelands Supplement to the Federal Manual for identifying and Delineating Jurisdictional Wetlands, dated January 1991, as amended, may be utilized in delineating the extent of wetlands based on the definitions of wetlands and wetlands soils contained in this section, N.J.A.C. 7:50-2.11, 7:50-6.4 and 7:50-6.5. The term "wetland" shall have the same meaning as "wetlands."

WET POND — A stormwater facility constructed through filling and/or excavation that provides both permanent and temporary storage of stormwater runoff. It has an outlet structure that creates a permanent pool and detains and attenuates runoff inflows and promotes the settling of pollutants. A stormwater retention basin can also be designed as a multistage facility that also provides extended detention for enhanced stormwater quality design storm treatment and runoff storage and attenuation for stormwater quantity management. The term "stormwater retention basin" shall have the same meaning as "wet pond."

ARTICLE VIII

Penalties

§ 330-32. Violations and penalties.

Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this Part 1 shall be subject to the following penalties: imprisonment for a term of up to 90 days; a fine of up to \$2,000 per day, or a period of community services of up to 90 days. Whenever a fine is to be imposed in an amount greater than \$1,250 for violations of this Part 1, the owner shall be provided a thirty-day review period during which the owner shall be afforded the opportunity to cure or abate the condition and shall be afforded the opportunity for a hearing before a court of competent jurisdiction for an independent determination concerning the violation. Subsequent to the expiration of the thirty-day period, a fine greater than \$1,250 may be imposed if the court has not determined otherwise or, if upon reinspection of the property, it is determined that the abatement has not been substantially completed.

ARTICLE IX

Appendices**§ 330-33. Methods for calculating groundwater recharge.**

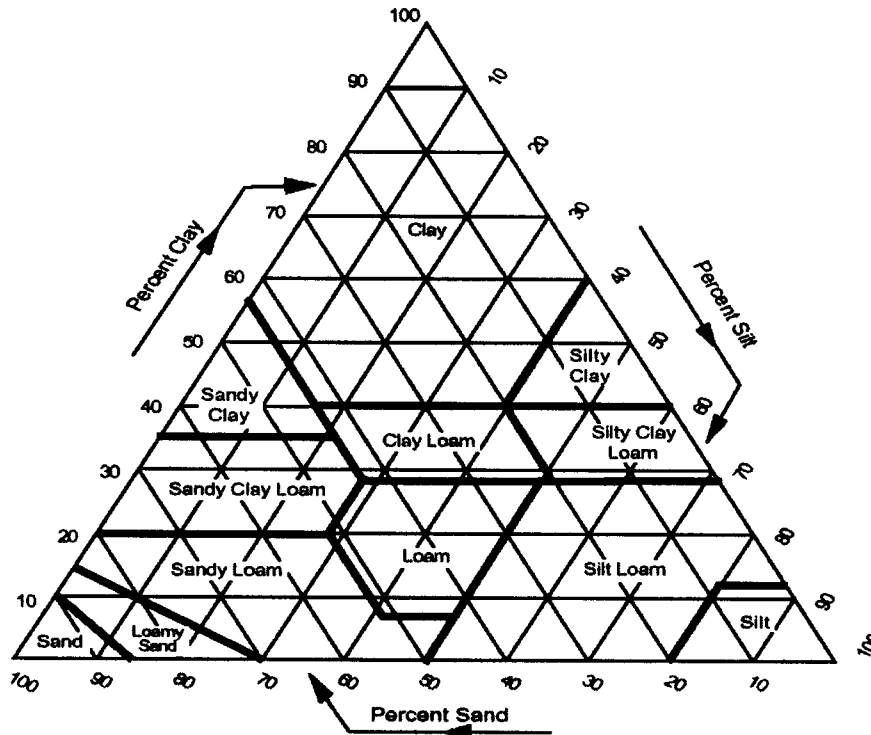
- A. The New Jersey Geological Survey Report GSR-32: A Method for Evaluating Groundwater Recharge Areas in New Jersey. Available at <http://www.njgeology.org/geodata/dgs99-2.htm>.
- B. The New Jersey Groundwater Recharge Spreadsheet (NJGRS). Available in the New Jersey BMP Manual, Chapter 6, at http://www.njstormwater.org/bmp_manual2.htm.

§ 330-34. NJDEP Nonstructural Strategies Point System.

The New Jersey Stormwater Management Rules at N.J.A.C. 7:8-5.2(a), and § 330-12 of this Part 1, require nonstructural stormwater management strategies to be incorporated into the site design of a major development. A total of nine strategies are to be used to the maximum extent practical to meet the groundwater recharge, stormwater quality and stormwater quantity requirements of the rules prior to utilizing structural stormwater management measures. The New Jersey Nonstructural Stormwater Management Strategies Point System (NSPS) provides a tool to assist planners, designers and regulators in determining that the strategies have been used to the maximum extent practical at a major development as required by the rules. Refer online to <http://www.njstormwater.org> for information on the NSPS.

§ 330-35. Soils.

- A. USDA soil textural triangle.



B. Definitions. For the purposes of this article, the following terms shall have the meanings herein ascribed to them.

A-HORIZON — The uppermost mineral horizon in a normal soil profile. The upper part of the A-horizon is characterized by maximum accumulation of finely divided, dark-colored organic residues, known as "humus," which are intimately mixed with the mineral particles of the soil.

ARTESIAN ZONE OF SATURATION — A zone of saturation which exists immediately below a hydraulically restrictive horizon, and which has an upper surface that is at a pressure greater than atmospheric, either seasonally or throughout the year.

CHROMA — The relative purity or strength of a color, a quantity which decreases with increasing grayness. Chroma is one of the three variables of soil color as defined in the Munsell system of classification.

CLAY — A particle size category consisting of mineral particles which are smaller than 0.002 millimeter in equivalent spherical diameter. Also, a soil textural class having more than 40% clay, less than 45% sand, and less than 40% silt, as shown in § 330-35A, USDA soil textural triangle.

CLAY LOAM — A soil textural class having 27% to 40% clay and 20% to 45% sand, as shown in § 330-35A, USDA soil textural triangle.

COARSE FRAGMENT — A rock fragment contained within the soil which is greater than two millimeters in equivalent spherical diameter or which is retained on a two-millimeter sieve.

COUNTY SOIL SURVEY REPORT — A report prepared by the U.S. Department of Agriculture, Natural Resources Conservation Service, which includes maps showing the distribution of soil mapping units throughout a particular county together with narrative descriptions of the soil series shown and other information relating to the uses and properties of the various soil series.

DIRECT SUPERVISION — Control over and direction of work carried out by others with full knowledge of and responsibility for such work.

EQUIVALENT SPHERICAL DIAMETER OF A PARTICLE — The diameter of a sphere which has a volume equal to the volume of the particle.

EXCESSIVELY COARSE HORIZON — A horizon of limited thickness within the soil profile which provides inadequate removal of pollutants from stormwater due to a high coarse fragment content, excessively coarse texture and/or excessively rapid permeability.

EXCESSIVELY COARSE SUBSTRATUM — A substratum below the soil profile which extends beyond the depth of soil profile pits and borings and which provides inadequate removal of pollutants from stormwater due to a high coarse fragment content, excessively coarse texture and/or excessively rapid permeability.

EXTREMELY FIRM CONSISTENCE — A type of soil material whose moist aggregated mass crushes only under very strong pressure; cannot be crushed between the thumb and forefinger and shall be broken apart bit by bit.

FIRM CONSISTENCE — A type of soil material whose moist aggregated mass crushes under moderate pressure between the thumb and forefinger but resistance is distinctly noticeable.

HARD CONSISTENCE — A type of soil material whose dry aggregated mass is moderately resistant to pressure; can be broken in the hands without difficulty but is barely breakable between the thumb and forefinger.

HUE — The dominant spectral color; one of the three variables of soil color defined within the Munsell system of classification.

HYDRAULICALLY RESTRICTIVE HORIZON — A horizon within the soil profile which slows or prevents the downward or lateral movement of water and which is underlain by permeable soil horizons or substrata. Any soil horizon which has a saturated permeability less than one inch per hour is hydraulically restrictive.

HYDRAULICALLY RESTRICTIVE SUBSTRATUM — A substratum below the soil profile which slows or prevents the downward or lateral movement of water and which extends beyond the depth of profile pits or borings or to a massive substratum. A substratum which has a saturated permeability less than one inch per hour is hydraulically restrictive.

LOAMY SAND — A soil textural class, as shown in § 330-35A, USDA soil textural triangle, that has a maximum of 85% to 90% sand with a percentage of silt plus 1.5 times the percentage of clay not in excess of 15%; or a minimum of 70% to 85% sand with a percentage of silt plus 1.5 times the percentage of clay not in excess of 30%.

LOWER PLASTIC LIMIT — The moisture content corresponding to the transition between the plastic and semisolid states of soil consistency. This corresponds to the lowest soil moisture content at which the soil can be molded in the fingers to form a rod or wire, 1/8 inch in thickness, without crumbling.

MOTTLING — A color pattern observed in soil consisting of blotches or spots of contrasting color. The term "mottle" refers to an individual blotch or spot. The terms "color variegation," "iron depletion" and "iron concentration" are equivalent to the term "mottling." Mottling due to redoximorphic reactions is an indication of seasonal or periodic and recurrent saturation.

MUNSELL SYSTEM — A system of classifying soil color consisting of an alphanumeric designation for hue, value and chroma, such as "7.5 YR 6/2," together with a descriptive color name, such as "strong brown."

O-HORIZON — A surface horizon, occurring above the A-horizon in some soils, which is composed primarily of undecomposed or partially decomposed plant remains which have not been incorporated into the mineral soil.

PERCHED ZONE OF SATURATION — A zone of saturation which occurs immediately above a hydraulically restrictive horizon and which is underlain by permeable horizons or substrata which are not permanently or seasonally saturated.

PIEZOMETER — A device consisting of a length of metal or plastic pipe, open at the bottom or perforated within a specified interval, and used for the determination of depth to water, permeability or hydraulic head within a specific soil horizon or substratum.

PLATY STRUCTURE — Characterized by a soil aggregate which has one axis distinctly shorter than the other two and is oriented with the short axis vertical.

REGIONAL ZONE OF SATURATION — A zone of saturation which extends vertically without interruption below the depth of soil borings and profile pits.

SANDY CLAY — A soil textural class having 35% or more of clay and 45% or more of sand, as shown in § 330-35A, USDA soil textural triangle.

SANDY LOAM — A soil textural class, as shown in § 330-35A, USDA soil textural triangle, that has a maximum of 20% clay, and the percentage of silt plus twice the percentage of clay exceeds 30%, and contains 52% or more sand; or less than 7% clay, less than 50% silt, and between 43% and 52% sand.

SILT — A particle size category consisting of mineral particles which are between 0.002 millimeter and 0.05 millimeter in equivalent spherical diameter. It also means a soil textural class having 80% or more of silt and 12% or less of clay, as shown in § 330-35A, USDA soil textural triangle.

SILT LOAM — A soil textural class having 50% or more of silt and 12% to 27% of clay; or 50% to 80% of silt and less than 12% of clay, as shown in § 330-35A, USDA soil textural triangle.

SILTY CLAY — A soil textural class having 40% or more of clay and 40% or more of silt, as shown in § 330-35A, USDA soil textural triangle.

SILTY CLAY LOAM — A soil textural class having 27% to 40% of clay and less than 20% of sand, as shown in § 330-35A, USDA soil textural triangle.

SOIL AGGREGATE — A naturally occurring unit of soil structure consisting of particles of sand, silt, clay, organic matter, and coarse fragments held together by the natural cohesion of the soil.

SOIL COLOR — The soil color name and Munsell color designation determined by comparison of the moist soil with color chips contained in a Munsell soil color book.

SOIL CONSISTENCE — The resistance of a soil aggregate or clod to being crushed between the fingers or broken by the hands. Terms for describing soil consistence described are in N.J.A.C. 7:9A-5.3(h).

SOIL HORIZON — A layer within a soil profile differing from layers of soil above and below it in one or more of the soil morphological characteristics, including color, texture, coarse fragment content, structure, consistence and mottling.

SOIL LOG — A description of the soil profile which includes the depth, thickness, color, texture, coarse fragment content, mottling, structure and consistence of each soil horizon or substratum.

SOIL MAPPING UNIT — An area outlined on a map in a County Soil Survey Report and marked with a letter symbol designating a soil phase, a complex of two or more soil phases, or some other descriptive term where no soil type has been identified.

SOIL PHASE — A specific type of soil which is mapped by the Natural Resources Conservation Service and which belongs to a soil series described within the County Soil Survey Report.

SOIL PROFILE — A vertical cross section of undisturbed soil showing the characteristic horizontal layers or horizons of the soil which have formed as a result of the combined effects of parent material, topography, climate, biological activity and time.

SOIL SERIES — A grouping of soil types possessing a specific range of soil profile characteristics which are described within the County Soil Survey Report. Each soil series may consist of several soil phases which may differ in slope, texture of the surface horizon or stoniness.

SOIL STRUCTURAL CLASS — One of the shape classes of soil structure described in N.J.A.C. 7:9A-5.3(g).

SOIL STRUCTURE — The naturally occurring arrangement, within a soil horizon, of sand, silt and clay particles, coarse fragments and organic matter, which are held together in clusters or aggregates of similar shape and size.

SOIL TEST PIT — An excavation made for the purpose of exposing a soil profile which is to be described.

SOIL TEXTURAL CLASS — One of the classes of soil texture defined within the USDA system of classification (Soil Survey Manual, Agricultural Handbook No. 18, USDA Soil Conservation Service 1962).

SOIL TEXTURE — The relative proportions of sand, silt and clay in that portion of the soil which passes through a sieve with two-millimeter openings.

STATIC WATER LEVEL — The depth below the ground surface or the elevation with respect to some reference level, of the water level observed within a soil profile pit or boring, or within a piezometer, after this level has stabilized or become relatively constant with the passage of time.

SUBSTRATUM — A layer of soil or rock material present below the soil profile and extending beyond the depth of soil borings or profile pits.

UNSUITABLE SOIL — All soil other than suitable soil.

USDA SYSTEM OF CLASSIFICATION — The system of classifying soil texture used by the United States Department of Agriculture which defines 12 soil textural classes based upon the weight percentages of sand, silt and clay in that portion of the soil which passes through a sieve with two-millimeter openings. The soil textural classes are shown graphically on the USDA Soil Textural Triangle, as shown in § 330-35A.

VALUE — The relative lightness or intensity of a color; one of the three variables of soil color defined within the Munsell system of classification.

VERY FIRM CONSISTENCE — Characterized by a moist soil which crushes under strong pressure; barely crushable between thumb and forefinger.

VERY HARD CONSISTENCE — Characterized by a dry soil which is resistant to pressure, can be broken in the hands only with difficulty; not breakable between the thumb and forefinger.

ZONE OF SATURATION — A layer within or below the soil profile which is saturated with groundwater, either seasonally or throughout the year. This includes both regional and perched zones.

C. Methods for assessing soil suitability for infiltration stormwater management BMPs. The results of a subsurface investigation shall serve as the basis for the site selection and design of stormwater infiltration BMPs. The subsurface investigation shall include, but not be limited to, a series of soil test pits and soil permeability tests conducted in accordance with the following:

- (1) All soil test pits and soil permeability results shall be performed under the direct supervision of a professional engineer. All soil logs and permeability test data shall be accompanied by a certification by a professional engineer. The results and location (horizontal and vertical) of all soil test pits and soil permeability tests, both passing and failing, shall be reported to the City.
- (2) During all subsurface investigations and soil test procedures, adequate safety measures shall be taken to prohibit unauthorized access to the excavations at all times. It is the responsibility of persons performing or witnessing subsurface investigations and soil permeability tests to comply with all applicable federal, state and local laws and regulations governing occupational safety.
- (3) A minimum of two soil test pits shall be excavated within the footprint of any proposed infiltration BMP to determine the suitability and distribution of soil

types present at the site. Placement of the test pits shall be within 20 feet of the basin perimeter, located along the longest axis bisecting the BMP. For BMPs larger than 10,000 square feet in area, a minimum of one additional soil test pit shall be conducted within each additional area of 10,000 square feet. The additional test pit(s) shall be placed approximately equidistant to other test pits, so as to provide adequate characterization of the subsurface material. In all cases, where soil and or groundwater properties vary significantly, additional test pits shall be excavated in order to accurately characterize the subsurface conditions below the proposed infiltration BMP. Soil test pits shall extend to a minimum depth of eight feet below the lowest elevation of the basin bottom or to a depth that is at least two times the maximum potential water depth in the proposed infiltration BMP, whichever is greater.

- (4) A soil test pit log shall be prepared for each soil test pit. The test pit log shall, at a minimum, provide the elevation of the existing ground surface, the depth and thickness (in inches) of each soil horizon or substratum, the dominant matrix or background and mottle colors using the Munsell system of classification for hue, value and chroma, the appropriate textural class as shown on the USDA textural triangle, the volume percentage of coarse fragments (larger than two millimeters in diameter), the abundance, size, and contrast of mottles, the soil structure, soil consistence, and soil moisture condition, using standard USDA classification terminology for each of these soil properties. Soil test pit logs shall identify the presence of any soil horizon, substratum or other feature that exhibits an in-place permeability rate less than one inch per hour.
- (5) Each soil test pit log shall report the depth to seasonally high water level, either perched or regional, and the static water level based upon the presence of soil mottles or other redoximorphic features, and observed seepage or saturation. Where redoximorphic features, including soil mottles resulting from soil saturation are present, they shall be interpreted to represent the depth to the seasonal high water table unless soil saturation or seepage is observed at a higher level. When the determination of the seasonally high water table shall be made in ground previously disturbed by excavation, direct observation of the state water table during the months of January through April shall be the only method permitted.
- (6) Any soil horizon or substratum which exists immediately below a perched zone of saturation shall be deemed by rule to exhibit unacceptable permeability (less than one inch per hour). The perched zone of saturation may be observed directly, inferred based upon soil morphology, or confirmed by performance of an hydraulic head test as defined at N.J.A.C. 7:9A-5.9.
- (7) Stormwater infiltration BMPs shall not be installed in soils that exhibit artesian groundwater conditions. A permeability test shall be conducted in all soils that immediately underlie a perched zone of saturation. Any zone of saturation which is present below a soil horizon which exhibits an in-place permeability of less than 0.2 inch per hour shall be considered an artesian zone of saturation unless a minimum one-foot-thick zone of unsaturated soil, free of mottling or other redoximorphic features and possessing a chroma of four or higher, exists immediately below the unsuitable soil.

- (8) A minimum of one permeability test shall be performed at each soil test pit location. The soil permeability rate shall be determined using test methodology as prescribed in N.J.A.C. 7:9A-6.2 (tube permeameter test), 6.5 (pit bailing test) or 6.6 (piezometer test). When the tube permeameter test is used, a minimum of two replicate samples shall be taken and tested. Alternative permeability test procedures may be accepted by the approving authority, provided the test procedure attains saturation of surrounding soils, accounts for hydraulic head effects on infiltration rates, provides a permeability rate with units expressed in inches per hour and is accompanied by a published source reference. Examples of suitable sources include hydrogeology, geotechnical or engineering text and design manuals, proceedings of American Society for Testing and Materials (ASTM) symposia, or peer-review journals. Neither a soil permeability class rating test, as described in N.J.A.C. 7:9A-6.3, nor a percolation test, as described in N.J.A.C. 7:9A-6.4, are acceptable tests for establishing permeability values for the purpose of complying with this Part 1.
- (9) Soil permeability tests shall be conducted on the most hydraulically restrictive horizon or substratum to be left in place below the basin as follows. Where no soil replacement is proposed, the permeability tests shall be conducted on the most hydraulically restrictive horizon or substratum within four feet of the lowest elevation of the basin bottom or to a depth equal to two times the maximum potential water depth within the basin, whichever is greater. Where soil replacement is proposed, the permeability tests shall be conducted within the soil immediately below the depth of proposed soil replacement or within the most hydraulically restrictive horizon or substratum to a depth equal to two times the maximum potential water depth within the basin, whichever is greater. Permeability tests may be performed on the most hydraulically restrictive soil horizons or substrate at depths greater than those identified above based upon the discretion of the design or testing engineer. The tested infiltration rate should then be divided by two to establish the soil's design permeability rate. Such division will provide a safety factor of 100% to the tested rate.
- (10) The minimum acceptable tested permeability rate of any soil horizon or substratum shall be one inch per hour. Soil materials that exhibit tested permeability rates slower than one inch per hour shall be considered unsuitable for stormwater infiltration. The maximum reportable tested permeability rate of any soil horizon or substratum shall be no greater than 20 inches per hour regardless of the rate attained in the test procedure.
- (11) After all construction activities have been completed on the development site and the finished grade has been established in the infiltration BMP, a minimum of one permeability test shall be conducted within the most hydraulically restrictive soil horizon or substratum below the as-built BMP to ensure the performance of the infiltration BMP is as designed. Hand tools and manual permeability test procedures shall be used for the purpose of confirming BMP performance. In addition, the infiltration BMP shall be flooded with water sufficient to demonstrate the performance of the BMP. Test results shall be certified to the City's designated engineer.

- (12) A groundwater mounding analysis shall be provided for each stormwater infiltration BMP. The groundwater mounding analysis shall calculate the maximum height of the groundwater mound based upon the volume of the maximum design storm. The professional engineer conducting the analysis shall provide the City's designated engineer with the methodology and supporting documentation for the mounding analysis used and shall certify to the City, based upon the analysis, that the groundwater mound will not cause stormwater or groundwater to breakout to the land surface or cause adverse impact to adjacent surface water bodies, wetlands or subsurface structures, including, but not limited to, basements and septic systems. If there is more than one infiltration BMP proposed, the model shall indicate if and how the mounds will interact. The mounding analysis shall be calculated using the most restrictive soil horizon that will remain in place within the explored aquifer thickness unless alternative analyses is authorized by the City's designated engineer. The mounding analysis shall be accompanied by a cross section of the infiltration BMP and surrounding topography and the mound analysis shall extend out to the point(s) at which the mound intersects with the preexisting maximum water table elevation.
- (13) The applicant shall demonstrate that stormwater infiltration BMPs meet the seventy-two-hour drain time requirement established in § 330-21A of this Part 1.

§ 330-36. Pretreatment measures for infiltration BMPs.

By reducing incoming velocities and capturing coarser sediments, pretreatment can extend the functional life and increase the pollutant removal capability of infiltration measures. Therefore, the installation of pretreatment measures is recommended for all development sites. Pretreatment measures may include, but are not limited to, the following:

- A. Vegetative filter strips;
- B. Bioretention systems. Used in conjunction with a bioretention system, the infiltration basin takes the place of the standard underdrain;
- C. Sand filters;
- D. Grassed swales; and
- E. Detention basins.

§ 330-37. Collection and conveyance.

- A. Bicycle-safe inlet grates. Site development plans that incorporate site design features that help to prevent discharge of trash and debris from drainage systems shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this subsection, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids.
 - (1) Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

- (a) The New Jersey Department of Transportation (NJDOT) bicycle-safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
 - (b) A different grate, if each individual clear space in that grate has an area of no more than seven square inches, or is no greater than 0.5 inch across the smallest dimension. Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.
- (2) Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven square inches, or be no greater than two inches across the smallest dimension.
 - (3) This standard does not apply:
 - (a) Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
 - (b) Where flows from the water quality design storm as specified in Article III are conveyed through any device (e.g., end-of-pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - [1] A rectangular space 4 5/8 inches long 1.5 inches wide (This option does not apply for outfall netting facilities.); or
 - [2] A bar screen having a bar spacing of 0.5 inch.
 - (c) Where flows are conveyed through a trash rack that has parallel bars with one-inch spacing between the bars, to the elevation of the water quality design storm as specified in Article III of this Part 1; or
 - (d) Where the NJDEP determines pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.
- B. Catch basins. Catch basins are storm drain inlets with or without sumps. Catch basins may provide pretreatment for other stormwater BMPs by capturing large sediments. The sediment and pollutant removal efficiency of catch basins depends on the size of the sump and the performance of routine maintenance to retain the available sediment storage space in the sump. Where catch basins with sumps are proposed, the minimum two-foot separation between the bottom of the sump and seasonally high water table shall be provided.

- C. Open or perforated conveyance piping. Where adequate separation to the seasonal high water table exists, stormwater from the development site may be conveyed to a stormwater basin via a system of perforated pipes. These pipes may be made of PVC or corrugated metal and are available with perforations of varying size and spacing. Perforated pipe specifications shall be certified by a professional engineer. A professional engineer shall certify that perforated conveyance piping will not act to intercept the seasonal high water table and convey groundwater to the stormwater basin. All open or perforated stormwater conveyance systems shall be installed with a minimum separation of two feet from the seasonal high water table.

ARTICLE X

Additional Sources for Technical Guidance

§ 330-38. NJDEP technical guidance sources.

- A. New Jersey BMP Manual. Available from the Division of Watershed Management, New Jersey Department of Environmental Protection, P.O. Box 418, Trenton, New Jersey 08625; or online at <http://www.njstormwater.org>.
- B. NJDEP Stormwater Management Facilities Maintenance Manual. Available from the Division of Watershed Management, New Jersey Department of Environmental Protection, PO Box 418, Trenton, New Jersey 08625; or online at <http://njedl.rutgers.edu/ftp/PDFs/1188.pdf>.

§ 330-39. Additional guidance sources.

- A. New Jersey Pinelands Commission, P.O. Box 7, 15 Springfield Road, New Lisbon, New Jersey 08064; phone: 609-894-7300; website: <http://www.state.nj.us/pinelands>.
- B. State Soil Conservation Committee Standards for Soil Erosion and Sediment Control in New Jersey. Available from all State Soil Conservation Districts (including Cape Atlantic Soil Conservation Districts, 6260 Old Harding Highway; Mays Landing, New Jersey 08330, 609-625-7000, ext. 6154, Education Line: 609-625-1517, Fax: 609-625-7360, <http://www.capeatlantic.org>).
- C. Cape Atlantic Soil Conservation Districts, 6260 Old Harding Highway, Mays Landing, New Jersey 08330, 609-625-7000, ext. 6154, Education Line: 609-625-1517, Fax: 609-625-7360, <http://www.capeatlantic.org>.
- D. New Jersey Department of Transportation, P.O. Box 600, Trenton, NJ 08625-0600; phone: 609-530-3536; website: <http://www.state.nj.us/transportation>.

Part 2

Locations Outside Pinelands Management Areas

[Adopted 2-7-2007 by Ord. No. 03-2007 (Ch. XVIII, Part 2, of the 1974 Revised General Ordinances)]

ARTICLE XI
Scope and Purpose

§ 330-40. Policy statement.

Flood control, groundwater recharge, and pollutant reduction through nonstructural or low-impact techniques shall be explored before relying on structural best management practices (BMPs). Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

§ 330-41. Purpose.

It is the purpose of this Part 2 to establish minimum stormwater management requirements and controls for major development, as defined in Article XII.

§ 330-42. Applicability.

- A. This Part 2 shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:
- (1) Nonresidential major developments; and
 - (2) Aspects of residential major developments that are not preempted by the residential site improvement standards at N.J.A.C. 5:21.
- B. This Part 2 shall also be applicable to all major developments undertaken by the City of Estell Manor (the City).

§ 330-43. Compatibility with other permit and ordinance requirements.

Development approvals issued for subdivisions and site plans pursuant to this Part 2 are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this Part 2 shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This Part 2 is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulations, statute, or other provision of law except that, where any provision of this Part 2 imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

ARTICLE XII

Definitions**§ 330-44. Usage.**

Unless specifically defined below, words or phrases used in this Part 2 shall be interpreted so as to give them the meaning they have in common usage and to give this Part 2 its most reasonable application. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

§ 330-45. Terms defined.

As used in this Part 2, the following terms shall have the meanings indicated:

CAFRA PLANNING MAP — The geographic depiction of the boundaries for Coastal Planning Areas, CAFRA Centers, CAFRA Cores and CAFRA Nodes pursuant to N.J.A.C. 7:7E-5B.3.⁵

CAFRA CENTERS, CORES OR NODES — Those areas within boundaries accepted by the Department pursuant to N.J.A.C. 7:7E-5B.⁶

CITY — The City of Estell Manor.

COMPACTION — The increase in soil bulk density.

CORE — A pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

COUNTY REVIEW AGENCY — An agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

- A. A county planning agency; or
- B. A county water resource association created under N.J.S.A. 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

DEPARTMENT — The New Jersey Department of Environmental Protection.

DESIGNATED CENTER — A State Development and Redevelopment Plan Center as designated by the State Planning Commission, such as urban, regional, town, village, or hamlet.

DESIGN ENGINEER — A person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

5. Editor's Note: The provisions of N.J.A.C. 7:7E et seq. were repealed 7-6-2015 by R.2015 d.108.

6. Editor's Note: The provisions of N.J.A.C. 7:7E et seq. were repealed 7-6-2015 by R.2015 d.108.

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 structure, 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, by any person, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural lands, "development" means any activity that requires a state permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act., N.J.S.A. 4:1C-1 et seq.

DRAINAGE AREA — A geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving water body or to a particular point along a receiving water body.

ENVIRONMENTALLY CRITICAL AREAS — An area or feature which is of significant environmental value, including but not limited to, stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and wellhead protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

EMPOWERMENT NEIGHBORHOOD — A neighborhood designated by the Urban Coordinating Council in consultation and conjunction with the New Jersey Redevelopment Authority pursuant to N.J.S.A. 55:19-69.

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

IMPERVIOUS SURFACE — A surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

INFILTRATION — The process by which water seeps into the soil from precipitation.

MAJOR DEVELOPMENT — Any development that provides for ultimately disturbing one or more acres of land. "Disturbance" for the purpose of this definition is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.

MUNICIPALITY — Any city, borough, town, township, or village.

NODE — An area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

NUTRIENT — A chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

PERSON — Any individual, corporation, company, partnership, firm, association, the City of Estell Manor, or political subdivision of this state subject to municipal jurisdiction pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

POLLUTANT — Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance [except those regulated under the Atomic

Energy Act of 1954, as amended (42 U.S.C.A. § 2011 et seq.), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, groundwaters or surface waters of the state, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

RECHARGE — The amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

SEDIMENT — Solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

SITE — The lot or lots upon which a major development is to occur or has occurred.

SOIL — All unconsolidated mineral and organic material of any origin.

STATE DEVELOPMENT AND REDEVELOPMENT PLAN METROPOLITAN PLANNING AREA (PA1) — An area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state's future redevelopment and revitalization efforts.

STATE PLAN POLICY MAP — The geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the Official Map of these goals and policies.

STORMWATER — Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

STORMWATER MANAGEMENT BASIN — An excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

STORMWATER MANAGEMENT MEASURE — Any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal nonstormwater discharges into stormwater conveyances.

STORMWATER RUNOFF — Water flow on the surface of the ground or in storm sewers, resulting from precipitation.

TIDAL FLOOD HAZARD AREA — A flood hazard area, which may be influenced by stormwater runoff from inland areas, but which is primarily caused by the Atlantic Ocean.

URBAN COORDINATING COUNCIL EMPOWERMENT NEIGHBORHOOD — A neighborhood given priority access to state resources through the New Jersey Redevelopment Authority.

URBAN ENTERPRISE ZONES — A zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et seq.

URBAN REDEVELOPMENT AREA — Previously developed portions of areas:

- A. Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
- B. Designated as CAFRA Centers, Cores or Nodes;
- C. Designated as Urban Enterprise Zones; and
- D. Designated as Urban Coordinating Council Empowerment Neighborhoods.

WATERS OF THE STATE — The ocean and its estuaries, all springs, streams, wetlands, and bodies of surface water or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

WETLANDS or WETLAND — An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

ARTICLE XIII

Design and Performance Standards for Stormwater Management Measures

§ 330-46. Major development stormwater management measures.

Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in Article XIV. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.

§ 330-47. Applicability of standards.

The standards in this Part 2 apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or water quality management plan adopted in accordance with Department rules. [Note: Alternative standards shall provide at least as much protection from stormwater-related loss of groundwater recharge stormwater quantity and water quality impacts of major development projects as would be provided under the standards in N.J.A.C. 7:8-5.]

ARTICLE XIV

Requirements for Major Development**§ 330-48. Maintenance plan required.**

The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with Article XX.

§ 330-49. Protection of habitats for threatened and endangered species.

Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 13:1B-15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlenbergi* (bog turtle).

§ 330-50. Exempt projects.

The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of §§ 330-53 and 330-54:

- A. The construction of an underground utility line, provided that the disturbed areas are revegetated upon completion;
- B. The construction of an aboveground utility line, provided that the existing conditions are maintained to the maximum extent practicable; and
- C. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.

§ 330-51. Conditions for waivers from strict compliance.

A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of §§ 330-53 and 330-54 may be obtained for the enlargement of an existing public roadway or railroad, or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:

- A. The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
- B. The applicant demonstrates through an alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of §§ 330-53 and 330-54 to the maximum extent practicable;
- C. The applicant demonstrates that, in order to meet the requirements of §§ 330-53 and 330-54 existing structures currently in use, such as homes and buildings, would need to be condemned; and

- D. The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under § 330-51C above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of §§ 330-53 and 330-54 that were not achievable on site.

§ 330-52. Nonstructural stormwater management strategies.

- A. To the maximum extent practicable, the standards in §§ 330-53 and 330-54 shall be met by incorporating nonstructural stormwater management strategies set forth at § 330-52 into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in § 330-52B below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.
- B. Nonstructural stormwater management strategies incorporated into site design shall:
- (1) Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
 - (2) Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
 - (3) Maximize the protection of natural drainage features and vegetation;
 - (4) Minimize the decrease in the time of concentration from preconstruction to post-construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;
 - (5) Minimize land disturbance, including clearing and grading;
 - (6) Minimize soil compaction;
 - (7) Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;
 - (8) Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;
 - (9) Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:
 - (a) Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy § 330-52C below;
 - (b) Site design features that help to prevent discharge of trash and debris from drainage systems;

- (c) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
 - (d) When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.
- C. Site design features identified under § 330-52B(9)(a) above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this subsection, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see § 330-52C(3) below.
- (1) Grates.
 - (a) Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - [1] The New Jersey Department of Transportation (NJDOT) bicycle-safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
 - [2] A different grate, if each individual clear space in that grate has an area of no more than 7.0 square inches, or is no greater than 0.5 inch across the smallest dimension.
 - (b) Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.
 - (2) Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than 7.0 square inches, or be no greater than 2.0 inches across the smallest dimension.
 - (3) This standard does not apply:
 - (a) Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
 - (b) Where flows from the water quality design storm as specified in § 330-54A are conveyed through any device (e.g., end-of-pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

- [1] A rectangular space 4 5/8 inches long and 1 1/2 inches wide (This option does not apply for outfall netting facilities.); or
 - [2] A bar screen having a bar spacing of 0.5 inch.
- (c) Where flows are conveyed through a trash rack that has parallel bars with one-inch spacing between the bars, to the elevation of the water quality design storm as specified in § 330-54A; or
 - (d) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register-listed historic property.
- D. Any land area used as a nonstructural stormwater management measure to meet the performance standards in §§ 330-53 and 330-54 shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.
- E. Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Article XVII, or found on the Department's website at www.njstormwater.org.

§ 330-53. Erosion control, groundwater recharge and runoff quantity standards.

- A. This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.
- (1) The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.
 - (2) The minimum design and performance standards for groundwater recharge are as follows:
 - (a) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at Article XV, either:
 - [1] Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100% of the average annual preconstruction groundwater recharge volume for the site; or
 - [2] Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from preconstruction to post-construction for the two-year storm is infiltrated.

- (b) This groundwater recharge requirement does not apply to projects within the urban redevelopment area, or to projects subject to § 330-53A(2)(c) below.
- (c) The following types of stormwater shall not be recharged:
 - [1] Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department-approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and
 - [2] Industrial stormwater exposed to source material. "Source material" means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.
- (d) The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or downgradient of the groundwater recharge area.
- (3) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at Article XV complete one of the following:
 - (a) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two-, ten-, and one-hundred-year storm events do not exceed, at any point in time, the preconstruction runoff hydrographs for the same storm events;
 - (b) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the preconstruction condition, in the peak runoff rates of stormwater leaving the site for the two-, ten-, and one-hundred-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the

site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;

- (c) Design stormwater management measures so that the post-construction peak runoff rates for the two-, ten-, and one-hundred-year storm events are 50%, 75% and 80%, respectively, of the preconstruction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to post-construction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or
 - (d) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with § 330-53A(3)(a), (b) and (c) above shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.
- B. Any application for a new agricultural development that meets the definition of "major development" at Article XII shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this section, "agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

§ 330-54. Stormwater runoff quality standards.

- A. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80% of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4 acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may take into account the implementation of nonstructural and structural stormwater management measures.

Table 1			
Water Quality Design Storm Distribution¹			
Time (minutes)	Cumulative Rainfall (inches)	Time (minutes)	Cumulative Rainfall (inches)
0	0.0000	65	0.8917
5	0.0083	70	0.9917
10	0.0166	75	1.0500
15	0.0250	80	1.0840
20	0.0500	85	1.1170
25	0.0750	90	1.1500
30	0.1000	95	1.1750
35	0.1330	100	1.2000
40	0.1660	105	1.2250
45	0.2000	110	1.2334
50	0.2583	115	1.2417
55	0.3583	120	1.2500
60	0.6250		

- B. For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Article XVII, or found on the Department's website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in Article XVII. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, P.O. Box 418, Trenton, New Jersey 08625-0418.
- C. If more than one BMP in series is necessary to achieve the required TSS reduction of 80% for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (AXB)/100$$

Where:

- R = Total TSS percent load removal from application of both BMPs.
 A = The TSS percent removal rate applicable to the first BMP.

B = The TSS percent removal rate applicable to the second BMP.

Table 2: TSS Removal Rates for BMPs

Best Management Practice	TSS Percent Removal Rate
Bioretention systems	90%
Constructed stormwater wetland	90%
Extended detention basin	40% to 60%
Infiltration structure	80%
Manufactured treatment device	See § 330-59.
Sand filter	80%
Vegetative filter strip	60% to 80%
Wet pond	50% to 90%

- D. If there is more than one on-site drainage area, the eighty-percent TSS removal rate shall apply to each drainage area, unless the runoff from the subareas coverage on site, in which case the removal rate can be demonstrated through a calculation using a weighted average.
- E. Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in §§ 330-53 and 330-54.
- F. Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in Article XVII.
- G. In accordance with the definition of "FW1" at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
- H. Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:
 - (1) The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:

- (a) A three-hundred-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the center line of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession is provided.
 - (b) Encroachment within the designated special water resource protection area under § 330-54H(1)(a) above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or center line of the waterway where the bank is undefined. All encroachments proposed under this subsection shall be subject to review and approval by the Department.
- (2) All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the standard for off-site stability in the Standards For Soil Erosion and Sediment Control in New Jersey, established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.
 - (3) If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the standard for off-site stability in the Standards for Soil Erosion and Sediment Control in New Jersey, established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:
 - (a) Stabilization measures shall not be placed within 150 feet of the Category One waterway;
 - (b) Stormwater associated with discharges allowed by this section shall achieve a TSS post-construction removal rate of 95%;
 - (c) Temperature shall be addressed to ensure no impact on the receiving waterway;
 - (d) The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;
 - (e) A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and
 - (f) All encroachments proposed under this section shall be subject to review and approval by the Department.

- (4) A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to § 330-54H has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to § 330-54H shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in § 330-54H(1)(a) above. In no case shall a stream corridor protection plan allow the reduction of the special water resource protection area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.
- (5) Section 330-54H does not apply to the construction of one individual single-family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.

ARTICLE XV

Calculation of Runoff and Groundwater Recharge

§ 330-55. Calculation of stormwater runoff.

Stormwater runoff shall be calculated in accordance with the following:

- A. The design engineer shall calculate runoff using one of the following methods:
 - (1) The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 — Hydrology and Technical Release 55 — Urban Hydrology for Small Watersheds; or
 - (2) The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.
- B. For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the preconstruction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology at § 330-55A(1) and the Rational and Modified Rational Methods § 330-55A(2). A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover has existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).

- C. In computing preconstruction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts, that may reduce preconstruction stormwater runoff rates and volumes.
- D. In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 - Urban Hydrology for Small Watersheds and other methods may be employed.
- E. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

§ 330-56. Calculation of groundwater recharge.

Groundwater recharge may be calculated in accordance with the following: The New Jersey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at <http://www.state.nj.us/dep/njgs/>; or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427, Trenton, New Jersey 08625-0427; 609-984-6587.

ARTICLE XVI

Standards for Structural Stormwater Management Measures

§ 330-57. Standards.

Standards for structural stormwater management measures are as follows:

- A. Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas; wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).
- B. Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one-inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm the parallel bars at the outlet structure shall be spaced no greater than 1/3 the width of the diameter of the orifice or 1/3 the width of the weir, with a minimum spacing between bars of one inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of § 330-63.

- C. Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the residential site improvement standards at N.J.A.C. 5:21-7.3, 5:21-7.4, and 5:21-7.5 shall be deemed to meet this requirement.
- D. At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of 2 1/2 inches in diameter.
- E. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at Article XVIII.

§ 330-58. Stormwater management measure guidelines.

Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized, provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by Article XIV of this Part 2.

§ 330-59. Manufactured treatment devices.

Manufactured treatment devices may be used to meet the requirements of Article XIV of this Part 2, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

ARTICLE XVII

Sources for Technical Guidance

§ 330-60. Location of technical guidance sources.

Technical guidance for stormwater management measures can be found in the documents listed at § 330-60A and B below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey 08625; telephone 609-777-1038.

- A. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.
- B. The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.

§ 330-61. Additional locations for technical guidance sources.

Additional technical guidance for stormwater management measures can be obtained from the following:

- A. The Standards for Soil Erosion and Sediment Control in New Jersey promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)3. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; 609-292-5540;
- B. The Rutgers Cooperative Extension Service, 732-932-9306; and
- C. The Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)3. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; 609-292-5540.

ARTICLE XVIII**Safety Standards for Stormwater Management Basins****§ 330-62. Purpose; applicability.**

This article sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin.

§ 330-63. Requirements for trash racks, overflow grates and escape provisions.

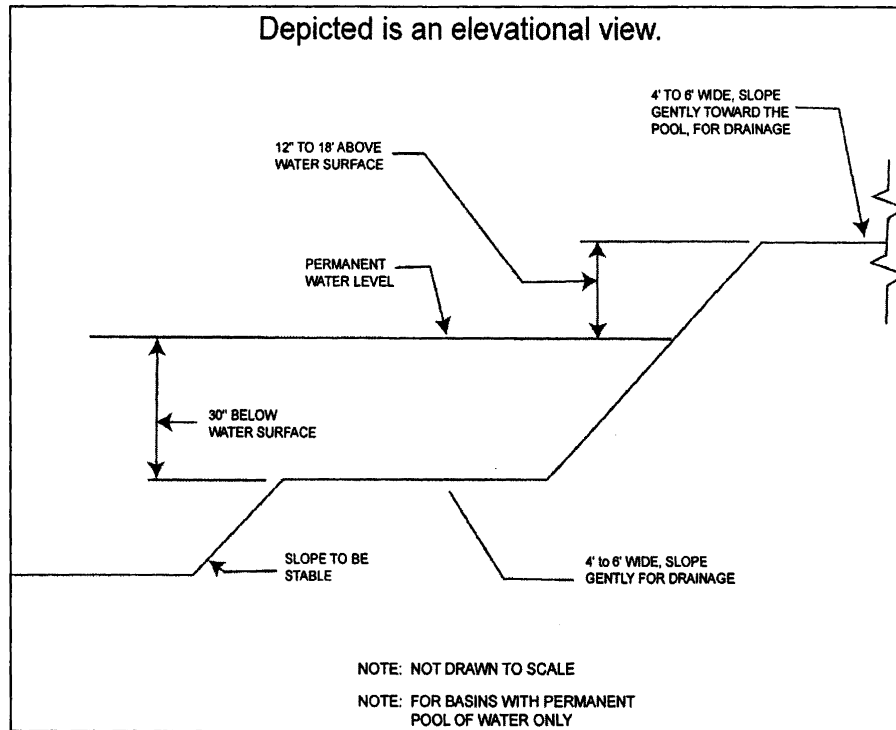
- A. A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:
 - (1) The trash rack shall have parallel bars, with no greater than six-inch spacing between the bars.
 - (2) The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.
 - (3) The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.
 - (4) The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.

- B. An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
- (1) The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
 - (2) The overflow grate spacing shall be no less than two inches across the smallest dimension.
 - (3) The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.
- C. For purposes of this § 330-63C, "escape provisions" means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:
- (1) If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in § 330-64, a freestanding outlet structure may be exempted from this requirement.
 - (2) Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than 2 1/2 feet. Such safety ledges shall be comprised of two steps. Each step shall be four feet to six feet in width. One step shall be located approximately 2 1/2 feet below the permanent water surface, and the second step shall be located one foot to 1 1/2 feet above the permanent water surface. See § 330-65 for an illustration of safety ledges in a stormwater management basin.
 - (3) In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical.

§ 330-64. Variance or exemption from safety standards.

A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency (municipality, county or department) that the variance or exemption will not constitute a threat to public safety.

§ 330-65. Illustration of safety ledges in a new stormwater management basin.



ARTICLE XIX

Requirements for Site Development Stormwater Plan

§ 330-66. Submission of site development stormwater plan.

- A. Whenever an applicant seeks municipal approval of a development subject to this Part 2, the applicant shall submit all of the required components of the checklist for the site development stormwater plan at § 330-68 below as part of the submission of the applicant's application for subdivision or site plan approval.
- B. The applicant shall demonstrate that the project meets the standards set forth in this Part 2.
- C. The applicant shall submit three copies of the materials listed in the checklist for site development stormwater plans in accordance with § 330-68 of this Part 2.

§ 330-67. Site development stormwater plan approval.

The applicant's site development project shall be reviewed as a part of the subdivision or site plan review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the engineer retained by the Planning Board to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this Part 2.

§ 330-68. Checklist requirements.

The following information shall be required:

- A. Topographic base map. The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of one inch equals 200 feet or greater, showing two-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and floodplains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and man-made features not otherwise shown.
- B. Environmental site analysis. A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.
- C. Project description and site plan(s). A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.
- D. Land use planning and source control plan. This plan shall provide a demonstration of how the goals and standards of Articles XIII through XVI are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.
- E. Stormwater management facilities map. The following information, illustrated on a map of the same scale as the topographic base map, shall be included:
 - (1) Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
 - (2) Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.
- F. Calculations.

- (1) Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Article XIV of this Part 2.
 - (2) When the proposed stormwater management control measures (e.g., infiltration basins) depends on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.
- G. Maintenance and repair plan. The design and planning of the stormwater management facility shall meet the maintenance requirements of Article XX.
- H. Waiver from submission requirements. The municipal official or board reviewing an application under this Part 2 may, in consultation with the municipal engineer, waive submission of any of the requirements in § 330-68A through F of this Part 2 when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

ARTICLE XX

Maintenance and Repair

§ 330-69. Applicability.

Projects subject to review as in § 330-42 of this Part 2 shall comply with the requirements of §§ 330-70 and 330-71.

§ 330-70. General maintenance.

- A. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
- B. The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
- C. Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project.

- D. If the person responsible for maintenance identified under § 330-70B above is not a public agency, the maintenance plan and any future revisions based on § 330-70G below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
- E. Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of nonvegetated linings.
- F. The person responsible for maintenance identified under § 330-70B above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.
- G. The person responsible for maintenance identified under § 330-70B above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.
- H. The person responsible for maintenance identified under § 330-70B above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by § 330-70F and G above.
- I. The requirements of § 330-70C and D do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.
- J. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have 14 days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or county may immediately proceed to do so and shall bill the cost thereof to the responsible person.

§ 330-71. Performance or maintenance guarantees.

Nothing in this section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

ARTICLE XXI

Penalties**§ 330-72. Violations and penalties.**

Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this Part 2 shall be subject to the following penalties: imprisonment for a term of up to 90 days; a fine of up to \$2,000 per day; or a period of community services of up to 90 days. Whenever a fine is to be imposed in an amount greater than \$1,250 for violations of this Part 2, the owner shall be provided a thirty-day review period during which the owner shall be afforded the opportunity to cure or abate the condition and shall be afforded the opportunity for a hearing before a court of competent jurisdiction for an independent determination concerning the violation. Subsequent to the expiration of the thirty-day period, a fine greater than \$1,250 may be imposed if the court has not determined otherwise or, if upon reinspection of the property, it is determined that the abatement has not been substantially completed.

Chapter 336

STREETS AND SIDEWALKS

ARTICLE I Excavations

- § 336-1. Definitions.
- § 336-2. Permit required.
- § 336-3. Denial of permit; appeal.
- § 336-4. Application for permit.
- § 336-5. Contents of permit; filing.
- § 336-6. Fee.
- § 336-7. Bond.
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ARTICLE II Street Construction and Paving

- § 336-14. Application required.
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ARTICLE III Obstruction of Rights-of-Way

- § 336-17. Purpose.
- § 336-18. Prohibition against
obstructions.
- § 336-19. Removal of obstructions.
- § 336-20. Exceptions.
- § 336-21. Enforcement; violations and
penalties.

[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Excavations

[Adopted by Ord. No. 66-8; amended by Ord. No. 77-1 (Ch. VIII, Sec. 8-1, of the 1974 Revised General Ordinances)]

§ 336-1. Definitions. [Amended 10-2-1974]

As used in this section:

STREET — Any road, highway, public way, public alley, easement or other right-of-way accepted or maintained by the City as a public street, as well as any state or county road or highway over which the City has acquired jurisdiction by agreement.

§ 336-2. Permit required.

- A. No person shall make an excavation in or tunnel under any street without first obtaining a permit from the City Council.

- B. A tunnel or excavation may be commenced without a permit where an emergency has arisen which makes it necessary to start work immediately, provided that the application for a permit is made simultaneously with the commencement of the work or as soon thereafter as is practical. When issued, the permit shall be retroactive to the date on which the work has begun.
- C. The City Clerk shall issue permits to other public bodies without fee.

§ 336-3. Denial of permit; appeal.

The City Council is authorized to refuse the issuance of any permit if it ascertains after consultation with the City Engineer or otherwise that such refusal is in the interest of public safety, public convenience or public health. If a permit is refused an appeal may be taken to the City Council. The City Council, after hearing the applicant and such other evidence as may be produced, may either direct the issuance of the permit or sustain the refusal.

§ 336-4. Application for permit. [Amended 10-2-1974]

An application for a permit shall contain the following information:

- A. Name and address of the applicant.
- B. Name of the street where the opening is to be made and the street number, if any, of the abutting property.
- C. The City Tax Map block and lot number of the property for the benefit of which the opening is to be made.
- D. Nature of the surface in which the opening is to be made.
- E. Character and purpose of the work proposed.
- F. Time when the work is to be commenced and completed.
- G. Each application shall be accompanied by a set of plans in quadruplicate showing the exact location and dimensions of all openings.
- H. The name and address of the workman or contractor who is to perform the work.
- I. A statement that the applicant agrees to replace at his own cost and expense, the street, curb, gutter and sidewalk in the same state and condition in all things as they were at the time of the commencement of the work within 48 hours of the commencement of same.

§ 336-5. Contents of permit; filing. [Amended 10-2-1974]

Each permit shall state the identity and address of the applicant, the name of the street and the location where the excavation or tunnel is to be made, the dimensions of the opening and the period during which the permit shall be valid. The original of each permit shall remain on file with the Clerk.

§ 336-6. Fee. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

A permit shall be paid when the application is made. The applicant shall be charged a fee as provided in Chapter 185, Fees, Article III, Fees for City Services.

§ 336-7. Bond. [Amended 10-2-1974]

- A. At the discretion of the City Engineer, a bond may be required. The bond may be waived in the case of a public utility upon the presentation of satisfactory proof that the utility is capable of meeting any claims against it up to the amount of the bond which would otherwise be required. The bond shall be executed by the applicant as principal and a surety company licensed to do business in the State of New Jersey as surety and shall be conditioned as follows: **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- (1) To indemnify the City and hold it harmless from all loss, damage, claim or expense, including expenses incurred in the defense of any litigation arising out of injury to any person or property resulting from any work done by the applicant under the permit.
 - (2) To indemnify the City for any expense incurred in enforcing any of the provisions of this section.
 - (3) To indemnify any person who sustains personal injuries or damage to his property as a result of any act or omission of the applicant, his agents, employees or subcontractors done in the course of any work under the permit.
 - (4) To cover 100% of the repair or replacement of the road if needed.
- B. One bond may be accepted to cover a number of excavations by the same applicant. Bonds shall remain in force for a period to be determined by the City.

§ 336-8. Deposit. [Amended 10-2-1974]

The applicant shall also be required to deposit, in cash or by certified check, a sum determined by the City Engineer to be necessary to defray the expense of restoring the street to its preexisting condition should the permittee fail to do so.

§ 336-9. Insurance. [Amended 10-2-1974]

No permit shall be issued until the applicant has furnished the City with satisfactory proof that he is insured against injury to persons and damage to property caused by any act or omission of the applicant, his agents, employees or subcontractors done in the course of the work to be performed under the permit. The insurance shall cover all hazards likely to arise in connection with the work, including but not limited to collapse and explosion, and shall also insure against liability arising from completed operations. The limits of the policy of insurance shall be \$100,000 for injury to any one person, \$300,000 for property damage for a single incident. The City may waive the requirements of this section in the case of public

utilities upon the presentation of satisfactory proof that it is capable of meeting claims against it up to the amount of the limits of the insurance policy which would otherwise be required.

§ 336-10. Rules and regulations; backfilling. [Amended 10-2-1974]

All permits issued under this article shall be subject to the following rules and regulations:

- A. All excavations shall be kept properly barricaded at all times and during the hours of darkness shall be provided with proper warning lights. This regulation shall not excuse the permittee from taking any other precaution reasonably necessary for the protection of persons or property.
- B. All work shall be done in such a manner as to cause a minimum of interference with travel on the street affected. No street shall be closed to traffic unless the closing is approved by the City council. The City council shall be informed of all street closings at least 24 hours in advance, except where the work is of an emergency nature when notice shall be given when work commences.
- C. All refuse and material shall be removed within 48 hours.
- D. All excavations shall be completely backfilled by the permittee, and shall be compacted by tamping or other suitable means in a manner prescribed by the City Engineer. Where the engineer determines that the excavated material is unsuitable for backfill, the permittee shall backfill the excavation with sand, soft coal, cinders or other suitable material which shall be placed in layers not exceeding six inches in depth and thoroughly compacted with a mechanical vibrator or in the manner prescribed by the engineer. The permittee shall replace all shoulder stone to a depth of six inches and thoroughly compact it with a mechanical compaction device. Upon completion of the work, the permittee shall remove any excess material and leave the premises in a clean condition. If it is determined that any backfilled excavation has settled or caved in, the engineer shall so notify the permittee, who shall promptly continue backfilling until settlement is complete.
- E. If tunneling operations are required, the tunnel shall be backfilled with rammed concrete composed of one part cement to 10 parts sand.
- F. If blasting is required to be done in the course of any excavation, it shall be done in strict compliance with all applicable state laws and regulations.
- G. If the work is not completed within the time specified in the permit or any extension granted by the City, or is not performed in accordance with the regulations set forth in this subsection and any other regulations that may be established by the City Council, then the City may complete the work itself and restore the surface of the street. The cost of completing the work and restoring the street shall be charged to the permittee and may be deducted from his deposit or recovered by an action in any court of competent jurisdiction.

§ 336-11. Rules and regulations for restoration of excavated area. [Amended 10-2-1974; at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

- A. The applicant to whom such permit is issued shall, within the time limited in such permit, replace the earth and pavement in the excavation in such manner as proscribed herein and the same shall be left in as good condition as it was before the excavation was commenced. Except as otherwise herein stated, all street work performed shall be in accordance with the applicable provisions of the New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction, 2007, and as amended. Reference to articles or sections hereinafter refer to said state highway specifications.
- (1) Trenches shall be backfilled in layers not to exceed six inches and a vibratory tamper must be used. Compaction of 95% shall be required. Puddling of backfill is strictly prohibited. Should there be a deficiency, additional backfill material shall be supplied by the permittee. Whenever the City Engineer shall deem the material unsatisfactory for backfill, the permittee shall provide acceptable material for the backfill.
- B. Roadways with a concrete base shall be restored using a combination of concrete and asphalt. The amount of concrete and asphalt to be used at each such excavation shall be as directed by the City Engineer. (See detail at end of chapter.)
- C. Bituminous concrete street restoration specifications.
- (1) Gravel. Gravel shall be installed six inches thick. The gravel shall consist of compact soil aggregate Type I-5. The use of a recycled asphalt product (RAP) or recycled concrete product may be substituted for the soil aggregate as long as it meets the New Jersey Department of Transportation (NJDOT) requirements for I-5 materials. The City Engineer may, at his discretion, submit samples of the soil aggregate for a gradation analysis, with the costs of said analysis borne by the applicant.
- (2) Temporary roadway restoration.
- (a) Less than 100 square feet.
- [1] For openings in asphalt roadways that are less than 100 square feet, the temporary restoration will consist of the installation of six inches of soil aggregate, Type I-5, to a level of six inches below the level of adjacent paved surfaces. A four-inch lift of stabilized base course, Mix I-2, followed by a two-inch lift of a bituminous concrete cold patch, shall be installed to grade.
- [2] These temporary surfaces shall be in place for a period of not less than 45 days to allow sufficient settlement to occur. Should settlement continue to occur, the City Engineer shall determine when the work is acceptable for final restoration. The permittee shall be responsible for all maintenance deemed necessary by the City Engineer until such time as the final restoration is completed.
- (b) Greater than 100 square feet.

- [1] For openings in asphalt roadways that are greater than 100 square feet, the temporary restoration will consist of the installation of six inches of soil aggregate, Type I-5, to a level six inches below the level of the adjacent paved surfaces. A six-inch lift of stabilized base course, Mix I-2, shall then be installed to grade.
 - [2] These temporary surfaces shall be left in place for a period of not less than 45 days to allow sufficient settlement to occur. Should settlement continue to occur, the City Engineer shall determine when the work is acceptable for final restoration. The permittee shall be responsible for all maintenance deemed necessary by the City Engineer until such time as the final restoration is completed.
- (3) Final roadway restoration
- (a) Newly paved streets.
 - [1] The restoration will consist of six-inch dense graded aggregate base course, and a six-inch bituminous stabilized base course, Mix I-2, brought to existing grade, within the excavated area. A full width, curb to curb, milling two inches in depth to extend 20 feet beyond the limit of excavations will be performed after proper settlement in the trench area. The allowable time for the settlement shall be 45 days unless otherwise directed by the City Engineer. The final surface course shall be a two-inch bituminous concrete surface course, Mix I-5.
 - [2] Trench restoration may be permitted under special circumstances and at the option of the City Engineer for openings having a minimum impact on the longevity and serviceability of the street in question.
 - (b) Streets paved between five and eight years prior to proposed opening.
 - [1] Any street opening on a street that has been constructed, reconstructed, or overlaid between five years and eight years after the completion of said construction, reconstruction, or overlay will require a half-width paving from the center line to the curb on the side affected by the opening. The trench shall be repaved with six inches of gravel or similar subbase, four-inch stabilized base (HMA19M64) to the surface. The half width of the street shall then be milled 1 1/2 inches deep from the center line to the curbline a distance of 20 feet on either side of the opening edges. A one-and-one-half-inch surface course (HMA9.5M64) shall be machine-placed and rolled as per New Jersey Department of Transportation Standard Specifications for Roads and Bridges, 2007, and as amended.
 - [2] At the opening crosses over the center line of the street, the above street repair shall be full-width restoration.
 - (c) Streets paved over eight years prior to proposed opening.

- [1] Where 20% or more of the existing surface width and/or a distance parallel or longitudinal to the roadway center line of 25 feet or more has been disturbed, the permittee shall mill the entire pavement surface from edge to edge or curb to curb and the full length of the trench plus five feet each side at a minimum depth of two inches. All milling and disposal of millings shall be done in accordance with Division 400 of the NJDOT Standard Specifications. The permittee shall clean and sweep the milled surface and apply tack coat in preparation for immediate paving. The area will then be paved with two inches of HMA 9.5M64 surface course in accordance with Division 400 of the NJDOT Standard Specifications. The City will require that the terminal ends of the paving be keyed and cut vertical to provide a smooth transition to the existing asphalt surface. Feathering will not be allowed.
 - [2] Where less than 20% of the existing surface and a distance parallel or longitudinal to the roadway center line of less than 25 feet has been disturbed, the permittee shall saw-cut the existing surface course two inches deep at a location 12 inches beyond the trench surface, and remove the existing pavement to the same depth. Pavement removal shall be done by milling or another method as approved by the City Engineer. The permittee shall clean and sweep the milled surface and apply tack coat in preparation for immediate paving. The area will then be paved with two inches of HMA 9.5M64 surface course in accordance with Division 400 of the NJDOT Standard Specifications. The City will require that the terminal ends of the paving be keyed and cut vertical to provide a smooth transition to the existing asphalt surface. Feathering will not be allowed.
- (d) Calculating age of street.
- [1] The five-year period as articulated herein shall be calculated from December 31 of the year in which said road was constructed, reconstructed or overlaid and run five years thereafter. The end date of this five-year period is the beginning date of the five-year to eight-year period articulated herein.
 - [2] The eight-year period as articulated herein shall be calculated from December 31 of the year in which said road was constructed, reconstructed or overlaid and run eight years thereafter. The end date of this eight-year period is the end date of the five-year to eight-year period articulated herein.
- (e) No surface water shall be entrapped or ponded on the resurfaced areas. If any ponding occurs, the permittee will be responsible for performing whatever remedial action is required by the City Engineer.
- (4) If more than one excavation would be required within a fifty-foot length, a single trench must be used rather than the individual excavations. Final restoration will require the entire pavement surface from edge to edge or curb to curb and the full length of the trench plus five feet each side at a minimum depth of two inches.

All edges shall be coated with an asphaltic tack coat prior to a two-inch lift of bituminous concrete surface course, Mix I-5, being placed to a level even with the existing road grade.

- (5) In all cases where concrete has to be removed prior to any excavation, saw-cut methods of removal shall be used. The restoration of the concrete shall be according to the following specifications:
- (a) It shall be Class B with a design strength of 4,000 pounds per square inch (psi).
 - (b) It shall have a minimum thickness of not less than four inches for sidewalk, six inches for driveway aprons and eight inches for gutter.
 - (c) It shall have a minimum width of not less than five feet for sidewalks.
 - (d) It shall have control joints not more than five feet for sidewalk, 10 feet for curb and gutter and expansion joints and not more than 20 feet for sidewalk, curb and gutter.
- D. By acceptance of such a permit, the applicant shall be deemed to have agreed to comply with the terms hereof and, upon his failure to do so, pay on demand any cost or expense that the City may incur by reason of any shrinkage or settlement in the excavated area resulting from such excavation if such shrinkage or settlement shall occur within three months from the time the surface thereof is restored.

§ 336-12. Permit conditions and regulations. [Amended 10-2-1974]

- A. Transferability. A permit shall apply only to the person to whom it is issued and shall not be transferable.
- B. Commencement of work. Work under a permit shall commence within 45 days from the date of issuance of the permit. If work is not commenced within that time, the permit shall automatically terminate unless extended in writing by the City Council.
- C. Possession of permit. A copy of the permit, together with a copy of the plan endorsed with the approval of the City Engineer, shall be kept in possession of the person actually performing the work and shall be exhibited on demand to any duly authorized employee of the City or police officer.
- D. Revocation of permit.
 - (1) The City Council may revoke a permit for any of the following reasons.
 - (a) Violation of any provision of this section or any other applicable rules, regulations, law or ordinance.
 - (b) Violation of any condition of the permit issued.
 - (c) Carrying on work under the permit in a manner which endangers life or property, or which creates any condition which is unhealthy, unsanitary or declared by any provision of this revision to constitute a nuisance.

- (2) The procedure for revoking a permit shall be the same as that set forth in this revision for the revocation of licenses, except that the initial hearing shall be before the City Councilman in charge of the Road Department with a right of appeal to the City Council; and the Chairman may provide in his decision that the revocation shall not become effective if the permittee corrects the violation within a specified period of time.
- E. Modification of permit conditions. In a special case the City Council may, by resolution, impose special conditions to which the issuance of the permit may be subject, or may decide that any provision of this section shall not apply or shall be altered.

§ 336-13. Power to make additional rules and regulations. [Amended 10-2-1974; at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

The Public Works Committee in conjunction with the City Engineer may make any rules and regulations considered necessary for the administration and enforcement of this section, but no regulation shall be inconsistent with, alter or amend any provision of this section, or impose any requirement which is in addition to those expressly or by implication imposed by this section. No regulations shall be effective unless they are approved by resolution of the City Council. Copies of all current regulations shall be furnished each permittee at the time of the issuance of the permit.

ARTICLE II

Street Construction and Paving

[Adopted by Ord. No. 73-3; amended by Ord. No. 77-1 (Ch. VIII, Sec. 8-2, of the 1974 Revised General Ordinances)]

§ 336-14. Application required. [Amended 5-7-2003 by Ord. No. 05-03]

- A. No person shall construct a new structure or dwelling on a lot fronting on public rights-of-way, unless said public right-of-way complies with § 336-15 below.
- B. No person shall construct, reconstruct, pave, repave, repair or improve any portion of a dedicated public right-of-way unless an application is first submitted in duplicate to the City Council and subsequently approved by City Council.
- C. For purposes of this article, the terms "public right-of-way" and "street" may be interchangeable.

§ 336-15. Rules and regulations. [Amended by Ord. No. 74-2; 5-7-2003 by Ord. No. 05-03]

- A. A permit shall not be issued by the City Council until such person has submitted to the City Council a plan drawn by a licensed professional engineer showing existing grades or contours and proposed grades of streets, proposed typical cross section of street, right-of-way widths and construction widths, drainage scheme and description of all

materials to be used in the construction and the proposed method of construction of the street or public right-of-way.

- B. No permit shall be issued by the City Council until the City has received: a filing fee as provided in Chapter 185, Fees, Article III, Fees for City Services; a satisfactory performance bond in an amount equal to 120% of the Engineer's estimate of costs; and an inspection fee. The inspection fee escrow is subject to replenishment by the permit holder as necessary to satisfy continuing costs of review and inspection related to the project. **[Amended 5-4-2005 by Ord. No. 01-2005; at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- C. The City Engineer reserves the right to set time limits for the proposed construction, reconstruction, paving, repaving, repair or improvement of any street or public right-of-way within the City limits.
- D. The clearing and grading of the proposed street or public right-of-way shall be done to the minimum width required to provide for the required paved width plus a minimum six-foot-wide shoulder on both sides of the road and subject to review by the City Engineer.
- E. The gravel base for all streets or public rights-of-way shall be a minimum of the paved width plus two feet on both sides.
- F. All grading and stormwater management plans are subject to the approval of the City Engineer, which will be reviewed by the City Engineer on a case-by-case basis, and also subject to review and approval by the Cape-Atlantic Soil Conservation District, CAFRA and Pinelands, if applicable.
- G. All new streets constructed in existing rights-of-way are to be constructed of the following materials:
 - (1) Base coarse is to be road gravel of I-5 designation compacted to a depth of six inches and shall be the width of the proposed paved road plus two feet on each side.
 - (2) The top coarse is to be three inches bituminous concrete of an I-4 designation.
- H. All road plans and profiles are to be submitted to NJDOT for road striping designation by the NJDOT. As a minimum, the road edge is to be delineated with a four-inch-wide white stripe and the road center line to be striped with a dashed yellow line meeting NJDOT standards. However, the yellow dashed line is to be replaced by solid yellow lines as dictated by NJDOT.
- I. The proposed paved surface is to be a minimum of 24 feet in width.
- J. Exemptions.
 - (1) For purposes of this section, a "section" of street or public right-of-way shall be the section of street or public right-of-way from a point of one intersecting street or public right-of-way (intersection) to the next intersecting street or public right-of-way (intersection).

- (2) Once a street or public right-of-way intersects with another street or public right-of-way, at that point the street or public right-of-way shall be deemed a new section and shall comply fully with Subsections A through I of this section.
- (a) New structures or dwellings to be constructed on a partially improved section of street or public right-of-way shall comply with the following:
- [1] The above section of street or public right-of-way shall be improved from the end of the existing improvement to the opposite end of the lot on which the new structure or dwelling is to be constructed, with the result that the entire frontage of the lot in question will front on an improved roadway as required in § 380-24, Frontage on public street, of this Code.
 - [2] The road material used for improvements under Subsection J(2)(a)[1] shall be of equal material or better of the existing street or public right-of-way. In no case shall a new structure or dwelling be constructed on a lot fronting on a dirt or gravel street or public right-of-way.
- (b) Existing structures on existing streets or public rights-of-way shall be permitted to the following without any further street or public right-of-way improvements, as long as the existing structure was constructed in compliance with all other City codes and other applicable federal, state, county or other administrative laws or regulations at the time the structure was constructed, unless the following constitutes a "change of use" as set forth in N.J.S.A. 5:23-1 et seq., known as the New Jersey Uniform Construction Code:
- [1] Structural alterations and/or additions.
 - [2] An increase or enlargement of the square footage.
 - [3] Minor or major repairs.
 - [4] Accessory buildings and/or structures.
 - [5] Municipal road projects funded by municipal tax funds.

§ 336-16. Inspection.

Inspection fees shall be based on 5% of the Engineer's estimate, and the estimate shall be based on the market value of the construction at the time the estimate is made.

ARTICLE III

Obstruction of Rights-of-Way

[Adopted 12-2-2009 by Ord. No. 09-2009 (Ch. VIII, Sec. 8-4, of the 1974 Revised General Ordinances)]

§ 336-17. Purpose.

It is the purpose of this article to ensure that public rights-of-way in the City of Estell Manor shall remain safe and unobstructed.

§ 336-18. Prohibition against obstructions.

No person shall park any vehicle or place or permit to be placed, or store or permit to be stored, or erect or permit to be erected, any signs, structures, fences or debris in the public right-of-way of any City street in the City of Estell Manor.

§ 336-19. Removal of obstructions.

The Zoning Officer and/or the Code Enforcement Officer of the City of Estell Manor may remove from any City street, any obstruction which violates § 336-18. The Zoning Officer or Code Enforcement Officer, in directing the removal of such obstructions, shall provide the property owner with 72 hours' notice to remove such obstructions and thereafter shall initiate removal of the obstructions if the owner fails to do so. Such obstructions shall be removed at the expense of the property owner.

§ 336-20. Exceptions.

The following shall be exceptions to the prohibition provided for above:

- A. Police, fire and rescue vehicles.
- B. Public utility and service vehicles.
- C. Residential mailboxes.
- D. Trash containers which are properly placed in accordance with the appropriate ordinance of the City of Estell Manor.
- E. Delivery vehicles which are parked in a public right-of-way to provide delivery or services to the residents of Estell Manor.
- F. "For sale" real estate signs advertising the sale of the contiguous property, provided that such real estate signs shall not exceed 30 inches in height.

§ 336-21. Enforcement; violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

Any property owner who fails to remove any obstruction from a public right-of-way on a City street in Estell Manor after having received notice provided for above from the Zoning

Officer or Code Enforcement Officer shall be subject to be cited for a violation of this section, which summons and violations notice shall be presented to the Estell Manor Municipal Court. Violation of any provision of this article shall be punishable as provided in Chapter 1, Article II, General Penalty, of the Code of the City of Estell Manor. In addition to the penalties established herein, the property owner found guilty of a violation of this section shall be responsible to reimburse the City for all expenses incurred by the City in conducting the cleanup.

Chapter 340

SUBDIVISION OF LAND

ARTICLE I Title; Purpose

§ 340-1. Short title.

§ 340-2. Purpose.

ARTICLE II Approving Agency; Official Forms

§ 340-3. Approving agency.

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ARTICLE III Definitions

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ARTICLE IV Procedures

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ARTICLE V Administration

§ 340-18. Minimum standards.

§ 340-19. Deviations from final plan.

§ 340-20. Promulgation of rules and regulations.

ARTICLE VI Violations and Penalties

§ 340-21. Violations and penalties.

[HISTORY: Adopted by the City Council of the City of Estell Manor Ord. No. 77-1 (Ch. IX of the 1974 Revised General Ordinances). Amendments noted where applicable.]

ARTICLE I Title; Purpose

§ 340-1. Short title.

This chapter shall be known and may be cited as the "Land Subdivision Ordinance of the City of Estell Manor."

§ 340-2. Purpose. [Amended by Ord. No. 82-6]

The purpose of this chapter shall be to provide rules, regulations and standards to guide land subdivision in Estell Manor in order to promote the public health, safety, convenience and general welfare of the City. It shall be administered to ensure the orderly growth and development, the conservation, protection and proper use of land and adequate provision for circulation, utilities and services. This chapter is further intended to implement the requirements of the Pinelands Protection Act¹ and the Pinelands Comprehensive Management Plan.

ARTICLE II

Approving Agency; Official Forms
[Amended by Ord. No. 82-6; Ord. No. 85-4]

§ 340-3. Approving agency.

The approval provisions for this chapter shall be administered by the Estell Manor Planning Board in accordance with the provisions of the Municipal Land Use Law of the State of New Jersey, Chapter 291, Laws of New Jersey of 1975, N.J.S.A. 40:55D-1 et seq., and to the extent designated therein, the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq.

§ 340-4. Official forms.

All applications for approval under the provisions of this chapter shall be submitted on the official forms adopted as part of this chapter and attached hereto and made a part hereof. Specifically, the notice of filing and application for subdivision in the forms attached to this chapter are hereby designated to be official forms of the City of Estell Manor, and no application shall be deemed complete unless submitted on said forms.²

ARTICLE III

Definitions

[Amended by Ord. No. 78-13; Ord. No. 82-6; Ord. No. 83-4; Ord. No. 84-10; Ord. No. 85-10; Ord. No. 86-10; Ord. No. 89-4]

§ 340-5. Terms defined.

As used in this chapter, the following terms shall have the meanings indicated:

ADMINISTRATIVE OFFICER — Pursuant to N.J.S.A. 40:55D-3 of the New Jersey Statutes, the City Clerk of the City of Estell Manor is designated as the "administrative officer."

APPLICATION FOR DEVELOPMENT — Any application filed with any permitting agency for any approval, authorization or permit except as provided in § 340-17A(2) of this chapter.

1. Editor's Note: See N.J.S.A. 13:18A-1 et seq.

2. Editor's Note: Said forms are on file in the office of the City Clerk.

CERTIFICATE OF FILING — A certificate issued by the Pinelands Commission pursuant to N.J.A.C. 7:50-4.34 that a complete application for development has been filed.

COMMISSION — The Pinelands Commission created pursuant to Section 5 of the Pinelands Protection Act.³

COMPREHENSIVE MANAGEMENT PLAN — The plan adopted by the Commission pursuant to Section 7 of the Pinelands Protection Act,⁴ as amended (N.J.A.C. 7:50-1 et seq.).

DEVELOPMENT — The change or enlargement of any use or disturbance of any land, the performance of any building or mining operation, the division of land into two or more parcels, the creation or termination of rights of access or riparian rights, including, but not limited to:

- A. A change in type of use of a structure or land.
- B. A reconstruction, alteration of size or material change in the external appearance of a structure or land.
- C. A material increase in the intensity of use of land, such as an increase in the number of businesses, manufacturing establishments, offices or dwelling units in a structure or on land.
- D. Commencement of forest activities, resource extraction, drilling or excavation on a parcel of land.
- E. Demolition of a structure or removal of trees.
- F. Deposit of refuse, solid or liquid waste or fill on a parcel of land.
- G. In connection with the use of land, the making of any material change in noise levels, thermal conditions or emissions of waste material.
- H. Alteration, either physically or chemically, of a shore, bank or floodplain, seacoast, river, stream, lake, pond, wetlands or artificial body of water.

DEVELOPMENT APPROVAL — Any approval granted by an approval agency, including appeals to the governing body, except certificates of occupancy and variances, pursuant to N.J.S.A. 40:55D-70, as heretofore or hereafter amended, which do not otherwise include the issuance of a construction permit, subdivision or site plan approval.

DEVELOPMENT, MAJOR — Any division of land into five or more lots; any construction or expansion of any housing development of five or more dwelling units; any construction or expansion of any commercial or industrial use or structure on a site of more than three acres; or any grading, clearing or disturbance of an area in excess of 5,000 square feet.

DEVELOPMENT, MINOR — All development other than major development.

DRAINAGE RIGHT-OF-WAY — The lanes required for the installation of stormwater sewers or drainage ditches or required along a natural stream or watercourse for preserving

3. Editor's Note: See N.J.S.A. 13:18A-5.

4. Editor's Note: See N.J.S.A. 13:18A-8.

the channel and providing for the flow of water therein to safeguard the public against flood damage in accordance with Chapter 1 of Title 58 of the New Jersey Revised Statutes.

FINAL PLAT — The final map of all or a portion of the subdivision which is presented to the City Council for final approval in accordance with these regulations, and which, if approved, shall be filed with the proper county recording officer.

FOREST AREA — That portion of the Pinelands Area which is zoned in one of the following categories:

R-25	Rural Residence Zone
R-10	Residence Zone
R-5	Residence Zone
SD	Special District
HC	Highway Commercial Zone
C	Conservation Zone

LOT — That set forth under Section 3.1 of the Municipal Land Use Law, Chapter 291, Laws of New Jersey 1975, N.J.S.A. 40:55D-4.

MAJOR SUBDIVISION — That set forth under Section 3.2 of the Municipal Land Use Law, Chapter 291 of the Laws of New Jersey 1975, N.J.S.A. 40:55D-5.

MASTER PLAN — A composite of the mapped and written proposals recommending the physical development of the City, which shall have been duly adopted by the Planning Board.

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

- A. A creation of more than four lots from a single lot within a five-year period. Each applicant for a "minor subdivision" shall state whether any prior subdivisions have been made affecting the lot or lots in question within a five-year period prior to the application. In determining whether more than four lots are created, all lots created from the original tract of which the subject lot was formed within that five-year period shall be included, together with any new lots proposed by the application.
- B. Planned development.
- C. Any new street.
- D. Extension of any off-tract improvement.

OFFICIAL MAP — That set forth under Section 3.2 of the Municipal Land Use Law, Chapter 291, Laws of New Jersey 1975, N.J.S.A. 40:55D-5.

OWNER — Any individual, firm, association, syndicate, copartnership or corporation having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this chapter.

PERFORMANCE GUARANTY — Any security which may be accepted in lieu of a requirement that certain improvements be made before the Planning Board or other approving body approves a plat, including performance bonds, escrow agreements and other similar collateral or surety agreements.

PINELANDS — The Pinelands National Reserve and the Pinelands Area designated as such by Sections 3i and 10a of the Pinelands Protection Act.⁵

PINELANDS AREA — That area of the City of Estell Manor west of New Jersey Route 50, north of Buck Hill Road and New Jersey Route 49.⁶

PINELANDS INTERIM RULES AND REGULATIONS — The regulations adopted by the Pinelands Commission pursuant to the Pinelands Protection Act to govern the review of applications from the adoption of the regulations until the Pinelands Comprehensive Management Plan took effect on January 14, 1981. These regulations were formerly codified as N.J.A.C. 7:1G-1 et seq.

PINELANDS NATIONAL RESERVE — That area of the City of Estell Manor east of New Jersey Route 50.

PINELANDS PROTECTION ACT — N.J.S.A. 13:18A-1 to 13:18A-29.

PLAT — The map of a subdivision.

PRELIMINARY PLAT — The preliminary map, indicating the proposed layout of the subdivision which is submitted to the City Clerk for Planning Board consideration and tentative approval and meeting the requirements of § 340-12 of this chapter.

PUBLIC AGENCIES — The government of the United States of America; the State of New Jersey or any other state; their political subdivisions, agencies or instrumentalities; agencies or instrumentalities of other political subdivisions; and interstate and regional agencies exercising sovereign powers of government.

STREET — That set forth under Section 3.4 of the Municipal Land Use Law, Chapter 291, Laws of New Jersey 1975, N.J.S.A. 40:55D-7.

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

SUBDIVISION — That set forth under Section 3.4 of the Municipal Land Use Law, Chapter 291, Laws of New Jersey 1975, N.J.S.A. 40:55D-7.

§ 340-6. Other terms not defined; terms pertaining to Pinelands Area.

In the Pinelands Area, any term or word not defined herein shall be defined in accordance with the definitions set out in the New Jersey Administrative Code covering the Pinelands Commission, N.J.A.C. 7:50-1 et seq. In the event of a conflict between a definition set forth in this chapter and that in the New Jersey Administrative Code pertaining to the Pinelands Area, that definition set forth in the New Jersey Administrative Code shall control in the Pinelands Area.

5. Editor's Note: See N.J.S.A. 13:18A-3i and 13:18A-10a.

6. Editor's Note: The former definition of "Pinelands Development Review Board," which immediately followed this definition, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

§ 340-7. Terms defined in Zoning chapter.

In addition to the definitions set forth above, all definitions contained in § 380-3 of Chapter 380, Zoning, of the Code of the City of Estell Manor, as heretofore or hereafter amended, shall apply as the terms are used in this chapter.

ARTICLE IV**Procedures****§ 340-8. General; Pinelands Area. [Amended by Ord. No. 80-6; Ord. No. 82-6; Ord. No. 89-4]**

- A. Where any subdivision of land is made into not more than four lots, sites or other divisions of land, the property owner or subdivider shall submit his application for approval to the Planning Board in accordance with the provisions of § 340-9 of this chapter.
- B. Where the subdivision of land is made into more than four lots, sites or other divisions of land, the owner or subdivider shall be required to comply with the provisions of §§ 340-10 through 340-14.
- C. All subdivisions shall conform to the applicable provisions of the Zoning Ordinance of the City as set forth in Chapter 380, Zoning, of the Code of the City of Estell Manor, as amended.
- D. Every application for subdivision approval shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject matter of such application; or, if it is shown that taxes or assessments are delinquent on such property, any approvals or other relief granted shall be conditioned upon either the prompt payment of such taxes or assessments or the making of adequate provision for the payment thereof in such a manner that the City will be adequately protected.
- E. The Planning Board shall, within the time provided by statute, determine whether or not the application constitutes a complete application, as set forth by the New Jersey statutes in this chapter. If the Planning Board deems that the application is incomplete, the same shall be returned, together with any filing fees, to the applicant, with a statement as to the reasons why the application is deemed incomplete. If the application is deemed to be complete, it shall be acted upon within the time provided by statute.
- F. Subdivisions in Pinelands Area. All proposed subdivisions in the Pinelands Area shall comply with the procedures set forth in § 340-17 below, in addition to the other procedures and standards set forth in this chapter.

§ 340-9. Minor subdivision. [Amended by Ord. No. 78-13; Ord. No. 81-1; Ord. No. 82-6; Ord. No. 86-10; Ord. No. 89-4]

- A. The subdivider of a parcel of land when the resulting division shall not exceed four lots, sites or other divisions of land, as set forth in the definition of "minor subdivision" in § 340-5, shall submit to the administrative officer 12 copies of a completed

application form and 12 copies of a survey issued by a licensed surveyor of the state setting forth the proposed subdivision at least 20 days in advance of a meeting at which the application shall be heard. One copy of all materials so submitted shall be forwarded to the Zoning Officer and two copies to the City Engineer by the administrative officer. The administrative officer shall immediately notify the Secretary of the Planning Board upon receipt of the application form.⁷ **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

- B. Wherever review or approval of the application is required by the County Planning Board by the terms of any statute, ordinance or regulation, the Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on said application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.
- C. The Planning Board may waive notice and public hearing in connection with the application for a minor subdivision.
- D. Minor subdivision approval shall be granted or denied by the Planning Board within 45 days of the date of submission of a complete application to the Administrative Officer or within such further time as may be consented to by the applicant.
- E. The decision of the Planning Board, either accepting or rejecting the proposed subdivision, shall be binding upon the person making an application. In the event that the division plan is approved and accepted by the Planning Board, a certificate of the acceptance executed by its proper officers shall be endorsed on each of the surveys submitted.

§ 340-10. Major subdivision. [Amended by Ord. No. 78-13; Ord. No. 81-1; Ord. No. 82-6; Ord. No. 83-4; Ord. No. 83-10; Ord. No. 84-10; Ord. No. 86-10; Ord. No. 89-4]

- A. Submission of preliminary plat of subdivision for tentative approval.
 - (1) Administrative officer. At least 18 black-on-white prints of the preliminary plat, together with 18 completed application forms for preliminary approval, shall be submitted to the administrative officer at least 20 days prior to but no more than 28 days prior to the Planning Board meeting at which consideration is desired. The administrative officer shall submit one copy of the same to the Zoning Officer and two copies to the City Engineer. The administrative officer shall immediately notify the Secretary of the Planning Board upon receipt of the preliminary plat.⁸ **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
 - (2) Notice requirements.

7. Editor's Note: Former Subsection 9-5.2b1 of the 1974 Revised General Ordinances, regarding filing fees, which previously followed this subsection, was repealed 10-1-1986 by Ord. No. 86-10; and former Subsection 9-5.2b2 of the 1974 Revised General Ordinances, dealing with the Pinelands Area, which previously followed this subsection, was repealed 4-5-1989 by Ord. No. 89-4.

8. Editor's Note: Former Subsection 9-5.3a1(b) of the 1974 Revised General Ordinances, dealing with the Pinelands Area, which previously followed this subsection, was repealed 4-5-1989 by Ord. No. 89-4.

- (a) The application for approval of the final plat shall be submitted to the administrative officer at least 20 days and no more than 28 days prior to the meeting of the Planning Board at which the final approval is sought. Such application to the administrative officer shall include 12 black-on-white prints and 12 copies of the application form for final approval. Two copies of each of the materials shall be submitted by the administrative officer to the City Engineer. The administrative officer shall immediately notify the Secretary of the Planning Board upon receipt of the final plat.⁹
 - (b) The Pinelands Commission may participate in a hearing held in the City involving the development of land in the Pinelands Area pursuant to N.J.A.C. 7:50-4.26, as heretofore or hereafter amended.
- (3) Notice requirements; historic landmarks. Where a major subdivision contains thereon any site designated as an historic landmark or abuts any lot containing an historic landmark or is within 200 feet of the same, the applicant shall, in addition to following the other procedures set forth in this section, comply with all requirements set forth in § 380-20, Historic preservation, as heretofore or hereafter amended, including the payment of the fees set forth in said section, except that the time within which the Historic Preservation Commission shall act shall be limited to 30 days after the submission of the same to the City Clerk, or within such further time as may be consented to by the applicant. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- (4) In addition, copies of the preliminary plat shall be forwarded by the Secretary of the Planning Board prior to the hearing to the following persons:
- (a) Director of County Planning Board.¹⁰
 - (b) Such other municipal, county or state officials as directed by the Planning Board.
- (5) Upon the submission to the administrative officer of a completed application for a subdivision of between five and 10 lots, the Planning Board shall grant or deny preliminary approval within 45 days of the date of such submission or within such further time as may be consented to by the developer. Upon the submission of a completed application for a subdivision of more than 10 lots, the Planning Board shall grant or deny preliminary approval within 95 days of the date of such submission or within such further time as may be consented to by the developer. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- (6) If the Planning Board acts favorably on a preliminary plat, a notation to that effect shall be made on the plat.

B. Submission of final plat for final approval.

9. Editor's Note: Former Subsection 9-5.3a2(b) of the 1974 Revised General Ordinances, dealing with the Pinelands Area, which previously followed this subsection, was repealed 4-5-1989 by Ord. No. 89-4.

10. Editor's Note: Former Subsection 9-5.3a3(b) of the 1974 Revised General Ordinances, City Engineer, which previously followed this subsection, was repealed 10-1-1986 by Ord. No. 86-10.

- (1) Upon the effective date of Planning Board approval of the preliminary plat pursuant to Subsection A of this section, the subdivider shall present the final plat for action by the Planning Board in accordance with these regulations and in compliance with all the provisions of the Municipal Land Use Law, Chapter 291 of the Laws of 1975, N.J.S.A. 40:55D-1 et seq. Before consideration of a final subdivision plat, the subdivider will have installed the improvements required under § 340-13, or the Planning Board shall require the posting of adequate performance guaranty to ensure the installation of the required improvements.
- (2) Approval. The application for approval of the final plat shall be submitted to the Secretary of the Planning Board and a copy thereof shall be submitted to the City Clerk at least 14 days and no more than 28 days prior to the meeting of the Planning Board at which the final approval is sought. Such application shall include the original tracing, one translucent tracing cloth copy, two cloth prints, six black-on-white prints and three copies of the application form for final approval. The Planning Board may, at its discretion, permit the submission of tracings and prints on other materials, provided that such materials result in a plat of at least equal quality as would be provided by the materials set forth above. Unless the preliminary plat is approved without changes, the final plat shall have incorporated all changes or modifications required by the Planning Board and the Commission. The final plat shall be accompanied by a statement by the City Engineer that he is in receipt of a map showing all utilities and the exact location and elevation, identifying those portions already installed and those to be installed, and that the subdivider has complied with one or more of the following:
 - (a) All improvements have been installed in accordance with requirements of these regulations.
 - (b) The performance guaranty has been posted with the City Treasurer in sufficient amount to insure the completion of all required improvements.
 - (c) A fee has been paid, the amount to be determined by the cost of the City and engineering fees and other expenses incurred in the process of acting on the application for approval of the subdivision plat; additional fees that may be required at any time before action is taken should the actual engineering expenses be in excess of that originally estimated. Any unpaid fees shall constitute a lien against the property in question, upon certification to the Tax Collector by the Planning Board of said unpaid fees.¹¹
- (3) The Planning Board shall take final action on the final plat within 45 days after the submission of the same to the City Clerk or within such further time as may be consented to by the applicant. The action shall be noted on the plat, and, if favorable, the Chairman and the Secretary of the Planning Board shall affix their signatures thereto.

11. Editor's Note: Former Sec. 9-5.3b2(b) of the 1974 Revised General Ordinances, dealing with the Pinelands Area, which previously followed this subsection, was repealed 4-5-1989 by Ord. No. 89-4.

- (4) Upon final approval, copies of the final plat shall be filed with the following: the City Clerk, City Engineer, Tax Assessor, Building Inspector or Zoning Officer, County Planning Board and other officials as directed by the Planning Board.
- (5) No plat shall be filed with the county recording officer unless approved by the resolution of the Planning Board pursuant to Section 28 of the Municipal Land Use Law, Chapter 291 of the Laws of 1975, N.J.S.A. 40:55D-37. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- (6) Where subdivision approval is dictated, no permit for development shall be issued unless such plat is approved by resolution of the Planning Board pursuant to Section 28 of the Municipal Land Use Law, Chapter 291 of the Laws of 1975, N.J.S.A. 40:55D-37.¹² **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

§ 340-11. Plat details. [Amended by Ord. No. 78-13; Ord. No. 82-6; Ord. No. 84-10; Ord. No. 89-4]

- A. Preliminary plat. The preliminary plat shall be clearly and legibly drawn or reproduced at a scale of not less than one inch equals 50 feet. Preliminary plats shall be designed and drawn by a licensed New Jersey land surveyor or engineer. The plat shall be designed in compliance with the provisions of § 340-12 of this chapter and, in addition, shall show all improvements required by § 340-13 and shall show or be accompanied by the following information:
- (1) A key map showing the entire subdivision and its relation to surrounding areas.
 - (2) The tract name, block and lot number, reference meridian, graphic scale and the following names and addresses:
 - (a) Name and address of the record owner or owners and of all adjoining property owners.
 - (b) Name and address of the subdivider.
 - (c) Name and address of the person who prepared map.
 - (3) Acreage of tract to be subdivided to nearest tenth of an acre.
 - (4) Sufficient elevations or contour to determine the general slope and natural drainage of the land and the high and low points and tentative cross sections and center-line profiles for all proposed new streets.
 - (5) A location map, including the area extending at least 300 feet beyond each boundary of the subject property, showing ownership boundary lines, the boundary of the proposed development, owners of holdings adjoining and adjacent to the subject property, existing facilities, buildings and structures on the site, all proposed development, wetlands, streams (including intermittent streams), rivers, lakes and other water bodies and existing roads.

12. Editor's Note: Former Subsection 9-5.3c of the 1974 Revised General Ordinances, dealing with the Pinelands Area, which previously followed this subsection, was repealed 4-5-1989 by Ord. No. 89-4.

- (6) Plans of proposed utility layouts (sewers, storm drains, water, gas and electricity) showing feasible connections to existing or any proposed utility system.
 - (a) When an individual water supply or sewage disposal system is proposed, the plan for such system must be approved by the appropriate local, county or state health agency. When a public sewage disposal system is not available, the developer shall have soil borings and percolation tests made and submit the results with the preliminary plat. The soil borings and percolation tests shall be done in accordance with the provisions of N.J.S.A. 58:11-23 et seq., as heretofore or hereafter amended, and the regulations adopted pursuant thereto, and shall be submitted at suitable locations with a tract map showing location, logs, and elevations of all test holes, indicating where groundwater was encountered, as estimating the seasonal high-water table and demonstrating that such facility is adequate to meet all water quality standards contained in any federal, state or local law, including all of the provisions of the Code of the City of Estell Manor.
 - (b) Any subdivision or part thereof which does not meet with the established requirements of this chapter or other applicable regulations shall not be approved. Any remedy proposed to overcome such a situation shall first be approved by the appropriate local, county or state health agency.
 - (7) A copy of any protective covenants or deed restrictions applying to the land being subdivided shall be submitted with the preliminary plat.
 - (8) A soils map, including a county soils survey, which conforms to the guidelines of the United States Department of Agriculture Soil Conservation Service, showing the location of all proposed development.
 - (9) If the proposed subdivision is in the Pinelands Area, any additional information required by § 340-17 of this chapter.
 - (10) If the subdivision encompasses within its boundaries one or more historic landmarks or abuts or is within 200 feet of premises containing an historic landmark, each said historic landmark should be designated and shown on the plat.
- B. Final plat. The final plat shall be drawn in ink on tracing cloth or other material approved by the Planning Board giving a plat of at least equal quality thereto, at a scale of not less than one inch equals 50 feet, and in compliance with all the provisions of the Municipal Land Use Law, Chapter 291 of the Laws of 1975, N.J.S.A. 40:55D-1 et seq. The final plat shall show or be accompanied by the following:
- (1) Date, name and location of the subdivision, name of owner, graphic scale and reference meridian.
 - (2) Tract boundary lines, right-of-way lines of streets, street names, easements and other rights-of-way, land to be reserved or dedicated to public use, all lot lines and other site lines, with accurate dimensions, bearings or deflection angles and radii, acres and central angles of all curves.

- (3) The purpose of any easement or land reserved or dedicated to public use shall be designated, and the proposed use of sites other than residential shall be noted.
- (4) Each block shall be numbered, and the lots within each block shall be numbered consecutively beginning with No. 1.
- (5) Minimum building setback line on all lots and other sites.
- (6) Location and description of all monuments.
- (7) Names of owners of adjoining unsubdivided land.
- (8) Certification by an engineer or surveyor as to accuracy of details of plat.
- (9) Certification that the applicant is the agent or owner of the land or that the owner has given consent under an option agreement.
- (10) When approval of a plat is required by any officer or body of such a City, county or state, approval shall be certified on the plat.
- (11) Cross sections and profiles of streets, approved by the City Engineer, shall be required to accompany the final plat.
- (12) Contours at five-foot intervals for slopes averaging 10% or greater and at two-foot intervals for land of lesser slope.
- (13) Plans and profiles of storm and sanitary sewers and water mains.
- (14) Certificate from Tax Collector that all taxes are paid to date.
- (15) If the proposed subdivision is in the Pinelands Area, any information required by § 340-17 of this chapter.

§ 340-12. Design standards. [Amended by Ord. No. 82-26; Ord. No. 83-4]

The subdivider shall observe the following requirements and principles of land subdivision in the design of each subdivision or portion thereof. In the Pinelands Area, no development shall be approved unless the applicant has demonstrated compliance with the standards set forth in Chapter 380, Zoning, Article VI, General Regulations, and Article VII, Special Regulations.

- A. General. The subdivision plat shall conform to design standards that will encourage good development patterns within the City. The subdivision shall conform to the proposals and conditions of the Master Plan and Zoning Chapter. The streets, drainage rights-of-way, school sites, public parks and playgrounds shown on the Master Plan shall be considered in approval of subdivision plats. In addition, streets and drainage rights-of-way shall be shown in the final plat in accordance with the provisions of the Municipal Land Use Law, Chapter 291 of the Laws of 1975, N.J.S.A. 40:55D-1 et seq., and shall be such as to lend themselves to the harmonious development of the City and enhance the public welfare in accordance with the following design standards.
- B. Streets.

- (1) The arrangement of streets not shown on the Master Plan or Official Map shall be such as to provide for the appropriate extending of existing streets.
- (2) Minor streets shall be so designed as to discourage through traffic.
- (3) Subdivisions abutting arterial streets shall provide a marginal service road or reverse frontage with a buffer strip for planting or some other means of separation of through and local traffic as the Planning Board may determine appropriate.
- (4) The right-of-way width shall be measured from lot line to lot line and shall not be less than the following:
 - (a) Arterial streets: 50 feet, unless such street constitutes an extension of an existing street of a greater width or has already been shown on the Master Plan at the greater width, in which case the greater width shall be conformed to.
 - (b) Collector streets: 50 feet.
 - (c) The right-of-way width for minor and marginal access streets, and for internal roads and alleys in multifamily, commercial and industrial development shall be determined on an individual basis and shall in all cases be of sufficient width and design to safely accommodate the maximum traffic, parking and loading needs and maximum access for firefighting equipment.
- (5) No subdivision showing reserve strips controlling access to streets shall be approved except where the control and disposal of land comprising such strips has been placed in the City Council under conditions approved by the Planning Board.
- (6) Subdivisions that adjoin or include existing streets that do not conform to widths as shown on the Master Plan or Official Map or the street width requirements of this chapter shall dedicate additional width along either one or both sides of the road. If the subdivision is along one side only, 1/2 of the required extra width shall be dedicated.
- (7) No street shall have a minimum grade of less than 1/3 of 1%.
- (8) Street intersections shall be as nearly at right angles as is possible and in no case shall be less than 60°. The block corners at intersections shall be rounded at the curbline, with a curve having a radius of not less than 15 feet.
- (9) Street jogs with center-line offsets of less than 125 feet shall be prohibited.
- (10) When connecting street lines deflect from each other at any point by more than 10° and not more than 45°, they shall be connected by a curve with a radius of not less than 100 feet for minor streets and 300 feet for arterial and collector streets.
- (11) All changes in grade shall be connected by vertical curves of sufficient radius to provide a smooth transition and proper sight distance.

- (12) Dead-end streets shall not be longer than 600 feet and shall provide a turnaround at the end with a radius of not less than 50 feet and tangent whenever possible to the right side of the street. If a dead-end street is of a temporary nature, a similar turnaround shall be provided and provisions made for future extension of the street and reversion of the excess right-of-way to the adjoining properties.
- (13) No street shall have a name which will duplicate or so nearly duplicate as to be confused with the name of existing streets. The continuation of an existing street shall have the same name.

§ 340-13. Improvements. [Amended by Ord. No. 78-6; Ord. No. 79-13; Ord. No. 82-6; Ord. No. 89-4]

- A. Prior to the granting of final approval, the subdivider shall have installed or shall have furnished performance guaranties for the ultimate installation of the following:
 - (1) Streets and street signs.
 - (a) The minimum requirement for the gravel base course of any street shall be the soil aggregate, Type II, Class B, conforming to the requirements specified in the current New Jersey State Highway Department Standard Specifications for Road and Bridge Construction and shall be not less than six inches in depth after ultimate compaction.
 - (b) Upon the previously described gravel base course shall be applied two inches of bituminous stabilized base course and two inches of bituminous concrete surface course, FABC-1, Mix No. 5, in accordance with the New Jersey State Highway Department Standard Specifications for Road and Bridge Construction.
 - (c) Street signs shall be of a type and design approved by the Planning Board and shall be installed at all street intersections.
 - (2) Topsoil protections. No topsoil shall be removed from the site or used as spoil. Topsoil removed during the course of construction shall be redistributed so as to provide at least four inches of cover to all areas of the subdivision and shall be stabilized by seeding or planting, in accordance with the provisions of all applicable ordinances of the City of Estell Manor. Soil shall be protected and conserved from erosion of wind or water and from excavation and grading.
 - (3) Monuments. Monuments shall be the size and shape required by N.J.S.A. 46:26B-2 and 46:26B-3 and shall be placed in accordance with the statute. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
 - (4) Water mains, culverts, storm sewers and sanitary sewers.
 - (a) All such installations shall be properly connected with an approved system, shall be adequate to handle all present and probable future development and shall be designed in accordance with all other applicable provisions of the ordinances of the City of Estell Manor.

- (b) All of the above-listed improvements shall be subject to inspection and approval by the City Engineer, who shall be notified by the developer at least 24 hours prior to the start of construction. No underground installation shall be covered until inspected and approved.
- (5) Streetlighting. The location and design of the streetlighting facilities shall be approved by the Planning Board and shall be installed in accordance with the standards and specifications of the Atlantic Electric Company.
- (6) Curbs, gutters and sidewalks.
 - (a) Curbs, gutters and sidewalks may be required and shall be determined on an individual basis by the Planning Board. All curbs, where required, shall be a minimum of 18 inches deep and six inches in width. All concrete gutters, where required, shall be a minimum of six inches deep and 24 inches in width. Concrete for curb and gutter construction shall have a compressive strength of 3,000 pounds per square inch after 28 days and shall be Class B concrete in accordance with the New Jersey State Highway Department specifications. Sidewalks, where required, shall be a minimum of four feet wide, but the Planning Board may require additional widths in high density areas. Sidewalks shall be a minimum of four inches in thickness, except at driveways where they shall be at least six inches thick. Concrete for sidewalk construction shall have a compressive strength of 2,500 pounds per square inch after 28 days and shall be Class C concrete in accordance with New Jersey State Highway specifications.
 - (b) All of the above-listed improvements shall be subject to inspection and approval by the City Engineer, who shall be notified by the developer at least 24 hours prior to the start of construction. No underground installation shall be covered until inspected and approved.

B. Performance guaranty.

- (1) No final plat shall be approved by the Planning Board until the completion of all such required improvements have been certified to the City Council by the City Engineer unless the subdivision owner shall have filed with the City a performance guaranty sufficient in amount to cover the cost of all improvements or uncompleted portions thereof as estimated by the City Engineer and assuring the installation of such uncompleted improvements on or before an agreed date. The performance guaranty may be in the form of a performance bond, which shall be issued by a bonding or surety company approved by the City Council, a certified check returnable to the subdivider after full compliance or any other type of surety approved by the City Attorney.
- (2) The performance guaranty shall be approved by the City Attorney as to form, sufficiency and execution. The performance guaranties shall run for a period to be fixed by the Planning Board but, in no case, for a term of more than three years. However, with the consent of the owner and the surety, if there be one, the Planning Board may by resolution extend the term of the performance guaranty for an additional period not to exceed three years. The amount of the performance guaranty may be reduced by resolution of the Planning Board when portions of

the required improvements have been installed. In addition, a maintenance guaranty may also be required in accordance with the provisions of Section 41 of the Municipal Land Use Law, Chapter 291 of the Laws of 1975, N.J.S.A. 40:55D-53.

- (3) If the required improvements have not been installed in accordance with the performance guaranty, the obligor and surety shall be liable thereon to the City for the reasonable cost of the improvements not installed or maintained and upon receipt of the proceeds thereon the City shall install or provide for maintenance of the improvements.

C. Blocks.

- (1) Block length and width or acreage within bounding roads shall be such as to accommodate the size of lot required in the area by Chapter 380, Zoning, and to provide for convenient access, circulation, control and safety of street traffic.
- (2) In blocks over 1,000 feet long, pedestrian crosswalks may be required in locations deemed necessary by the Planning Board. The walkway shall be 10 feet wide and be straight from street to street.
- (3) For commercial, group housing or industrial use, block size shall be sufficient to meet all area and yard requirements for such use.

D. Lots.

- (1) Lot dimensions and area shall not be less than the requirements of Chapter 380, Zoning.
- (2) Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets.
- (3) Each lot must front upon an approved street at least 50 feet in width, except for lots fronting on narrower streets existing at the time of passage of the original Subdivision Ordinance of the City.
- (4) Where extra width has been dedicated for widening of existing streets, lots shall begin at such extra width line, and all setbacks shall be measured from such line.
- (5) Where there is a question as to the suitability of a lot or lots for their intended use due to factors, such as rock formations, flood conditions or similar circumstances, the Planning Board may, after adequate investigation, withhold approval of the lots.

E. Public use and service areas.

- (1) In large scale development, easements along rear property lines or elsewhere for utility installation may be required. The easement shall be at least 15 feet wide and located in consultation with the companies or City departments concerned.
- (2) Where a subdivision is traversed by a watercourse, drainageway, channel or street, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of the watercourse and further width or construction, or both, as will be adequate for the purpose.

- (3) Natural features, such as trees, brooks, hilltops and views, shall be preserved whenever possible in designing any subdivision containing such features.
- F. Environmental impact statement. All applications for major subdivisions hereunder containing 25 or more lots shall be accompanied by an environmental impact statement, which shall include therein the fiscal impact on City services and facilities and shall conform in every respect to the definition and requirements as set forth in the New Jersey Coastal Area Facility Review Act, N.J.S.A. 13:19-1 et seq., and regulations adopted pursuant thereto, and specifically to include all requirements set forth in Subchapters 4.0, 9.0 and 10.0 of the Coastal Area Facility Review Act Rules and Regulations promulgated by the Commissioner of the Department of Environmental Protection under Docket No. DEP 005-76-03 and as may hereafter be otherwise amended pursuant to the authority aforesaid. Notwithstanding anything therein contained to the contrary, all procedures pertaining to the submission of an application for major subdivisions as set forth in this Code shall apply to the submission and processing of such environmental impact statement, unless otherwise required in the case of a subdivision within the jurisdiction of the aforesaid Coastal Area Facility Review Act. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- G. Off-site improvements. Payment of the pro rata share, as may be determined by the Planning Board, of the cost of providing only reasonable and necessary street improvements and water, sewerage and drainage facilities and easements therefor, located outside the property limits of the subdivision or development, but necessitated or required by the construction or improvements within such subdivision or development, as set forth under Section 30 of Chapter 291 of the Laws of 1975, the Municipal Land Use Act, N.J.S.A. 40:55D-42.
- H. Energy conservation. The developer shall set forth what provisions shall be utilized in promoting the conservation of energy through the use of planning practices designed to reduce energy consumption and to provide for maximum utilization of renewable energy resources, including maximizing the warming effects of the winter sun, reducing the impact of winter winds, minimizing heat loss within buildings and providing for cooling during summer months. A developer may, where practicable, include the utilization of windmills and solar heat and cooling. The Planning Board shall have the jurisdiction to require such energy conservation devices as may be suitable for the subdivision in question consistent with these objectives and in accordance with the following standards which are nonbinding guidelines.
- (1) Efficiency of site design.
 - (a) Most efficient road, water and sewer and electric utility layout.
 - (b) Cluster development.
 - (c) Use of party walls.
 - (d) Centralized heating of development.
 - (e) Alternative energy source for development.
 - (2) Orientation of development.

- (a) Where possible, land should be gently sloping and oriented toward the southeast to southwest.
 - (b) Where possible, buildings should face the southeast to southwest.
 - (c) Buildings should be positioned in the most favorable topographical position allowed by land forms.
 - (d) Buildings should be on a wooded site or site otherwise sheltered rather than an open site.
- (3) Wind protection for development.
- (a) Shelter belts should be used where possible.
 - (b) Development should be between 10 and 20 times the height of the shelter belt.
 - (c) Shelter belts should serve more than one purpose.
- (4) Wind protection for individual buildings.
- (a) Windscreens should be used for each building.
 - (b) Buildings should be oriented between 45° and 90° of the prevailing wind.
 - (c) Nonheated buildings should face windward.
 - (d) Wind barriers should be used to direct cold winter winds away from buildings and cool summer winds into buildings.
 - (e) Physical devices to manipulate the air should be considered in lieu of or as a supplement to mechanical air conditioning.
- (5) Shading.
- (a) Outside shading devices should be used to shade major window areas.
 - (b) Deciduous trees should be used for shading and placed in optimal locations for summer shade.
 - (c) Vines should be considered on sunny brick, stone, concrete or masonry walls.
 - (d) Grass or other plant material may be used against buildings instead of paving.

§ 340-14. Fees for development. [Amended by Ord. No. 86-10; Ord. No. 89-4; Ord. No. 91-6]

- A. All applications for development in the City of Estell Manor shall be accompanied by the fees set forth in the revised chart, which accompanies and is made part of this

chapter.¹³ Said revised chart supersedes the prior Chart of Fees and Deposits formerly in effect in said City.

- B. All fees are nonrefundable.
- C. In addition to said fees, the applicant shall, where applicable, pay the deposit required for engineering, legal, other expenses and costs associated with revisions of the City Tax Map in accordance with said revised chart.
- D. Said fees and/or deposit shall be payable to the City of Estell Manor. No application shall be submitted to the approving agency until all fees and deposits required have been paid in full.
- E. In addition to the fees in question, each applicant shall be responsible for payment for the time reasonably expended by the City Engineer or the Planning Board Attorney, as well as the costs of any other expert reasonably obtained by the approving agency or the Historic Preservation Commission in connection with the application in question. Compensation to the Engineer or the Planning Board Attorney shall be at such reasonable hourly rates as may have been approved by the approving agency, and compensation of any other experts shall be approved at reasonable hourly rates. **[Amended 11-5-1997 by Ord. No. 97-6]**
- F. In addition, the applicant for a subdivision within the City of Estell Manor shall be responsible for the payment of all costs associated with the revisions of the City Tax Maps in regard to such subdivision.
- G. All actions on the part of any approving agency shall be contingent upon the applicant's paying said reasonable expenses. If said expenses exceed the amount of deposit paid by the applicant, the applicant shall, upon being billed for the same by the approving agency, immediately pay the difference between the expenses incurred and the deposit paid. In the event that the expenses incurred are less than the deposit, the difference shall be refunded to the applicant. Said expenses shall be payable by the applicant, upon request, regardless of whether or not the application is approved.
- H. Any unpaid fees shall constitute a lien against the property in question upon certification to the Tax Collector by the approving agency of said unpaid fees.
- I. No building permit for the subject application shall be issued until the balance due of any said fees shall have been paid in full by the applicant.
- J. As used in this section, the term "approving agency" shall be the Planning Board or the Historic Preservation Commission, as the case may be, being that agency to which the application is submitted. **[Amended 11-5-1997 by Ord. No. 97-6]**
- K. In the event that an application is made for more than one category of approval, as shown on the revised Chart of Fees and Deposits,¹⁴ the total fees, plus the total amount of deposits for each of the types of approval sought, shall be paid.

13. Editor's Note: See Ch. 185, Fees.

14. Editor's Note: See Ch. 185, Fees.

- L. The City Engineer, the Planning Board Attorney, the Tax Assessor or such other expert as may be retained by the approving agency or Historic Preservation Commission may be paid by City Council upon submission of a voucher for services rendered in connection with the application in question to the City Clerk, in accordance with the normal voucher procedures, under the rates approved by the approving agency. **[Amended 11-5-1997 by Ord. No. 97-6]**

§ 340-15. Exemption from fees. [Amended by Ord. No. 86-10]

The following are exempt from the payment of any fees in connection with a land use application:

- A. Charitable, philanthropic, fraternal and religious non-profitable organizations holding a tax-exempt status under the Federal Internal Revenue Code of 1954 [26 U.S.C.A. § 501(c) or (d)].
- B. Agencies of the City of Estell Manor or the Board of Education of the City of Estell Manor.

§ 340-16. Agreement by applicant. [Amended by Ord. No. 86-10]

Each applicant for development shall, in addition to all other requirements, signify, in writing, on forms provided by the City Clerk, an agreement to pay to the City of Estell Manor all reasonable costs required for professional review of the application in question. No application for land development shall be deemed complete in the absence of said written agreement.

§ 340-17. Supplemental procedures in Pinelands Area. [Amended by Ord. No. 89-4; Ord. No. 89-11; Ord. No. 97-3]

- A. Applicability of procedures.
- (1) No person shall carry out any development within the Pinelands Area without obtaining approval from an approval agency and without obtaining development approval in accordance with the procedures set forth in this section.
 - (2) Except as provided in Subsection A(3) below, the following shall not be subject to the procedures set forth in this section:
 - (a) The improvement, expansion or reconstruction within five years of destruction or demolition of any single-family dwelling unit or appurtenance thereto.
 - (b) The improvement, expansion, construction or reconstruction of any structure accessory to a single-family dwelling.
 - (c) The improvement, expansion, construction or reconstruction of any structure used exclusively for agricultural or horticultural purposes.

- (d) The construction, repair or removal of any sign, except for the construction or replacement of any off-site commercial advertising sign.
- (e) The repair of existing utility distribution lines.
- (f) The clearing of less than 1,500 square feet of land.
- (g) The demolition of any structure that is less than 50 years old.
- (h) The installation of utility distribution lines, except for sewage lines, to serve areas which are effectively developed or development which has received all necessary approvals and permits.
- (i) The repair or replacement of any existing on-site wastewater disposal system.
- (j) The repaving of existing paved roads and other paved surfaces, provided no increase in the paved width or area of said roads and surfaces will occur. **[Amended 11-14-2018 by Ord. No. 04-2018]**
- (k) The clearing of land solely for agricultural or horticultural purposes. **[Amended 11-14-2018 by Ord. No. 04-2018]**
- (l) Fences, provided that no more than 1,500 square feet of land is to be cleared.
- (m) Aboveground telephone equipment cabinets.
- (n) Tree pruning.
- (o) The following forestry activities:
 - [1] Normal and customary forestry practices on residentially improved parcels of land that are five acres or less in size.
 - [2] Tree harvesting, provided that no more than one cord of wood per five acres of land is harvested in any one year and that no more than five cords of wood are harvested from the entire parcel in any one year.
 - [3] Tree planting, provided that the area to be planted does not exceed five acres in any one year, no soil disturbance occurs other than that caused by the planting activity and no trees other than those authorized by N.J.A.C. 7:50-6.25 are to be planted.
 - [4] Forest stand improvement designed to selectively thin trees and brush, provided that no clearing or soil disturbance occurs and that the total land area on the parcel in which the activity occurs does not exceed five acres in any one year.
- (p) Prescribed burning and the clearing and maintaining of fire breaks.
- (q) Normal and customary landscape plantings, unless a landscaping plan is required pursuant to § 380-42A of Chapter 380, Zoning, of the Code of the City of Estell Manor.

- (r) The construction of any addition or accessory structure for any nonresidential use or any multifamily residential structure provided that: **[Added 11-14-2018 by Ord. No. 04-2018]**
 - [1] If the addition or structure will be located on or below an existing impervious surface, either the existing use is served by public sewers or the addition or structure will generate no wastewater flows, and said addition or structure will cover an area of no more than 4,999 square feet; and
 - [2] If the addition or structure will not be located on or below an impervious surface, said addition or structure will generate no wastewater flows and will cover an area of no more than 1,000 square feet.
 - (s) The installation of an accessory solar energy facility on any existing structure or impervious surface. **[Added 11-14-2018 by Ord. No. 04-2018]**
 - (t) The installation of a local communications facilities antenna on an existing communications or other suitable structure, provided such antenna is not inconsistent with any Comprehensive Plan for local communications facilities approved by the Pinelands Commission pursuant to N.J.A.C. 7:50-5.4(c)6. **[Added 11-14-2018 by Ord. No. 04-2018]**
 - (u) The establishment of a home occupation within an existing dwelling unit or structure accessory thereto, provided that no additional development is proposed. **[Added 11-14-2018 by Ord. No. 04-2018]**
 - (v) The change of one nonresidential use to another nonresidential use, provided that the existing and proposed uses are or will be served by public sewers and no additional development is proposed. **[Added 11-14-2018 by Ord. No. 04-2018]**
 - (3) The exceptions contained in Subsection A(2) above shall not apply to any historic resources designated by the Pinelands Commission pursuant to N.J.A.C. 7:50-6.154.
 - (4) Nothing herein shall preclude any local or state agency from reviewing, in accordance with the provisions of any applicable ordinance or regulation, any proposed development which does not require an application to the Pinelands Commission pursuant to this section.
- B. Application requirements for minor development. Any application for approval of minor development shall be on the official forms prescribed in § 340-4 of this chapter. In addition, to the extent that said information is not included on the official forms, all information required under provisions of § 380-77B of the Code of the City of Estell Manor shall be included.
- C. Application requirements for major development. Any application for approval of major development shall be on the official forms prescribed in § 340-4 of this chapter. In addition, to the extent that said information is not included on the official forms, all

information required under provisions of § 380-77C of the Code of the City of Estell Manor shall be included.

- D. Application not requiring formal municipal land use approval. Any application for development not requiring action by the Planning Board of the City of Estell Manor shall include all information which may be required by the Zoning Officer of the City of Estell Manor in issuing any permits required therefor and, in addition, shall include such information as may be required by the Regulations of the Pinelands Commission. **[Amended 11-5-1997 by Ord. No. 97-6]**
- E. Notices to the Pinelands Commission. **[Amended 11-14-2018 by Ord. No. 04-2018]**
- (1) Application submission and modifications. Written notification shall be given by the Administrative Officer, by e-mail or regular mail, to the Pinelands Commission within seven days after determination is made by the approval agency that an application for development in the Pinelands Area is complete or if a determination is made by the approval agency that the applicant has been modified. Such notice shall include:
- (a) A copy of the resolution of the approval agency.
 - (b) To the extent that the same is not included in the resolution:
 - [1] The name and address of the applicant.
 - [2] The legal description and street address, if any, of the parcel that the applicant proposes to develop.
 - [3] A brief description of the proposed development, including uses and intensity of uses proposed.
 - [4] The application number of the Certificate of Filing issued by the Pinelands Commission and the date on which it was issued.
 - [5] The date on which the application or any change thereto was filed and any application number or other identifying number assigned to the application by the approval agency.
 - [6] The approval agency with which the application or change thereto was filed.
 - [7] The content of any change made to the application since it was filed with the Commission, including a copy of any revised plans or reports.
 - [8] The nature of the municipal approval or approvals being sought.
 - [9] The date of adoption of the resolution referred to in Subsection E(1)(a).
 - (c) This provision shall not prevent the approval agency from determining the application on its merits at the time the application is deemed complete, provided that the provisions of Subsection E(2) of this subsection, which follows immediately below, have been carried out by the applicant.

- (2) Meetings and hearings. Where a meeting, hearing or other formal proceeding on an application for development approval in the Pinelands Area is required, the applicant shall provide notice to the Pinelands Commission by e-mail, regular mail or delivery of the same to the principal office of the Commission at least five days prior to such meeting, hearing or other formal proceeding. Such notice shall contain at least the following information:
- (a) The name and address of the applicant.
 - (b) The application number of the Certificate of Filing issued by the Pinelands Commission and the date on which it was issued.
 - (c) The date, time and location of the meeting, hearing or other formal proceeding.
 - (d) The name of the approval agency or representative thereof that will be conducting the meeting, hearing or other formal proceeding.
 - (e) Any written reports or comments received by the approval agency on the application for development that have not been previously submitted to the Commission.
 - (f) The purpose for which the meeting, hearing or other formal proceeding is to be held.
 - (g) A copy of the notice to the Pinelands Commission and proof of service thereon shall be filed with the Solicitor of the approval agency at least one week prior to the meeting date.
- (3) Notice of approvals and denials. The Pinelands Commission shall be notified of all approvals and denials of development in the Pinelands Area, whether the approval occurs by action or inaction of any approval agency or an appeal of any agency's decision. The applicant shall within five days of the receipt of formal written notice of the approval or denial give notice by e-mail or regular mail to the Pinelands Commission. Said notice shall contain the following information:
- (a) The name and address of the applicant.
 - (b) The legal description and street address, if any, of the parcel that the applicant proposes to develop.
 - (c) The application number of the Certificate of Filing issued by the Pinelands Commission and the date on which it was issued.
 - (d) The date on which the approval or denial was issued by the approval agency.
 - (e) Any written reports or comments received by the approval agency on the application for development that have not been previously submitted to the Commission.
 - (f) Any revisions to the application not previously submitted to the Commission.

- (g) A copy of the resolution, permit or other documentation of the approval or denial. If the application was approved, a copy of any preliminary or final plan, plot or similar document that was approved shall also be submitted.
 - (4) A copy of the notice of approval required in Subsection E(3) of this subsection, as set forth immediately preceding this subsection, shall be filed with the approval agency within two weeks of the notification of same.
- F. Review by the Pinelands Commission.
- (1) Upon receipt by the Pinelands Commission of a notice of approval pursuant to Subsection E(3) above, the application for development approval shall be reviewed in accordance with the provisions of N.J.A.C. 7:50-4.37 through N.J.A.C. 7:50-4.42. The approval of the City shall not be effective and no development shall be carried out prior to a determination of whether the development approval will be reviewed by the Commission. If the applicant is notified that the Commission will review the application for development, no development shall be carried out until such review has been completed.
 - (2) Until January 14, 1991, approvals issued by the Pinelands Development Review Board or the Pinelands Commission under the interim rules and regulations shall serve as the basis for Pinelands Commission review of the local approval under this section.
 - (3) Although the Pinelands Commission shall be notified of all denials, no such denial actions are subject to further review and action by the Pinelands Commission.
- G. Condition on prior approvals of the City.
- (1) Where a prior approval has been granted by the City, no subsequent approval of an application for development approval shall be obtained until one of the following is satisfied:
 - (a) Notification is received from the Pinelands Commission that review of the City's approval is not required;
 - (b) Review of the City's approval has been completed pursuant to N.J.A.C. 7:50-4.37 through N.J.A.C. 7:50-4.42 and a final order regarding the approval is received by the City from the Pinelands Commission; or
 - (c) Proof that any adverse determination of the Pinelands Commission has been reversed by an administrative or judicial body having power to do the same and no further appeal is pending and that all time limitations for said appeal have expired.
 - (2) The above provisions shall not, however, prevent the approval agency from modifying the prior approval, provided that there shall be no subsequent approval of an application for development until the above conditions are met.
- H. Effect of Pinelands Commission decision on City approval. If the Pinelands Commission disapproves an application for development previously approved by an approval agency, the application shall be deemed to be rejected. If the Commission

approves the decision of an approval agency subject to conditions, the approval agency may, within 60 days, modify its prior approval to include some or all of the conditions imposed by the Commission. If the approval agency does not accept all of the conditions so imposed, the application shall be considered to have been rejected. In the case of an approval of a preliminary application for development, no final approval shall be granted by an approval agency unless the application for approval demonstrates that the conditions specified by the Commission have been met by the applicant.

- I. Participation of Pinelands Commission in public hearings. The Pinelands Commission may participate in a hearing held in the City involving the development of land in the Pinelands Area pursuant to N.J.A.C. 7:50-4.36.
- J. Environmental Commission review. All applications for major development shall be referred to the Environmental Commission of Estell Manor for review and comment, if the same be established.
- K. Public development. All development proposed by the City or any agency thereof will comply with all the requirements for public development set forth in N.J.A.C. 7:50-4.51 et seq. and, unless a variance be obtained, all of the standards set forth in this chapter must be met.
- L. Amendments. In amending this chapter or any other chapter of the Code of the City of Estell Manor shall comply with all of the requirements of N.J.A.C. 7:50-3.45.

ARTICLE V

Administration

[Amended by Ord. No. 77-3]

§ 340-18. Minimum standards.

These rules, regulations and standards shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the City. Any action taken by the Planning Board under the terms of this chapter shall give primary consideration to the above-mentioned matters and to the welfare of the entire community. However, if the subdivider or his agent can clearly demonstrate that because of peculiar conditions pertaining to his land the literal enforcement of one or more of these regulations is impracticable or will exact undue hardship, the Planning Board may permit such variance or variances as may be reasonable and within the general purpose and intent of the rules, regulations and standards established by this chapter.

§ 340-19. Deviations from final plan.

The Planning Board may permit a deviation from the final plan if caused by a change of conditions beyond the control of the developer since the date of final approval, provided that the deviation will not substantially alter the character of the development or substantially impair the intent and purpose of the Master Plan and Chapter 380, Zoning.

§ 340-20. Promulgation of rules and regulations.

The Planning Board may, by resolution, promulgate rules and regulations of procedure for the administration of this chapter not inconsistent with the provisions hereof.¹⁵

ARTICLE VI

Violations and Penalties**[Amended by Ord. No. 82-6]****§ 340-21. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

- A. If, before final subdivision approval has been granted, any person transfers or sells or agrees to transfer or sell, except pursuant to an agreement expressly conditioned on final subdivision approval, as owner or agent, any land which forms a part of a subdivision for which municipal approval is required by ordinance pursuant to this chapter, such person shall be subject to a penalty not to exceed \$1,000, and each lot disposition so made may be deemed a separate violation.
- B. In addition to the foregoing, the City may institute and maintain a civil action:
 - (1) For injunctive relief; and
 - (2) To set aside and invalidate any conveyance made pursuant to such a contract of sale if a certificate of compliance has not been issued in accordance with N.J.S.A. 40:55D-56 but only if the municipality has a planning board and has adopted by ordinance standards and procedures in accordance with N.J.S.A. 40:55D-38.
- C. In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land, from which the subdivision was made that remains in the possession of the developer or his assigns or successors, to secure the return of any deposits made or purchase price paid, and also, a reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within two years after the date of the recording of the instrument of transfer, sale or conveyance of said land or within six years, if unrecorded.

15. Editor's Note: Original Sec. 9-6d, regarding ancillary powers, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

Chapter 357

TREES

ARTICLE I Cutting and Removal of Trees

§ 357-1. Restrictions.

§ 357-2. Violations and penalties.

ARTICLE II Tree Cutting and Forestry

§ 357-3. Purpose.

§ 357-4. Definitions.

§ 357-5. Permitted activities.

§ 357-6. Forestry standards.

§ 357-7. Forestry application procedure.

§ 357-8. Additional conditions as required.

§ 357-9. Enforcement and inspection.

§ 357-10. Violations and penalties.

[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Cutting and Removal of Trees

[Adopted by Ord. No. 79-5 (Ch. III, Sec. 3-5, of the 1974 Revised General Ordinances); amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

§ 357-1. Restrictions.

It shall be unlawful for any person to cut, remove, destroy or damage any trees, logs or other timber, whether living or dead, from or upon the land of another without the express permission of the owner thereof; nor shall any owner of land or his agent cut the trees thereon without completing the requirements as provided in Article II, Tree Cutting and Forestry, of this chapter. This provision shall not apply to the cutting of trees by the owner thereof for his personal household use, and provided that they are not offered for sale or other commercial use.

§ 357-2. Violations and penalties.

Any violations of this article shall be subject to the general penalty provision of Chapter 1, Article II, General Penalty, of the Code of the City of Estell Manor.

ARTICLE II

Tree Cutting and Forestry

[Adopted by Ord. No. 84-11 (Ch. IV, Sec. 4-4, of the 1974 Revised General Ordinances); amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

§ 357-3. Purpose.

The governing body of Estell Manor does herein declare that the woodlands are an important cultural, ecological, scenic and economic resource; that proper management of this resource will ensure its maintenance for all forest benefits, including, but not limited to, watershed protection, wildlife habitat, recreation and aesthetics; and that such management may, at the same time, provide greater economic returns for timber harvesting.

§ 357-4. Definitions.

For purposes of this article, the terms herein shall be defined as follows:

FORESTRY — The planting, cultivating and harvesting of trees for the production of wood products, including firewood or for forest health. It includes such practices as reforestation, site preparation and other silvicultural practices, including but not limited to artificial regeneration, bedding, broadcast scarification, clear-cutting, coppicing, disking, drum chopping, group selection, individual selection, natural regeneration, root raking, seed tree cut, shelterwood cut and thinning. For purposes of this article, the following activities shall not be defined as forestry:

- A. Removal of trees located on a parcel of land one acre or less on which a dwelling has been constructed.
- B. Horticultural activities involving the planting, cultivating or harvesting of nursery stock or Christmas trees.
- C. Removal of trees necessitated by the development of a parcel as otherwise authorized by Chapter 380, Zoning, of the Code of the City of Estell Manor.
- D. Removal of trees necessary for the maintenance of utility or public rights-of-way.
- E. Removal or planting of trees for the personal use of the parcel owner.
- F. Removal of trees for public safety.

§ 357-5. Permitted activities.

The following activities are permitted:

- A. Normal and customary forestry practices on residentially improved parcels of land that are five acres or less in size.
- B. Tree harvesting, provided that no more than one cord of wood per five acres of land is harvested in any one year and that no more than five cords of wood are harvested from the entire parcel in any one year.

- C. Tree planting, provided that the area to be planted does not exceed five acres in any one year, no soil disturbance occurs other than that caused by the planting activity and no trees other than those authorized by N.J.A.C. 7:50-6.25 are to be planted.
- D. Forest stand improvement designated to selectively thin trees and brush, provided that no clearing or soil disturbance occurs and that the total land area on the parcel in which the activity occurs does not exceed five acres in any one year.
- E. Prescribed burning and the clearing and maintaining of fire breaks.

§ 357-6. Forestry standards.

Forestry in the Pinelands Area shall be carried out in accordance with the standards set forth in N.J.A.C. 7:50-6.46.

- A. All forestry activities shall serve to maintain Pinelands native forest types, including those which are locally characteristic, except in those stands where other forest types exist.
- B. Any newly developed access to lands proposed for harvesting shall avoid wetland areas except as absolutely necessary to harvest wetlands species or to otherwise gain access to a harvesting site.

§ 357-7. Forestry application procedure.

- A. A complete wood cutting and Forestry Management Plan must be submitted to the New Jersey Division of Forest Management, 5555 Atlantic Ave, Mays Landing, NJ 08330. All procedures shall be followed accordingly.
- B. Required Documentation to the City of Estell Manor, City Clerk:
 - (1) The landowner must provide a letter from the NJ Division of Forest Management to the City Clerk, indicating that all requirements have been met and that forestry activities on the owner's parcel of land are enrolled in the NJ Forest Stewardship Program. This document shall serve as evidence of the completion of an application and approval the NJ Division of Forest Management and the NJ Pinelands Commission as well as evidence that the activities are consistent with the standards of the Comprehensive Forestry Management Plan.
 - (2) The owner of a parcel of land over five acres not applying for Farmland Assessment but engaging in forestry activities is required to submit an application to the NJ Division of Forest Management that can be prepared either by themselves or a Consulting Forester. The application must also indicate compliance with the NJ Pinelands Commission Regulations and the NJ Freshwater Wetlands Protection Act, which regulates forestry activities conducted within forested wetlands and transitional areas. If meeting the requirements, the application will be forwarded by the Division of Forest Management to the Pinelands Commission for approval. The notice of approval will serve as the required documentation.

§ 357-8. Additional conditions as required.¹

- A. Additional conditions to be fulfilled by an owner of woodland that is devoted exclusively to the production for sale of trees and forest products other than Christmas trees and that is not appurtenant woodland:
- (1) The owner of land that is devoted exclusively to the production for sale of trees and forest products, other than Christmas trees, and that is not appurtenant woodland shall annually submit to the assessor, in addition to a completed and timely filed application for farmland assessment (Form FA-1) and gross sales verification form (Form FA-1 G.S.), the following information:
 - (a) A copy of the current woodland management plan for the landowner's woodlands prepared in accordance with the criteria set forth at N.J.A.C. 18:15-2.10. Unless the assessor requests such re-submission, re-submission of the current plan is not required if the plan was previously submitted to the assessor and the owner indicates on Form WD-1 that there is no change in the plan as initially submitted or, if applicable, when it was most recently revised and resubmitted. However, any new plan or amended plan not yet on file with the assessor must be submitted.
 - (b) A completed woodland data form (Form WD-1), as prescribed by the Director of the Division of Taxation. The information provided on such form must apply to the entire pre-tax year and include the following:
 - [1] A description of all woodland management activities and practices carried out or to be carried out;
 - [2] A statement as to the type and quantity of tree and forest products sold or to be sold;
 - [3] The amount of income received and an estimate of additional income anticipated to be received from the sale of trees and forest products;
 - [4] A certification in lieu of an oath signed by both the landowner and an approved forester stating that the land is woodland, actively devoted to agricultural use, that the activities and practices reported on Form WD-1 have been or will be carried out in the pre-tax year, their implementation represents compliance with the filed woodland management plan, and that the information provided on the form is true and correct; and
 - [5] A certification in lieu of an oath signed by the landowner stating that the income reported on Forms FA-1 G.S. and WD-1 as received or anticipated to be received from the sale of trees and forest products is valid and true and, if any activities and practices reported on the form have not been completed at the time of its submission, that they will be completed within the pre-tax year.

1. Editor's Note: The following provisions are pursuant to N.J.A.C. 18:15-2.7 et seq.

- (2) The activities and practices listed on Form WD-1 must be completed by the end of the calendar year.
 - (3) If the documents set forth in (a) above are not submitted annually to the assessor, the application will be denied and such land will not be considered to be in agricultural use.
 - (4) The assessor shall not approve an application that includes woodland that is not appurtenant woodland until a woodland management plan has been prepared and approved by the State Forester and the owner has managed the woodland in accordance with the approved plan for at least the two successive years immediately preceding the tax year for which valuation, assessment, and taxation under the Farmland Assessment Act, N.J.S.A. 54:4-23.1, is requested.
- B. If not already contained in the woodland management plan required in Subsection A above, the following shall be submitted:
- (1) The applicant's name, address and interest in the subject parcel.
 - (2) The owner's name and address, if different from the applicant's, and the owner's signed consent to the filing of the application.
 - (3) The block and lot designation and street address, if any, of the subject parcel.
 - (4) A brief written statement generally describing the proposed forestry activities.

§ 357-9. Enforcement and inspection.

- A. This article shall be enforced by the New Jersey State Department of Environmental Protection, Division of Parks and Forestry, Bureau of Forestry, the State Forest Service and State Forest Fire Service (see N.J.S.A. 13:9-1 et seq.).
- B. Any complaint made to the City of Estell Manor regarding violations of this article shall be referred to the applicable enforcing agency as indicated above.
- C. Nothing contained herein shall be deemed to restrict or impede enforcement of any power or authority granted jurisdiction.

§ 357-10. Violations and penalties.

All penalties for violations of this article shall be in accordance with Chapter 1, Article II, General Penalty, of the Code of the City of Estell Manor.

Chapter 361
TRESPASSING

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| § 361-1. Unlicensed entry of structures. | § 361-3. Peering into windows or other openings of dwelling places. |
| § 361-2. Defiant trespasser. | § 361-4. Defenses. |

[HISTORY: Adopted by the City Council of the City of Estell Manor 10-3-2001 by Ord. No. 13-01 (Ch. III, Sec. 3-9, of the 1974 Revised General Ordinances); amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. III). Subsequent amendments noted where applicable.]

§ 361-1. Unlicensed entry of structures.

A person commits an offense if, knowing that he is not licensed or privileged to do so, he enters or surreptitiously remains in any research facility, structure, or separately secured or occupied portion thereof, in or upon utility company property, or in the sterile area or operational area of an airport. An offense under this subsection is a crime of the fourth degree if it is committed in a school or on school property. The offense is a crime of the fourth degree if it is committed in a dwelling. An offense under this section is a crime of the fourth degree if it is committed in a research facility, power generation facility, waste treatment facility, public sewage facility, water treatment facility, public water facility, nuclear electric generating plant or any facility which stores, generates or handles any hazardous chemical or chemical compounds. An offense under this subsection is a crime of the fourth degree if it is committed in or upon utility company property. An offense under this subsection is a crime of the fourth degree if it is committed in the sterile area or operational area of an airport. Otherwise, it is a disorderly persons offense.

§ 361-2. Defiant trespasser.

A person commits a petty disorderly persons offense if, knowing that he is not licensed or privileged to do so, he enters or remains in any place as to which notice against trespass is given by:

- A. Actual communication to the actor; or
- B. Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or
- C. Fencing or other enclosure manifestly designed to exclude intruders.

§ 361-3. Peering into windows or other openings of dwelling places.

A person commits a crime of the fourth degree if, knowing that he is not licensed or privileged to do so, he peers into a window or other opening of a dwelling or other structure adapted for overnight accommodation for the purpose of invading the privacy of another

person and under circumstances in which a reasonable person in the dwelling or other structure would not expect to be observed.

§ 361-4. Defenses.

It is an affirmative defense to prosecution under this section that:

- A. A structure involved in an offense under § 361-1 was abandoned; or
- B. The structure was at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the structure; or
- C. The actor reasonably believed that the owner of the structure, or other person empowered to license access thereto, would have licensed him to enter or remain, or, in the case of § 361-3 of this chapter, to peer.

Chapter 377
VEHICLES AND TRAFFIC

ARTICLE I
Speed Limits

§ 377-2. Signage.

§ 377-1. Speed limits established.

[HISTORY: Adopted by the City Council of the City of Estell Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Speed Limits
[Adopted 5-2-2001 by Ord. No. 03-01]

§ 377-1. Speed limits established.

The speed limits for both directions of traffic along the streets or parts thereof described below are hereby established at the rate of speed indicated.

Name of Street	Speed Limit (mph)	Location
Eighth Avenue	35	Entire length
Fifth Avenue	35	Entire length
Fourth Avenue	35	Entire length
Ninth Avenue	35	Entire length
Second Avenue	35	Entire length
Seventh Avenue East	35	Entire length
Seventh Avenue West	35	Entire length
Third Avenue	35	Entire length

§ 377-2. Signage.

Regulatory and warning signs conforming to the current Manual on Uniform Traffic Control Devices for Streets and Highways shall be erected and maintained to effect the above-designated speed limit.

Chapter 380

ZONING

ARTICLE I Title; Purpose

§ 380-1. Short title.

§ 380-2. Purpose.

ARTICLE II Definitions

§ 380-3. Terms defined.

§ 380-4. Terms defined in state statutes and regulations.

§ 380-5. Definitions incorporated by reference.

ARTICLE III Establishment of Zones

§ 380-6. Zones.

§ 380-7. Zoning Map.

§ 380-8. Zone boundaries.

ARTICLE IV Schedule of Yard, Area and Bulk Requirements

§ 380-9. Schedule of Yard, Area and Bulk Requirements.

ARTICLE V Zone District Use Regulations

§ 380-10. R-25 Rural Residence Zone.

§ 380-11. R-10 Residence Zone.

§ 380-12. RV Village Residence Zone.

§ 380-13. R-5 Residence Zone.

§ 380-14. SD Special District.

§ 380-15. HC Highway Commercial Zone.

§ 380-16. C Conservation Zone.

§ 380-17. FH Flood Hazard Zone.

§ 380-18. AP Agricultural Production Zone.

§ 380-19. Regulations applicable to special industrial developments in HC Zone.

§ 380-20. Historic preservation.

§ 380-21. Manufactured homes.

§ 380-22. Animals.

ARTICLE VI General Regulations

§ 380-23. General.

§ 380-24. Frontage on public street.

§ 380-25. Irregularly shaped lots.

§ 380-26. Principal building.

§ 380-27. Yards.

§ 380-28. Hedge, fence or wall at intersection of streets.

§ 380-29. Artificial lights.

§ 380-30. Conflict with Master Plan or Official Map.

§ 380-31. Accessory structures.

§ 380-32. Prohibited uses.

§ 380-33. General modifications.

§ 380-34. Construction trailers.

§ 380-35. Inland and coastal wetlands.

§ 380-36. Registration and transfer of Pinelands development credits.

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[HISTORY: Adopted by the City Council of the City of Estell Manor by Ord. No. 77-1 (Ch. X of the 1974 Revised General Ordinances). Amendments noted where applicable.]

ARTICLE I

Title; Purpose

§ 380-1. Short title.

This chapter shall be known and may be cited as the "City of Estell Manor Zoning Ordinance."

§ 380-2. Purpose. [Amended by Ord. No. 82-6]

- A. General purpose. The intent of this chapter is to establish a precise and detailed plan for the use of land in the City based on the Master Plan and enacted in order to promote and to protect the public health, safety, morals, comfort, convenience and general welfare of the people. This chapter is further intended to implement the objectives of the Pinelands Protection Act and the Pinelands Comprehensive Management Plan and to conform with the minimum standards contained in said plan.
- B. Purposes. The purposes of this chapter are those set forth under the zoning provisions of the Municipal Land Use Law, Chapter 291 of the Laws of 1975, N.J.S.A. 40:55D-1 et seq., and the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq.

ARTICLE II

Definitions

[Amended by Ord. No. 78-13; Ord. No. 79-22; Ord. No. 80-6; Ord. No. 82-6; Ord. No. 83-4; Ord. No. 84-10; Ord. No. 85-4; Ord. No. 85-9; Ord. No. 85-10; Ord. No. 86-10; Ord. No. 88-3; Ord. No. 89-4; Ord. No. 93-9; Ord. No. 94-4; Ord. No. 94-9; Ord. No. 96-2; Ord. No. 97-3]

§ 380-3. Terms defined.

The following words and terms of this chapter shall be interpreted as follows:

ACCESSORY USE OR BUILDING — A building or use which:

- A. Is subordinate to and serves a principal building or a principal use, including, but not limited to, the production, harvesting and storage as well as washing, grading and packaging of unprocessed produce grown on site;
- B. Is subordinate in area, extent and purpose to the principal structure or principal building or principal use served;
- C. Contributes primarily to the comfort, convenience or necessity of the occupants, business or industry of the principal structure or principal use served; and
- D. Is located on the same parcel as the principal structure or principal use served, except as otherwise expressly authorized by the provisions of this chapter.

ADDITION — In the case of an historic landmark, the construction of a new improvement as part of an existing improvement when such new improvement changes the exterior appearance of any landmark; in the case of an historic landmark, the razing of any improvement or the obliteration of any natural feature of said landmark.

ADMINISTRATIVE OFFICER — Pursuant to N.J.S.A. 40:55D-3 of the New Jersey Statutes, the Clerk of the City of Estell Manor is designated as the "administrative officer."

AGRICULTURAL COMMERCIAL ESTABLISHMENT — A retail sales establishment primarily intended to sell agricultural products produced in the Pinelands. An agricultural commercial establishment may be seasonal or year round and may not be associated directly with a farm; however, it does not include supermarkets, convenience stores, restaurants and other establishments which coincidentally sell agricultural products, nor does it include agricultural production facilities such as a farm itself, nor facilities which are solely processing facilities.

AGRICULTURAL EMPLOYEE HOUSING — Residential dwellings for the seasonal use of employees of an agricultural or horticultural use which because of their character or location, are not to be used for permanent housekeeping units and which are otherwise accessory to the principal use of the lot for agricultural purposes.

AGRICULTURAL OR HORTICULTURAL PURPOSE OR USE — Any production of plants, other than trees, or animals useful to any man, including, but not limited to, forages or sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, horses, ponies, mules or goats and including the breeding and grazing of any or all such animals; bees and apiary products; fur animals; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or any land devoted to and meeting the requirements and qualification for payments or other compensation pursuant to a soil conservation program under an agency of the federal government; provided, however, that the same shall be consistent with the provisions of § 380-22 of the Code of the City of Estell Manor, as heretofore or hereinafter amended. The cutting or harvesting of trees as defined in Chapter 357, Trees, Article II, Tree Cutting and Forestry, of the Code of the City of Estell Manor, as amended, shall not be considered an "agricultural or horticultural purpose or use."

AGRICULTURAL PRODUCTS PROCESSING FACILITY — A facility designed, constructed and operated for the express purpose of processing agricultural products grown in the Pinelands, including washing, grading and packaging of those products.

AGRICULTURAL SERVICE ESTABLISHMENT — An establishment, the primary purpose of which is the sale of goods, commodities or service that supports active farm operations.

ALTERATION — As applied to a building or structure, a change or rearrangement in the structure or in the existing facilities for an enlargement, whether by extension of a side or by increasing in height or by moves from one location or position to another. Alterations shall not include additions to the improvement. In the case of an historic landmark, any work done which changes the appearance of the exterior surface of the same shall be considered an alteration.

ALTERNATE DESIGN PILOT PROGRAM TREATMENT SYSTEM — An individual or community on-site waste water treatment system that has the capability of providing a high level of treatment, including a significant reduction in the level of total nitrogen in the wastewater and that has been approved by the Pinelands Commission for participation in the alternate design wastewater treatment systems pilot program pursuant to N.J.A.C. 7:50-10.23(b). Detailed plans and specifications for each authorized technology are available at the principal office of the Pinelands Commission. **[Added 4-2-2003 by Ord. No. 03-03; amended 11-14-2018 by Ord. No. 04-2018]**

APPLICATION FOR DEVELOPMENT — The application form and all accompanying documents required by the provisions of the Code of the City of Estell Manor or by the provisions of the Municipal Land Use Law, Chapter 291 of the Laws of 1975, N.J.S.A. 40:55D-1 et seq., as heretofore or hereafter amended, or by the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq., as heretofore or hereafter amended, which may be required for the approval of a subdivision plat, site plan, conditional use, zoning variance or direction for the issuance of any permit for development approval. In the Pinelands Area, this shall include any application filed with any permitting agency or any approval, authorization or permit which is a prerequisite to initialing development in the Pinelands Area, except as provided in § 380-77A(2) of this chapter.

APPROVAL AGENCY — Any board, body or other authority within the City with authority to approve or disapprove subdivisions, site plans, construction permits, conditional use permits, variances or other applications for development approval.

AREA, BUILDING (GROUND COVERAGE) — The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.

AREA, GROSS FLOOR — The sum of the gross horizontal areas of every floor of a building, measured from the inside face of exterior walls or from the center line or party or common walls separating two dwelling units.

AREA, LIVABLE OR HABITABLE FLOOR — All gross floor area having a clear ceiling height of at least seven feet, except that not more than 10% of the habitable floor area may have a ceiling height less than seven but not less than five feet; any cellar, open porches,

carports, garage or utility space, bay windows not extending more than three feet, balconies and terraces shall not be considered in the computation of habitable floor area.¹

BUILDING — Any structure having a roof supported by columns, piers or walls, including tents, lunch wagons, trailers, dining cars, camp cars or other structures on wheels, or having other supports. Each structure separated by fire walls from adjoining structures under separate occupancy or for separate uses shall be considered a separate building.

BUILDING COVERAGE — That percentage of the lot area covered by building area.

BUILDING HEIGHT — The vertical dimension measured from the average elevation of the finished grade at the perimeter of the building to the highest point of the roof.

BUILDING LINE — A line formed by the vertical projection to the ground of the exterior surface of the building on any side. In case of a cantilevered or projected section of a building, the vertical projection will coincide with the surface nearest the lot line. A building line shall not be closer to the street line than the required front yard depth.

CAMPER — A portable structure which is self-propelled or mounted on or towed by another vehicle, designed and used for temporary living, for travel, recreation, vacation or other short-term uses. Camper does not include mobile homes or other dwellings.

CAMPSITE — A place used or suitable for camping on which temporary shelter such as a tent or camper may be placed and occupied on a temporary and seasonal basis.

CERTIFICATE OF APPROPRIATENESS — A certificate issued by the Planning Board or Board of Adjustment in accordance with § 380-20 of this chapter for the construction, alteration, additions to, relocation, improvement, removal or demolition of a landmark or a Pinelands designated site or for any change in the exterior appearance of a lot within 200 feet of the same. **[Amended 11-5-1997 by Ord. No. 97-6]**

CERTIFICATE OF FILING — A certificate issued by the Pinelands Commission pursuant to N.J.A.C. 7:50-4.34 that a complete application for development has been filed.

COMMISSION — The Pinelands Commission created pursuant to Section 5 of the Pinelands Protection Act.²

COMPREHENSIVE MANAGEMENT PLAN — The plan adopted by the Commission pursuant to Section 7 of the Pinelands Protection Act, as heretofore or hereafter amended.³

CONTIGUOUS LANDS — Land which is connected or adjacent to other land so as to permit the land to be used as a functional unit, provided that separation by lot line, streams, dedicated public roads which are not paved, rights-of-way and easements shall not affect the contiguity of land unless a substantial physical barrier is created which prevents the land from being used as a functional unit.

CUTTING AND HARVESTING OF TREES — The cutting and harvesting of trees on a commercial basis, or otherwise for profit, which requires the obtaining of a permit under the

1. Editor's Note: The definition of "Board of Adjustment," which previously followed this definition, was repealed pursuant to Ord. No. 97-6, adopted 11-5-1997, which abolished the Zoning Board of Adjustment and transferred its powers to the Planning Board.

2. Editor's Note: See N.J.S.A. 13:18A-5.

3. Editor's Note: See N.J.S.A. 13:18A-8.

provisions of Chapter 357, Trees, Article II, Tree Cutting and Forestry, of the Code of the City of Estell Manor, as heretofore or hereafter amended.

DEVELOPMENT — The change or enlargement of any use or disturbance of any land, the performance of any building or mining operation, the division of land into two or more parcels and the creation or termination of rights of access or riparian rights, including, but not limited to:

- A. A change in type of use of a structure or land.
- B. A reconstruction, alteration of the size or material change in the external appearance of a structure or land.
- C. A material increase in the intensity of use of land, such as an increase in the number of businesses, manufacturing establishments, offices or dwelling units in a structure or on land.
- D. Commencement of resource extraction, drilling or excavation on a parcel of land.
- E. Demolition of a structure or removal of trees.⁴
- F. Deposit of refuse, solid or liquid waste or fill on a parcel of land.
- G. In connection with the use of land, the making of any material change in noise levels, thermal conditions or emissions of waste material.
- H. Alteration, either physically or chemically, of a shore, bank or floodplain, seacoast, river, stream, lake, pond, wetlands or artificial body of water.

DEVELOPMENT, MAJOR — All development other than minor development.

DEVELOPMENT, MINOR — A development meeting the criteria of a minor subdivision under § 340-5 of the City of Estell Manor Code or meeting the definition of a "minor site plan" under § 380-3 of this chapter.

DISTRICT — The portion of the territory of the City of Estell Manor within which designated regulations and requirements or various combinations thereof apply pursuant to the provisions of this chapter.

DRIVEWAY — Any lane, way, opening, construction entrance or privately owned road entering upon any public road within the City of Estell Manor, excepting field openings to nonresidential land used exclusively for farming purposes.

DWELLING UNIT — One or more rooms providing living facilities for one family, including equipment for cooking or provisions for the same.

ELECTRIC DISTRIBUTION LINES — All electric lines other than electric transmission lines.

ELECTRIC TRANSMISSION LINES — Electric lines which are part of an electric company's transmission and subtransmission system, which provide a direct connection between a generating station or substation of the utility company and:

4. Editor's Note: Amended by Planning Board 6-14-1983.

- A. Another substation of the utility company.
- B. A substation of or interconnection point with another interconnecting utility company.
- C. A substation of a high-load customer of the utility.

EMERGENCY REPAIRS — In the case of an historic landmark, those immediate remedial actions undertaken to alleviate the results of accidental damage or destruction to private property where time will not permit the owner to obtain site plan approval and a building permit prior to their undertaking.

ESSENTIAL UTILITIES — The erection, construction, alteration or maintenance by public utilities, telephone or municipal or other governmental agencies of underground or overhead gas, electric, steam, water or sewage transmission or distribution systems, including buildings, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or City or other government agencies or for the public health or safety or general welfare.

FAMILY — A single individual doing his own cooking and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage or other domestic bond.

FENCE or WALL — A structure which permanently or temporarily prohibits or inhibits unrestricted travel between properties or portions of properties or between the street or public right-of-way and a property.

FIRE DEPARTMENT — The Estell Manor Volunteer Fire Department.

FIRE OFFICIAL — The official of the Fire Department designated by that Department to represent it with regard to the inspection and approval of driveways.

FORESTRY — The planting, cultivating and harvesting of trees for the production of wood products, including firewood or for forest health. It includes such practices as reforestation, site preparation and other silvicultural practices, including, but not limited to, artificial regeneration, bedding, broadcast scarification, clear cutting, coppicing, disking, drum chopping, group selection, individual selection, natural regeneration, root raking, seed tree cut, shelter wood cut and thinning. For purposes of this chapter, the following activities shall not be defined as "forestry": **[Amended 11-14-2018 by Ord. No. 04-2018]**

- A. Removal of trees located on a parcel of land one acre or less on which a dwelling has been constructed;
- B. Horticultural activities involving the planting, cultivating or harvesting of nursery stock or Christmas trees;
- C. Removal of trees necessitated by the development of the parcel as otherwise authorized by this chapter;
- D. Removal of trees necessary for the maintenance of utility or public rights-of-way;
- E. Removal or planting of trees for the personal use of the parcel owner; and

F. Removal of trees for public safety.

GARAGE, PRIVATE — A building or space accessory to a residence which provides the storage of motor vehicles and in which no occupation, business or service for profit is carried on.

GARAGE, PUBLIC — A building or part thereof, other than a private garage, used for the storage of motor vehicles for profit and may include the sale of fuels or accessories or the keeping of vehicles for hire as a secondary use.

GOVERNING BODY — The City Council of the City of Estell Manor.

HISTORIC PRESERVATION COMMISSION — The Commission established under the terms of this chapter.

HISTORIC LANDMARK —

A. Any real property, man-made structure, natural object or configuration or any group of the foregoing which has been formally designated in the Master Plan as being significant because it possesses integrity of location, design, setting, materials, workmanship, feeling and association which reflects significance in American history, architecture, archaeology or culture under one or more of the following criteria:

- (1) It is associated with events of significance to cultural, political, economic or social history;
- (2) It is associated with the lives of persons or institutions of significance to cultural, political, economic or social history;
- (3) It represents the work of a matter or possesses high artistic value or embodies the distinctive characteristics of a type, period or method of construction of significance to cultural, political, economic or social history; or
- (4) It has yielded or is likely to yield information significant to history or prehistory.

B. All landmarks must be so designated by the City Council in accordance with the provisions of § 380-20 of this chapter and shall be deemed to include the lots on which they are located.

HISTORIC RESOURCES — Any site, building, area, district, structure or object important in American history, or prehistory, architecture, archaeology and culture and to national, state, county, local or regional level. All historic landmarks are historic resources.

HOME CRAFT — Any occupation carried on as a subordinate use solely by a member of the family residing on the premises of a residential lot.

HOME PROFESSIONAL OFFICE — The office, studio or occupational room of a physician, surgeon, dentist, architect, licensed professional engineer, real estate or lawyer engaged in direct personal services.

IMMEDIATE FAMILY — Those persons related by blood or legal relationship in the following manner: spouses, domestic partners, great-grandparents, grandparents, great-grandchildren, grandchildren, parents, sons, daughters, brothers and sisters, aunts and uncles, nephews, nieces and first cousins. **[Added 11-14-2018 by Ord. No. 04-2018]**

IMPERMEABLE SURFACE — Any surface which does not permit fluids to pass through or penetrate its pores or spaces, typically having a maximum permeability for water of 10^{-7} cm/second at the maximum anticipated hydrostatic pressure. The term "impermeable" is equivalent in meaning. **[Added 11-14-2018 by Ord. No. 04-2018]**

IMPERVIOUS SURFACE — Any surface that has been compacted or covered with a layer of material so that it prevents, impedes or slows infiltration or absorption of fluid, including stormwater directly into the ground, and results in either reduced groundwater recharge or increased stormwater runoff sufficient to be classified as impervious in Urban Areas by the United States Department of Agriculture, Natural Resources Conservation Service Title 210 - Engineering, 210-3-1 - Small Watershed Hydrology (WINTR-55) Version 1.0. Such surfaces may have varying degrees of permeability. **[Added 11-14-2018 by Ord. No. 04-2018]**

IMPROVEMENT — Any structure or part thereof constructed or installed upon real property by human endeavor and intended to be kept at the location of such construction or installation for a period of not less than 60 contiguous days.

INSTITUTIONAL USE — Any land used for the following public or private purposes: educational facilities, including universities, colleges, elementary and secondary and vocational schools, kindergartens and nurseries; cultural facilities such as libraries, galleries, museums, concert halls, theaters and the like; hospitals, including such educational, clinical, research and convalescent facilities as are integral to the operation of the hospital; medical and health service facilities, including nursing homes, supervised residential institutions, rehabilitation therapy centers and public health facilities; law enforcement facilities; military facilities; church; public office buildings; cemeteries; and other similar facilities.

LAND — Includes the surface and subsurface of the earth as well as improvements and fixtures on, above or below the surface and any water found thereon.

LOADING SPACE — Any off-street space not less than 12 feet in width, 35 feet in length and 14 feet in height available for the loading or unloading of goods and having direct usable access to the street or alley.

LOCAL COMMUNICATIONS FACILITY — An antenna and any support structure, together with any accessory facilities, which complies with the standards in N.J.A.C. 7:50-5.4 and which is intended to serve a limited, localized audience through point-to-point communication, including cellular telephone cells, paging systems and dispatch communications. It does not include radio or television broadcasting facilities or microwave transmitters.

LOT — A parcel or area of land, the dimensions and extent of which are determined by the latest official records or by the latest approved map of a subdivision of which the lot is a part.

LOT AREA — An area of land enclosed by the boundary line of the lot and expressed in terms of square feet or acres. Any portion of a lot included in the public right-of-way may be included in calculating "lot area."

LOT DEPTH — The distance between the edge of the right-of-way and the rear lot line. In the case of an irregular lot, the average between the shortest and longest such distance constitutes "lot depth." In the case of a corner lot, the longer of the two street lines shall be considered as the depth.

LOT LINE, FRONT — The line of a street on which a lot fronts or abuts. Corner lots shall be considered as fronting on both streets. (See § 380-27, Yards.)

LOT LINE, REAR — Each lot line opposite a front lot line.

LOT LINE, SIDE — Any lot line, not a front lot line or a rear lot line, including a lot line of an offset portion of a lot.

LOT WIDTH — The distance between the side lot lines measured at right angles to its depth at the front setback line; in the case of corner lots, the distance between the lot line on the street having the shorter frontage measured at right angles to its depth at the setback line.

LOT, CORNER — A lot bounded on two or more sides by a public right-of-way.

LOT, FRONTAGE — The horizontal distance measured along the full length of a street line abutting the lot line. In the case of corner lots, the shorter of the two street lines shall be considered as the frontage.

MANUFACTURED HOME — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a recreational vehicle. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

MOBILE HOME — A movable, portable, year-round dwelling built on a chassis, designed without a permanent foundation, connected to utilities and containing a flush toilet, a bath or shower and a kitchen sink.

MOBILE HOME PARK — Any plot or ground upon which two or more mobile homes or mobile units used for dwelling or sleeping purposes are located.

MOBILE HOME SPACE — A plot of ground within a mobile home park designed for the accommodation of one mobile home.

MODIFIED DRIVEWAY — An existing driveway which is paved, widened, narrowed or lengthened, or when its horizontal location is changed. Routine maintenance or repairs, including, but not limited to, the addition of fill materials to the driveway surface, shall not render a driveway a "modified driveway."

MOTEL — A series of rental units, with individual entrances from outside to each unit, operated as a single business for the purpose of providing lodging to transient guests. An office and single dwelling unit may be provided in conjunction with the operation of a "motel."

MOTOR VEHICLE SERVICE STATION — A place where gasoline or other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale at retail to the public, which may include the sale of accessories, oiling, greasing, washing and light motor vehicle repairs on the premises.

MULTIFAMILY HOUSING DEVELOPMENT — A building containing three or more dwelling units occupied by persons living independently of each other, or a group of such buildings.

NONCONFORMING BUILDING — A structure, the size, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

NONCONFORMING LOT — A lot, the area, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.⁵ **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

OPEN SPACE — An unoccupied space open to the sky.

PARCEL — Any quantity of land consisting of one or more lots that is capable of being described with such definiteness that its location and boundaries may be established.

PERMEABILITY — The rate at which water moves through a unit area of soil, rock, or other material at hydraulic gradient of one. **[Added 11-14-2018 by Ord. No. 04-2018]**

PERMIT, BUILDING — A certificate issued by the Building Inspector for the construction, reconstruction, remodeling, alteration or repair of a building upon approval of the submitted plans for the building change and which, where applicable, also states that the purpose for which a building or land is to be used is in conformance with the uses permitted and all other requirements under this chapter for the zone in which it is located or is to be located.

PERMIT, CERTIFICATE OF OCCUPANCY — A certificate issued by the Building Inspector or upon completion of the construction of a new building or upon a change in the occupancy of a building which certifies that all requirements of this chapter or such adjustment therefor which has been granted by the Planning Board and all other applicable requirements have been complied with. **[Amended 11-5-1997 by Ord. No. 97-6]**

PERMIT, CONDITIONAL USE — A certificate issued by the Zoning Officer for the conduct of a conditional use, which states that the requirements governing conditional uses in this chapter and all other applicable requirements have been complied with, as certified by the Planning Board.

PERMIT, TEMPORARY USE — A certificate issued by the Zoning Officer for the conduct of a use otherwise prohibited by the chapter for a limited time period and stating that the special requirements governing the use and all other applicable requirements have been complied with as certified by the Planning Board. **[Amended 11-5-1997 by Ord. No. 97-6]**

PINELANDS — The Pinelands National Reserve and the Pinelands Area.

PINELANDS AREA — That area designated as such by Section 10a of the Pinelands Protection Act.⁶

PINELANDS DEVELOPMENT CREDITS — A use right allocated to certain lands within the City pursuant to the provisions of N.J.A.C. 7:50-5.43, as heretofore or hereinafter

5. Editor's Note: The definition of "nonconforming use," which immediately followed this definition, was repealed by Ord. No. 82-6.

6. Editor's Note: See N.J.S.A. 13:18A-11.

amended, that can be used to secure a residential density bonus in other municipalities which have adopted appropriate ordinances permitting their use.

PINELANDS NATIONAL RESERVE — That area designated as such by Section 3i of the Pinelands Protection Act.⁷

PINELANDS PROTECTION ACT — N.J.S.A. 13:18A-1 to 13:18A-29.

PINELANDS RESOURCE RELATED USE — Any use which is based on resources which are indigenous to the Pinelands, including, but not limited to, forest products, berry agriculture and sand, gravel, clay or ilmenite.

PLANNING BOARD — The Planning Board of the City.

PLANTS, THREATENED OR ENDANGERED — A Pinelands plant species whose survival worldwide, nationwide or in the state is in jeopardy, as determined by the Pinelands Commission.

PRINCIPAL BUILDING — A building in which is conducted the main or principal use of the lot on which the building is situated. An accessory building which is attached to the principal building shall comply in all respects with the requirements applicable to the principal building. [**Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)**]

PROPRIETARY CAMPGROUND FACILITY — Any real property designed and used for the purpose of camping and associated recreational uses under a condominium or cooperative form of ownership.

PROTECTION AREA — All land within the Pinelands Area which is not included in the Preservation Area.

PUBLIC SERVICE INFRASTRUCTURE — Sewer service, gas, electricity, water, telephone, cable television and other public utilities developed linearly; roads and streets and other similar services provided or maintained by any public or private entity.

RECOMMENDED MANAGEMENT PRACTICE — The management program which employs the most efficient use of available technology, natural, human and economic resources.

RECORD TREE — The largest tree of a particular species in New Jersey based on its circumference at 4.5 feet above ground level. A listing of the largest known tree of each species and its location is maintained at the principal offices of the Commission.

RECREATIONAL FACILITY, LOW-INTENSITY — A facility or area which complies with the standards of N.J.A.C. 7:50-5, Part III, utilizes and depends on the natural environment of the Pinelands and requires no significant modifications of that environment other than to provide access, and which has an insignificant impact on surrounding uses or on the environmental integrity of the area. It permits such low-intensity uses as hiking, hunting, trapping, fishing, canoeing, nature study, orienteering, horseback riding and bicycling.

RECYCLING AREA — Space allocated for collection and storage of source-separated recyclable materials.

7. Editor's Note: See N.J.S.A. 13:18A-3i.

REPAIR — Any work done on any improvement which is not an addition to the improvement and which does not change the exterior surface of any improvement, excluding painting.

REPLACEMENT — When applied to an historic landmark, includes repairs if a building permit is required for same.

RESOURCE CONSERVATION PLAN — A plan prepared for review by the Cape-Atlantic Soil Conservation District which details the proposed use of agricultural recommended management practices.

RESOURCE EXTRACTION — The dredging, digging, extraction, mining and quarrying of sand, gravel, clay or ilmenite for commercial purposes, not including, however, the private or agricultural extraction and use of extracted material by a landowner.

RESOURCE MANAGEMENT SYSTEM PLAN — A plan, prepared in accordance with the United States Department of Agriculture, Natural Resources Conservation Service New Jersey Field Office Technical Guide, dated June 2005. Such plans shall prescribe needed land treatment and related conservation and natural resources management measures, including forest management practices, for the conservation, protection and development of natural resources, the maintenance and enhancement of agricultural or horticultural productivity, and the control and prevention of nonpoint source pollution; and establish criteria for resource sustainability of soil, water, air, plants and animals. **[Added 11-14-2018 by Ord. No. 04-2018]**

RESTAURANT — Any establishment, however designated, at which food is sold for consumption on the premises. However, a snack bar or refreshment stand at a public, semipublic or community swimming pool, playground, playfield or park operated by the agency or group or an approved vendor operating the recreational facilities and for the convenience of patrons of the facility shall not be deemed to be a "restaurant."

SEASONAL HIGH WATER TABLE — The level below the natural surface of the ground to which water seasonally rises in the soil in most years.

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

SIGN, AREA OF — The area included within the frame or edge of the sign. Where the sign has no such frame or edge, the area shall be defined by an enclosed four-sided (straight sides) geometric shape which most closely outlines the sign.

SITE PLAN, MINOR — A site plan which is limited to the proposed construction of any permitted accessory use or uses, including, but not limited to, signs or off-street parking areas, or any development plan consisting of any expansion or addition to an existing conforming structure and use, provided that said expansion does not increase the habitable floor area of said structure by more than 50%, provided further that such development plan does not involve planned development, the installation of any road improvements or the expansion of public facilities and does not adversely affect development of an adjoining property or properties, and provided further that such development plan does not involve any

property on which is located an historic landmark or abuts or is within 200 feet of any property on which is contained an historic landmark.⁸

SOLAR ENERGY FACILITY — A solar energy system and all associated components, including, but not limited to, panels, arrays, footings, supports, mounting and stabilization devices, inverters, electrical distribution wires and other on-site or off-site infrastructure necessary for the facility, which converts solar energy into usable electrical energy, heats water or produces hot air or other similar function. **[Added 11-14-2018 by Ord. No. 04-2018]**

SPECIAL BARRIER-FREE ACCESS — A ramp, landing, walkway or other constructed feature to be located on the exterior of a residential dwelling which is deemed necessary to provide access not otherwise obtainable to the interior of the building. **[Added 7-20-1999 by Ord. No. 0-7-99]**

UTILITY DISTRIBUTION LINES — Lines, conduits or pipes located in a street, road, alley or easement through which natural gas, electricity, telephone, cable television, water, sewage or stormwater discharge is distributed to or from service lines extending from the main line to the distribution system of the building or premises served. Utility distribution lines do not include electric transmission lines.⁹

WETLANDS MANAGEMENT — The establishment of a characteristic wetland or the removal of exotic species or phragmites from a wetland in accordance with the standards of N.J.A.C. 7:50-6.10. For purposes of this definition, exotic species are those that are not indigenous to North America. **[Added 11-14-2018 by Ord. No. 04-2018]**

ZONING OFFICER — The person or persons who are charged with the enforcement of this chapter.

ZONING PERMIT — A certificate issued by the Zoning Officer stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this chapter for the zone in which it is located.

§ 380-4. Terms defined in state statutes and regulations.

Any word or term not defined above but defined in N.J.S.A. 40:55D-3 to 40:55D-7, the Municipal Land Use Law of the State of New Jersey, Chapter 291 of the Laws of New Jersey 1975, shall be defined as the same is defined in those sections. Any word or term not defined above which is defined in the Pinelands Comprehensive Management Plan, particularly under N.J.A.C. 7:50-2.11 of said Plan, as heretofore or hereafter amended, shall be defined as set forth in said Plan. Where a word or term is not defined above but is defined in both the Municipal Land Use Law, Chapter 291 of the Laws of New Jersey 1975, N.J.S.A. 40:55D-3 to 40:55D-7 and the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-2.11, said word or term shall be construed in such a manner as to be consistent with both definitions.

8. Editor's Note: The former definition of "standard subsurface sewage disposal system," which immediately followed this definition, was repealed 4-2-1997 by Ord. No. 97-3.

9. Editor's Note: The definition of "Zoning Board of Adjustment," which previously followed this definition, was repealed pursuant to Ord. No. 97-6, adopted 11-5-1997, which abolished the Zoning Board of Adjustment and transferred its powers to the Planning Board.

§ 380-5. Definitions incorporated by reference.

All definitions included in Chapter 340, specifically § 340-5, are incorporated by reference in this chapter and shall have the same definitions as those set forth in § 340-5.

ARTICLE III
Establishment of Zones

§ 380-6. Zones. [Amended by Ord. No. 82-6; Ord. No. 83-4]

For the purposes of this chapter, the City of Estell Manor is divided into the following zones:

R-25	Rural Residence Zone
R-10	Residence Zone
R-5	Residence Zone
RV	Village Residence Zone
SD	Special District
HC	Highway Commercial Zone
C	Conservation Zone
FH	Flood Hazard Zone
AP	Agricultural Production Zone

§ 380-7. Zoning Map. [Amended by Ord. No. 82-6; Ord. No. 83-4]

The boundary lines of all zones shall be shown on a revised map attached to and made a part of this chapter.¹⁰ Said map shall be known as the "Revised Zoning Map of the City of Estell Manor," dated April 1983, and shall consist of two parts. The FH Flood Hazard Zone shall be indicated on Part I, and the remaining zones shall be indicated on Part II. Any change in the location or boundaries of any zone hereafter made by amendment of this chapter shall be indicated by revision of said map. The Revised Zoning Map, including Parts I and II, all notations and references thereon and any amendments thereto are hereby incorporated into and declared to be part of this chapter. All former maps are hereby superseded by the 1983 Revised Zoning Map, dated April 1983.

§ 380-8. Zone boundaries.

Where uncertainty exists as to any of the boundaries as shown on the map, the following rules shall apply:

- A. Zone boundary lines are intended to follow the center line of streets or rail rights-of-way, streams and lot or property lines as they exist on plats of record at the time of passage of this chapter, unless such zone boundary lines are fixed by dimensions as shown on the Zoning Map.

¹⁰ Editor's Note: Said map is on file in the office of the City Clerk.

- B. Where such boundary lines are not fixed by dimensions and where they approximately follow lot lines and where they do not scale more than 10 feet distant therefrom, such lot lines shall be construed to be such boundary lines.
- C. In unsubdivided land or where a zone boundary divides a lot, the location of the boundary is indicated by dimensions shown on the map.

ARTICLE IV

Schedule of Yard, Area and Bulk Requirements

[Amended by Ord. No. 78-13; Ord. No. 79-8; Ord. No. 82-6; Ord. No. 83-4; Ord. No. 89-4]

§ 380-9. Schedule of Yard, Area and Bulk Requirements.

The schedule of regulations entitled "Schedule of Yard, Area and Bulk Requirements, City of Estell Manor Zoning Ordinance" and attached hereto, applying to the uses of land and buildings, the yards and other open spaces to be provided contiguous thereto and all other matters contained therein as indicated for the various zones established by this chapter is revised according to the schedules attached hereto. The revised Schedule of Yard, Area and Bulk Requirements, City of Estell Manor is hereby declared to be a part of this chapter.¹¹ The regulations listed for each zone as designated are hereby prescribed for these zones, subject to the other provisions in this chapter, and shall be deemed to be the minimum requirements in every instance of their application. Notwithstanding the minimum lot areas set forth in the schedule, no such minimum lot area for a nonresidential use within the Pinelands Area portion of the R-25, R-10, R-5, SD, HC, C, AP and FH zones shall be less than that needed to meet water quality standards of § 380-42F(4)(d), whether or not the lot may be served by a centralized sewer treatment or collection system pursuant to Article V.

ARTICLE V

Zone District Use Regulations

§ 380-10. R-25 Rural Residence Zone. [Amended by Ord. No. 78-13; Ord. No. 82-6; Ord. No. 83-4; Ord. No. 85-4; Ord. No. 85-9; Ord. No. 89-4; Ord. No. 92-1; Ord. No. 92-4; Ord. No. 94-9; Ord. No. 97-3]

- A. Permitted uses.
 - (1) One-family detached dwellings, provided that clustering of the permitted dwellings shall be required in accordance with § 380-42N whenever two or more units are proposed as part of a residential development. **[Amended 11-14-2018 by Ord. No. 04-2018]**
 - (2) Customary and conventional farming operations and farm dwellings. No storage of manure or other odor- or dust-producing substances or use shall be permitted within 100 feet of any property line.

¹¹ Editor's Note: The Schedule of Yard, Area and Bulk Requirements is included as an attachment to this chapter.

- (3) City buildings and other municipal uses deemed necessary and approved by the Planning Board and City Council.
- (4) Private outdoor parks and recreation areas, subject to the regulations set forth herein.
- (5) Campgrounds, under the following standards: **[Amended 11-5-2008 by Ord. No. 09-2008]**
 - (a) There shall be no more than one campsite per gross acre. Campsites may be clustered at a net density not to exceed 10 campsites per acre.
 - (b) No camping unit nor campsite in a proprietary campground shall be used as the principal residence or domicile of any of its occupants nor shall it be utilized as a permanent residence by any said occupant; N.J.S.A. 45:22A-51, requiring prohibition of the use of the property for the purpose of domicile or permanent residence in the Master Deed or Certificate of Incorporation for a proprietary campground, shall apply in the City of Estell Manor; any unit owner or proprietary lessee found to be in violation is subject to eviction, and if any association does not remedy the situation, it is subject to penalties and/or license revocation. Health and safety regulations in proprietary campgrounds are to be compliant with New Jersey Administrative Code, Title 5, Chapter 10A, except in proprietary campgrounds, two sites may be occupied year round as the residence of the association President, manager or caretaker.
 - (c) The provisions of Chapter XI of the New Jersey Sanitary Code, Subchapters 8:22-1.1 through 8:22-10.6, shall apply to all public campgrounds.
 - (d) The following provisions of Chapter XI of the New Jersey Sanitary Code, N.J.A.C. 8:22-1.1 et seq., shall be modified as applied to campgrounds within the City of Estell Manor.

[1] The following definitions under the New Jersey Sanitary Code, N.J.A.C. 8:22-1.2, are modified as follows:

CAMPING UNIT — Is redefined to exclude from said definition a cabin, lean-to or similar structure. As modified, said definition shall read as follows: "Camping unit" means any tent or camping vehicle temporarily located on a campsite, established or maintained and operated in a campground as temporary living quarters for children or adults, or both, for recreation, education or vacation purposes, but shall not include any camping unit kept by its owner on land occupied by him in connection with his dwelling or any camping unit which is not occupied and which is kept at a campground for storage purposes only at a location reserved for the storage of such camping units.

OWNER — The person or persons having the legal authority to permit the occupancy in a public or proprietary campground. This can include a campground licensee in a public campground. In a proprietary

campground, this could include the campsite owner as well as the condominium association.

(e) Accessory structures.

[1] All accessory structures, whether permanent or temporary, must have the following approvals from the City of Estell Manor:

[a] A zoning permit applied for and approved by the City of Estell Manor.

[b] A letter of approval from the campground owner or the condominium association, which must be presented with the application for a zoning permit.

[c] Zoning applications may be for permanent or temporary structures, and if for a temporary structure, such structure shall be removed within six months, and all structures are subject to the requirement of having a building permit as required by the New Jersey Uniform Construction Code (N.J.U.C.C.).

[d] The following are excepted from the zoning permit and building permit requirements herein:

[i] Out-of-the-box screen rooms and screen tents.

[ii] Roll-out awnings from RVs.

[e] The maximum allowable square footage of any accessory structure or structures collectively on any campsite shall be 300 square feet, whether on a private or proprietary campground.

[f] The maximum size of any storage shed, bin or locker shall be eight feet by eight feet by 10 feet; provided that the owner of the campground or the association may build public storage shelters for campers' use, provided all zoning and building permits are obtained as well as approvals from any other agency having jurisdiction, including the Pinelands Commission.

[2] The following shall be considered accessory structures in campgrounds, whether temporary or permanent:

[a] Screen rooms, screen porches, pavilions, platforms, decks, ramps, sheds, storage bins or lockers.

[b] Screen room, screen porch, deck, ramp, pavilion and platform walls must be 70% screen and doors must be 50% screen. Windows are prohibited.

(f) Recreation vehicle regulations.

[1] The maximum allowable size of any recreational vehicle on any campsite shall be 400 square feet, and no additions other than those described in the accessory structure section above shall be allowable,

whether such addition be attached to the recreational vehicle or freestanding. This regulation shall apply to both public and proprietary campgrounds.

- [2] When a campsite is vacated for a period of seven months, all accessory structures on the vacant campsite shall be removed, including the removal of any such accessory structures associated with any recreational vehicle which is considered a principal structure.
- [3] Only one recreational vehicle is allowed per campsite, and no accessory structures are to be used as separate living space. This regulation applies to both public and proprietary campgrounds.

(g) Cabins.

- [1] A cabin shall be as defined in N.J.A.C. 8:22-1.2.
- [2] Cabins shall not temporarily or permanently be connected to any water supply nor sanitary sewer facility. The cabin shall have no plumbing of any nature within it.
- [3] The cabin may be owned only by the campground licensee.
- [4] The cabins are to be rented on a short-term basis only; no one person or persons, regardless of who signs the registration, may occupy such for more than 21 days in any calendar year.
- [5] Cabins may be placed only on sites owned by the licensee of the campground.
- [6] The licensee shall keep records of the use of each cabin, including the names and addresses of the lessees, the dates on which they occupied the cabin and the names and addresses of all occupants.
- [7] Cabins may be utilized from May 1 to October 31 of each year only, and only six cabins are allowable per campground, provided that occupancy must be recorded and forwarded to the Municipal Zoning Official in the same manner as winter campsites.
- [8] The camping cabin shall not exceed 250 square feet, including any porches or decks that may be attached to it.
- [9] Camping cabins or lease units shall be on their own campsite, and no other recreational vehicle shall be allowed on that campsite.
- [10] Owners of private campgrounds (proprietary campgrounds excluded) may use two of their sites to set up rental recreational vehicles. The recreational vehicles must be consistent with all of the above regulations, and the owner will be responsible for their maintenance and cleaning. These two recreational vehicles must be connected to the sanitary sewer facilities at the campground. Occupancy must be

recorded and forwarded to the Municipal Zoning Official in the same manner as winter campsites.

(h) Municipal application process.

[1] On or before November 1 of each year, all campgrounds shall apply for their license renewal. Required for the license renewal consideration are:

[a] A completed and signed license renewal form.

[b] A check for the full amount of the license renewal fee.

[c] A list of every site in the campground, with owner's or lessee's names and their permanent mailing address. (Vacant lots should read "vacant," and when occupied, the updated information should be sent to the Municipal Zoning Officer within 14 days.)

[d] When conditions listed in Subsection A(5)(h)[1][a], [b] and [c] are met, the Municipal Zoning Officer will do a compliance inspection of the campground.

(6) Forestry, in accordance with Chapter 357, Trees, Article II, Tree Cutting and Forestry, of the Code of the City of Estell Manor.

(7) A zoning permit shall be granted for the following types of improvements that do not further infringe on any previously noncompliant setback if all other zoning requirements are met: **[Added 12-2-1999 by Ord. No. 0-13-99]**

(a) Porches.

(b) Decks.

(c) Sunrooms.

(d) Swimming pools.

(e) Additions to living area of dwelling.

(f) Sheds.

B. Permitted accessory uses.

(1) Customary farm buildings for the storage of products or equipment located on the same parcels as the principal use.

(2) Temporary buildings for uses incidental to construction work, provided that such buildings are removed upon completion or abandonment of the construction work.

(3) Public service infrastructure, provided that such uses in the Pinelands Area are intended to primarily serve the needs of the Pinelands. Centralized wastewater treatment and collection facilities shall be permitted to service the Pinelands Area only in accordance with § 380-42F(4)(b).

(4) Private garages and carports.

- (5) Off-street parking facilities as permitted by § 380-40.
- (6) Signs, subject to the provisions of § 380-38.
- (7) Agricultural commercial establishments, excluding supermarkets, restaurants and convenience stores, provided that the principal goods or products available for sale are generally produced in the Pinelands and provided that the establishment does not exceed 3,000 square feet.

C. Conditional uses.

- (1) Continuation of existing resource extractions operations in accordance with the standards of N.J.A.C. 7:50-6, Part VI, the regulations set forth in Chapter 315, Soil Removal, of this Code and the provisions of § 380-60, Resource extraction. Sandwashes are prohibited.
- (2) Places of worship.
- (3) Public, parochial or private schools for day students.
- (4) Low-intensity recreational uses, provided that:
 - (a) The parcel proposed for low-intensity recreational use has an area of at least 50 acres.
 - (b) The recreational use does not involve the use of motorized vehicles except for necessary transportation.
 - (c) Access to bodies of water is limited to no more than 15 linear feet of frontage per 1,000 feet of water body frontage.
 - (d) Clearing of vegetation, including ground cover and soil disturbance, does not exceed 5% of the parcel.
 - (e) No more than 1% of the parcel will be covered with impervious surfaces.
- (5) One-family detached dwellings that are non-clustered in accordance with § 380-63. **[Added 11-14-2018 by Ord. No. 04-2018]**

D. Yard, area and bulk requirements, as specified in the schedule.¹²

§ 380-11. R-10 Residence Zone. [Amended by Ord. No. 78-13; Ord. No. 82-6; Ord. No. 83-4; Ord. No. 85-4; Ord. No. 91-6; Ord. No. 93-9]

A. Permitted uses.

- (1) All uses permitted in an R-25 Residence Zone, except cutting and harvesting of trees, but including accessory uses, are permitted in an R-10 Residence Zone. Clustering of one-family detached dwellings shall be required in accordance with § 380-42N whenever two or more units are proposed as part of a residential development. **[Amended 11-14-2018 by Ord. No. 04-2018]**

¹² Editor's Note: The Schedule of Yard, Area and Bulk Requirements is included as an attachment to this chapter.

- (2) One-family detached dwellings on lots of at least one acre in accordance with § 380-33E of this chapter.
- B. Conditional uses.
- (1) Places of worship.
 - (2) Resource extraction, other than sandwashes, subject to the regulations set forth in § 380-60, Resource extraction. Sandwashes are prohibited.
 - (3) Public, parochial or private schools for day students.
 - (4) One-family detached dwellings that are non-clustered in accordance with § 380-63. **[Added 11-14-2018 by Ord. No. 04-2018]**
- C. Yard, area and bulk requirements as specified in schedule.¹³

§ 380-12. RV Village Residence Zone. [Amended by Ord. No. 78-13; Ord. No. 82-6; Ord. No. 83-4; Ord. No. 85-4; Ord. No. 85-9; Ord. No. 89-4; Ord. No. 91-6]

- A. Permitted uses. All uses permitted in an R-25 Rural Residence Zone and an R-10 Residence Zone, including accessory uses, are permitted in the RV Village Residence Zone, except for resource extractions, campgrounds and cutting and harvesting of trees.
- B. Conditional uses.
- (1) The following types of businesses are permitted under a conditional use, provided that the goods sold or personal services rendered are clearly incidental to the businesses enumerated, and are planned for the convenience of the surrounding neighborhoods:
 - (a) Clothing stores.
 - (b) Baked goods stores.
 - (c) Confectionery shops.
 - (d) Barber and beauty shops, provided that adequate provision is made for the disposal of hair, chemicals and other wastes on site, with particular attention being paid so that there will be no deleterious effect on nearby wells or other on-site waste disposal systems.
 - (e) Tailor shops.
 - (f) Shoe repair shops.
 - (g) Professional offices.
 - (h) Private tutoring of academic subjects.
 - (i) The giving of music lessons, provided that the Planning Board shall, in such case, set reasonable hours so as to ensure the peace and quiet of

13. Editor's Note: The Schedule of Yard, Area and Bulk Requirements is included as an attachment to this chapter.

occupants of neighboring premises, giving due regard to the type of instruments for which lessons are to be given on the site in question.

- (j) Watch and jewelry shops.
 - (k) Manufacturing for on-premises sale and/or sale of ice cream, frozen custard, frozen yogurt and other frozen desserts, provided that the Planning Board shall, in such case, set reasonable hours so as to ensure the peace and quiet of occupants of neighboring premises.
- (2) Public, parochial or private schools for day students.
 - (3) Places of worship.
 - (4) Crafts, provided that the crafts are manufactured exclusively on the premises in question.
 - (5) Home professional offices.
 - (6) Quasi-public buildings and recreation uses.
 - (7) Mobile home parks.
- C. Yard, area and bulk requirements as specified in the schedule.¹⁴

§ 380-13. R-5 Residence Zone. [Amended by Ord. No. 78-13; Ord. No. 82-6; Ord. No. 83-4; Ord. No. 85-4; Ord. No. 85-9; Ord. No. 91-6]

- A. Permitted uses. All uses permitted in an R-25 Rural Residence Zone and an R-10 Residence Zone, including accessory uses, are permitted in the R-5 Residence Zone, except landfills and resource extraction and cutting and harvesting of trees. Clustering of one-family detached dwellings shall be required in accordance with § 380-42N whenever two or more units are proposed as part of a residential development. **[Amended 11-14-2018 by Ord. No. 04-2018]**
- B. Conditional uses.
- (1) Home crafts.
 - (2) Home professional offices.
 - (3) One-family detached dwellings that are non-clustered in accordance with § 380-63. **[Added 11-14-2018 by Ord. No. 04-2018]**
- C. Yard, area and bulk requirements, as specified in the schedule.¹⁵

14. Editor's Note: The Schedule of Yard, Area and Bulk Requirements is included as an attachment to this chapter.

15. Editor's Note: The Schedule of Yard, Area and Bulk Requirements is included as an attachment to this chapter.

§ 380-14. SD Special District. [Amended by Ord. No. 82-6; Ord. No. 83-4; Ord. No. 85-9; Ord. No. 93-9; Ord. No. 97-3]

A. Permitted uses.

- (1) One-family detached dwellings, provided that clustering of the permitted dwellings shall be required in accordance with § 380-42N whenever two or more units are proposed as part of a residential development. **[Amended 11-14-2018 by Ord. No. 04-2018]**
- (2) One-family detached dwellings on lots of at least one acre in accordance with § 380-33E of this chapter.
- (3) One-family detached dwellings, on lots between one acre and 3.2 acres in size, as regulated hereunder, provided that the applicant meets the following requirements:
 - (a) The dwelling unit will be the principal residence of the property owner or a member of the immediate family of the property owner.
 - (b) Any portion of the parcel has been in the continuous ownership since February 7, 1979, of the person whose principal residence the dwelling unit will be, a member of that person's immediate family, or a partnership or corporation in which members of that person's immediate family collectively own more than a majority interest in such partnership or corporation.
 - (c) The parcel was not in common ownership with any contiguous land on or after February 8, 1979, that contains substantial improvements.
 - (d) The parcel includes all vacant contiguous lands in common ownership on or after February 8, 1979.
- (4) City buildings and other municipal uses deemed necessary and approved by the Planning Board and City Council.

B. Permitted accessory buildings and uses.

- (1) Private garages and carports.
- (2) Off-street parking facilities as regulated hereunder.

C. Conditional uses.

- (1) Home crafts.
- (2) Home professional offices.
- (3) One-family detached dwellings that are non-clustered in accordance with § 380-63. **[Added 11-14-2018 by Ord. No. 04-2018]**

§ 380-15. HC Highway Commercial Zone. [Amended by Ord. No. 78-13; Ord. No. 82-6; Ord. No. 83-4; Ord. No. 85-4; Ord. No. 85-9; Ord. No. 89-4; Ord. No. 91-6; Ord. No. 96-2; Ord. No. 97-3]

A. Permitted uses.

- (1) Food stores.
- (2) Drugstores.
- (3) Clothing stores.
- (4) Card shops.
- (5) Household supplies and hardware stores.
- (6) Barber and beauty shops, provided that adequate provision is made for the disposal of hair, chemicals and other wastes on-site, with particular attention being paid so that there will be no deleterious effect on nearby wells or other on-site waste disposal systems.
- (7) Dry-cleaning and laundry establishments, provided that adequate provision is made for the disposal of chemicals and other wastes on site, with particular attention being paid so that there will be no deleterious effect on nearby wells or other on-site waste disposal systems.
- (8) Tailor shops.
- (9) Shoe repair shops.
- (10) Professional offices.
- (11) Private tutoring.
- (12) The giving of music lessons.
- (13) Repairs of personal effects and appliances.
- (14) Watches and jewelry shops.
- (15) Sales of household appliances.
- (16) Ice cream parlors and custard stands.
- (17) Supermarkets.
- (18) Department stores.
- (19) Furniture stores.
- (20) Appliance stores.
- (21) Carpet and flooring stores.
- (22) Sporting goods stores.
- (23) Automobile sales.

- (24) Restaurants and drive-in restaurants.
 - (25) Hotels and motels.
 - (26) Lumberyards.
 - (27) Masonry materials.
 - (28) City buildings and other municipal uses deemed necessary and approved by the Planning Board and City Council.
 - (29) Temporary buildings for uses incidental to construction work, provided that such buildings are removed upon completion or abandonment of the construction work.
 - (30) Agricultural commercial establishments, excluding convenience stores, provided that:
 - (a) The principal goods and products available for sale were produced in the Pinelands; and
 - (b) The sales area of the establishment does not exceed 5,000 square feet.
 - (31) In the Pinelands Area, Pinelands resource-related industrial uses and manufacturing uses, excluding resource extraction and uses that rely on sand or gravel as raw products, provided that:
 - (a) The parcel proposed for development is at least five acres in size.
 - (b) The principal raw material for the proposed use is found or produced in the Pinelands.
 - (c) The use does not require or will not generate secondary or satellite development inside the HC Highway Commercial Zone.
 - (32) General stores, which are defined as stores limited to selling those goods and services customarily provided by more than one of the establishments listed in § 380-15A(1) through (27) above, provided that no products or services not customarily sold by said establishments are included.
- B. Permitted accessory buildings and structures.
- (1) Essential utilities. In the Pinelands Area, centralized wastewater treatment and collection facilities shall be permitted only as set forth in § 380-42F(4)(b) of this chapter.
 - (2) Private garages and carports.
 - (3) Off-street parking facilities as permitted by § 380-40.
 - (4) Signs subject to the provisions of § 380-38.
- C. Conditional uses.
- (1) Public service infrastructure. In the Pinelands Area, public service infrastructure shall be intended to primarily serve the needs of the Pinelands, and centralized

wastewater treatment and collection facilities shall be permitted to service the forest area only in accordance with § 380-42F(4)(b).

- (2) Motor vehicle service stations and tire and battery sales and services, subject to the requirements of § 380-54.
- D. Yard, area and bulk requirements. As specified in the schedule.¹⁶
- E. Additional requirements. In order to encourage the sound development of major highway frontage, the following special provisions shall apply in any location in the HC Highway Commercial District.
 - (1) Access will be controlled in the interest of public safety. Each building or group of buildings used for nonresidential purposes and its parking or service areas shall be physically separated from any United States or state highway by a curb and a low planting strip or other suitable barrier of not less than 10 feet in depth against unchanneled motor vehicles access or egress, except for accessways authorized therein.
 - (2) Each separate use, grouping of attached buildings or groupings of uses permitted as part of a single integrated plan shall have not more than two accessways to any one highway. Insofar as practicable, the use of common accessways by two or more permitted highway uses shall be provided in order to reduce the number and closeness of access points along the highway and to encourage the fronting of commercial structures upon a marginal street and not directly upon a public highway.
 - (3) Any proposed use shall not unduly burden public services, including, but not limited to, water, sewer and roads.
 - (4) In the Pinelands Area, public service infrastructure shall be intended to primarily serve the needs of the Pinelands and/or the City.

§ 380-16. C Conservation Zone. [Added by Ord. No. 82-6; amended by Ord. No. 83-4; Ord. No. 89-4; Ord. No. 93-9; Ord. No. 97-3]

- A. Permitted uses.
 - (1) Berry agriculture and horticulture of natural Pinelands species in accordance with the provisions of § 380-42 of this chapter.
 - (2) Forestry, provided that all licenses required by Chapter 357, Trees, Article II, Tree Cutting and Forestry, of the Code of the City of Estell Manor are obtained.
 - (3) Fish and wildlife management, subject to the provisions of § 380-59 of this chapter.
 - (4) Beekeeping.

¹⁶ Editor's Note: The Schedule of Yard, Area and Bulk Requirements is included as an attachment to this chapter.

- (5) Low-intensity recreational uses which do not involve use of a structure other than docks, piers, moorings and boat launches for the use of a landowner, provided that:
 - (a) Any development associated with uses other than hunting, fishing, trapping, hiking, boating and swimming does not result in a significant adverse impact on the wetland as set forth in § 380-59 of this chapter.
 - (b) The parcel proposed for low-intensity recreational use has an area of at least 50 acres.
 - (c) The recreational use does not involve the use of motorized vehicles except for necessary transportation.
 - (d) Access to bodies of water is limited to no more than 15 linear feet of frontage per 1,000 feet of water body frontage.
 - (e) Clearing of vegetation, including ground cover and soil disturbance does not exceed 5% of the parcel.
 - (f) No more than 1% of the parcel will be covered with impervious surfaces.
 - (6) Public improvements and public service infrastructure, provided that it is intended to primarily serve the needs of the Pinelands. Centralized wastewater treatment and collection facilities shall be permitted to service the forest area only in accordance with § 380-42F(4)(b).
 - (7) One-family detached dwellings in accordance with the yard, area and bulk requirements set forth for the R-25 Zone in the schedule, provided that clustering of the permitted dwellings shall be required in accordance with § 380-42N whenever two or more units are proposed as part of a residential development.¹⁷ **[Amended 11-14-2018 by Ord. No. 04-2018]**
- B. Permitted accessory buildings and structures. Any structure that furthers and is subordinate to a permitted use which does not exceed 150 square feet in floor area.
- C. Conditional uses.
- (1) Parking areas.
 - (2) Any structure for a use otherwise permitted herein exceeding 150 square feet in floor area.
 - (3) In approving any conditional use in a C Conservation Zone, the approval agency shall determine that there will be no significant adverse impact on the subject property or any property in the proximity of the same and that said use will be consistent with the primary purposes of this C Conservation Zone.
 - (4) One-family detached dwellings that are non-clustered in accordance with § 380-63. **[Added 11-14-2018 by Ord. No. 04-2018]**

17. Editor's Note: See the Revised Schedule of Yard, Area and Bulk Requirements which is included as an attachment to this chapter.

§ 380-17. FH Flood Hazard Zone. [Added by Ord. No. 82-6; amended by Ord. No. 83-4]

A. Permitted uses.

- (1) All uses permitted in the C Conservation Zone, subject to the provisions of §§ 380-35 and 380-59 of this chapter, as amended by this ordinance.¹⁸
- (2) Private docks, piers, moorings and boat launches for the use of a landowner, provided that there is no significant adverse impact as set forth in § 380-59.
- (3) Commercial or public docks, piers, moorings and boat launches, provided that there is a demonstrated need for the facility that cannot be met by existing facilities, and provided that the development conforms to all state and federal regulations, and provided that the development will not result in a significant adverse impact as set forth in § 380-59.

B. Conditional uses. Any use which is a permitted or conditional use in the district underlying the particular flood hazard area, subject to the provisions of §§ 380-35 and 380-57 of this chapter.

§ 380-18. AP Agricultural Production Zone. [Added by Ord. No. 83-4; amended by Ord. No. 85-4; Ord. No. 89-4; Ord. No. 91-11; Ord. No. 92-4; Ord. No. 93-9; Ord. No. 97-3]

A. Permitted uses.

- (1) Single-family dwellings on lots of 3.2 acres, provided that:
 - (a) The dwelling unit will be the principal residence of the property owner or a member of the immediate family of the property owner;
 - (b) The individual whose principal residence the dwelling unit will be has not developed a dwelling unit under this section within the previous five years;
 - (c) The parcel of land on which the dwelling is to be located has been in the continuous ownership since February 7, 1979, of the person whose principal residence the dwelling unit will be, a member of that person's immediate family, or a partnership or corporation in which members of that person's immediate family collectively own more than a majority interest in such partnership or corporation; and
 - (d) The person whose principal residence the dwelling unit will be has resided in the Pinelands for at least five years and that person or one or more members of that person's immediate family has resided in the Pinelands for a total of at least 20 different years.
- (2) Residential dwelling units not to exceed a gross density of one unit per 10 acres, provided that:
 - (a) The dwelling is accessory to an active-agricultural operation.

18. Editor's Note: "This ordinance" refers to Ord. No. 83-4.

- (b) The dwelling is for an operator or employee of the farm who is actively engaged in and essential to the agricultural operation.
 - (c) The dwelling is to be located on a lot which is under or qualified for agricultural assessment.
 - (d) The dwelling is to be located on a lot which has an active production history or where a farm management plan has been prepared which demonstrates that the property will be farmed as a unit unto itself or as part of another farm operation in the area.
 - (e) A residential lot has not been subdivided from the property since the effective date of this amendment or the previous five years, whichever shall then last occur, unless the lot has been subdivided pursuant to Subsection A(1) above.
 - (f) No more than one lot may be created for a dwelling pursuant to this subsection at any one time.
- (3) Agriculture.
 - (4) Agricultural employee housing as an element of and accessory to an active agricultural operation.
 - (5) Forestry, provided that all licenses required by Chapter 357, Trees, Article II, Tree Cutting and Forestry, of the Code of the City of Estell Manor are obtained.
 - (6) Fish and wildlife management and wetlands management. **[Amended 11-14-2018 by Ord. No. 04-2018]**
 - (7) Low-intensity recreational uses, provided that:
 - (a) The parcel proposed for low-intensity recreational use has an area of at least 50 acres;
 - (b) The recreational use does not involve the use of motorized vehicles except for necessary transportation;
 - (c) Access to bodies of water is limited to no more than 15 linear feet of frontage per 1,000 feet of water body frontage;
 - (d) Clearing of vegetation, including ground cover and soil disturbance, does not exceed 5% of the parcel; and
 - (e) No more than 1% of the parcel will be covered by impermeable surfaces. **[Amended 11-14-2018 by Ord. No. 04-2018]**
 - (8) Pinelands development credits, in accordance with § 380-44.
 - (9) Agricultural commercial establishments, excluding supermarkets, restaurants and convenience stores, provided that:
 - (a) The principal goods or products available for sale were produced on the premises or in the Pinelands.

- (b) The sales area of the establishment does not exceed 5,000 square feet.
- (10) Cutting and harvesting of trees.
- (11) One-family detached dwellings on lots of at least one acre, provided that:
 - (a) The applicant satisfies all of the requirements set forth in § 380-18A(1) above.
 - (b) The lot to be developed existed as of February 8, 1979, or was created as a result of an approval granted by the Pinelands Development Review Board or by the Pinelands Commission pursuant to the interim rules and regulations prior to January 14, 1981.
 - (c) The applicant qualifies for and receives from the City a variance from the three-and-two-tenths-acre lot size requirement set forth in § 380-18A(1) above.
 - (d) The applicant purchases and redeems 0.25 Pinelands development credit.
 - (e) Any Pinelands development credits allocated to the lot to be developed are reduced pursuant to § 380-44C of this chapter.
- B. Permitted accessory buildings and structures.
 - (1) Customary farm buildings for the storage of products or equipment located on the same parcel as the principal use.
 - (2) Temporary buildings for uses incidental to construction work, provided that such buildings are removed upon completion or abandonment of the construction work.
 - (3) Essential utilities. In the Pinelands Area, centralized wastewater treatment and collection facilities shall be permitted to service the AP Zone only as set forth in § 380-42F(4)(b) of this chapter.
 - (4) Signs, subject to the regulations set forth herein.
 - (5) Private garages and carports.
- C. Conditional uses.
 - (1) Agricultural products processing facilities.
 - (2) Residential dwelling units at a gross density of one unit per 40 acres, provided that:
 - (a) The unit(s) shall be clustered on one-acre lots;
 - (b) The remainder of the parcel, including all contiguous lands in common ownership, which is not assigned to individual residential lots shall be permanently dedicated for agricultural uses through recordation of a restriction on the deed to the parcel; and
 - (c) The restriction on the deed to the parcel, including any rights to be redeemed for future residential development, shall be done in accordance

with N.J.A.C. 7:50-5, Part IV, so as to sever any Pinelands Development Credits allocated to the parcel.¹⁹

D. Yard, area and bulk requirements, as specified in the schedule.²⁰

**§ 380-19. Regulations applicable to special industrial developments in HC Zone.
[Amended by Ord. No. 79-22; Ord. No. 82-6; Ord. No. 89-4; Ord. No. 97-3]**

A. Permitted uses.

- (1) Light manufacturing uses employing electricity or other unobjectionable motor power, utilizing hand labor or other unobjectionable machinery or processes or manufacturing processes which are free from objectionable odors, fumes, dirt, vibration or noise, such as but not limited to the following:
 - (a) Glass and glass products manufacturing.
 - (b) Jewelry manufacturing.
 - (c) Leather goods manufacturing, except the curing and finishing of hides.
 - (d) Plastic products manufacturing.
 - (e) Sporting goods manufacturing.
 - (f) Rope, thread and yarn manufacturing.
 - (g) Brush and broom manufacturing.
 - (h) General industrial machine equipment and manufacturing.
 - (i) Fabrication of metal products.
 - (j) Fabrication of paper and wood products.
 - (k) Manufacturing of light machinery.
- (2) Food and associated industries comprising, such as but not limited to the following:
 - (a) Bakeries.
 - (b) Bottling of food and beverages.
 - (c) Food processing.
 - (d) Ice cream manufacturing.
 - (e) Manufacturing of spirituous liquor.

19. Editor's Note: Former Section 10-6.4Cc3 of the 1974 Revised General Ordinances, dealing with the AP Zone, which previously followed this subsection, was repealed 4-5-1989 by Ord. No. 89-4.

20. Editor's Note: The Schedule of Yard, Area and Bulk Requirements is included as an attachment to this chapter.

- (3) Biological, chemical, electronic and pharmaceutical laboratories, scientific laboratories devoted to research, design and experimental operation of equipment.
 - (4) Administrative and business offices.
 - (5) Truck terminal facilities.
 - (6) Commercial-industrial establishments, such as but not limited to commercial printing plants, farm machinery sales and services, and earthmoving equipment sales and service.
 - (7) City buildings and other governmental or public uses deemed necessary and approved by the Planning Board and City Council.
 - (8) Temporary buildings for uses incidental to construction work, provided such buildings are removed upon completion or abandonment of the construction work.
- B. Permitted accessory uses.
- (1) Off-street parking, loading and ramp area as required by § 380-40.
 - (2) The enclosed warehousing and storage of goods and products, provided that no goods are sold from the premises.
 - (3) Garage space necessary to store any vehicles on the premises.
 - (4) Noncommercial recreational areas and parks owned and operated by any industry located within the zone.
 - (5) The warehousing and storage of goods, provided that any goods or products stored out of doors are enclosed by a landscaping or fencing screen on three sides and screened from view from a public street.
 - (6) Essential utilities. In the Pinelands Area, centralized wastewater treatment and collection facilities shall be permitted to service the special industrial developments in the HC zone only as set forth in § 380-42F(4)(b).
- C. Conditional uses. (See Article VIII.)
- (1) Public service infrastructure.
- D. Height, area and bulk requirements. As specified in the schedule.²¹
- E. Additional requirements for special industrial developments.
- (1) All activities and processes shall take place within an enclosed building; incidental storage out of doors shall be shielded from view from public streets and adjacent off-street parking areas by fencing, landscaping or other appropriate measures.
 - (2) Not more than two driveways, of not less than 24 feet nor more than 40 feet in width, shall be permitted for each 150 feet of roadway frontage, nor shall any

21. Editor's Note: The Schedule of Yard, Area and Bulk Requirements is included as an attachment to this chapter.

such driveway or access point be located within 100 feet of the intersection of two public streets.

- (3) All uses permitted in this zone shall set aside 20% of the lot to be devoted to seeding, planting, retention of tree cover or other landscaping; this area shall be used for no other purpose.
- (4) Truck loading and unloading areas shall be provided in an amount sufficient to permit the transfer of goods and products in other than a public street or required front yard area.
- (5) Truck terminal facilities shall be enclosed on three sides to the rear of the front building line by fencing or other appropriate means; such fencing shall not be less than five feet in height.
- (6) Entrance and exit points to permitted uses shall be clearly marked and may be indicated by directional signs not to exceed four square feet in area on any one side, which signs shall not exceed four in number and shall not contain any advertising matter.

F. Performance standards for permitted uses.

- (1) Liquid wastes and effluents shall be discharged into an approved existing sewage treatment system in accordance with the regulations of that system or shall be treated in a treatment plant operated by the permitted use which is in compliance with the applicable state statutes and with the requirements of the State Board of Health.
- (2) Precaution against fire hazards, proper handling of and storage of materials, structural design and safeguards for the health and safety of workers shall comply with the applicable regulations and requirements of the State Department of Labor and Industry.
- (3) Any vibration, glare or noise resulting from the operation of the use shall not be evident beyond the boundaries of the zone district.
- (4) The operation shall not result in the dissemination of smoke, dust, chemicals or odors into the air to such a degree as to be detrimental to the health and welfare of the residents of the area, in compliance with the applicable state statutes and with the requirements of the State Board of Health.
- (5) Whenever a property line of an industrial lot abuts or is across the street from a residential zone, a buffer strip shall be established which shall include an area of land 10 feet in width as measured from the property line. For the purpose of establishing a building setback line, along buffer areas, all front, side and rear yard lines shall be increased by a depth of 10 feet. Screening shall be provided along the rear and side property lines. The buffer strip and screening shall meet the standards set forth in § 380-39.²²

22. Editor's Note: Former Section 10-6.6, Regulations Applicable to Special Residential Developments in the R-2 and R-3 Residential Zones, of the 1974 Revised General Ordinances, as amended, which previously followed this section, was repealed by Ord. No. 82-6.

§ 380-20. Historic preservation. [Amended by Ord. No. 79-22; Ord. No. 82-6; Ord. No. 84-10; Ord. No. 86-10; Ord. No. 89-4; Ord. No. 90-5; Ord. No. 97-3]

- A. Intent. It is the purpose and intent of this section to promote, protect, enhance, perpetuate and preserve historic landmarks for the educational, cultural, economic and general welfare of the public through the preservation, protection and regulation of the buildings, sites, monuments, structures and areas of historic interest or importance within the City of Estell Manor; to safeguard the heritage of the City by preserving and regulating historic landmarks and districts which reflect elements of its cultural, social, economic, political and architectural history; to preserve and enhance the environmental quality of neighborhoods; to strengthen the City's economic base by the stimulation of the tourism industry; to establish and improve property values; to foster economic development; to manage growth; to foster civic pride in the beauty and accomplishments of the City's past; and to preserve and protect the cultural, historic and architectural assets of the City which have been determined to be of national, state and local historic and architectural significance. **[Amended 12-17-2003 by Ord. No. 07-03]**
- B. Application. The provisions of this § 380-20 shall apply uniformly throughout the City, regardless of zoning district boundaries. **[Amended 12-17-2003 by Ord. No. 07-03]**
- C. Historic Preservation Commission. The Historic Preservation Commission heretofore created shall henceforth be known as the "Historic Preservation Commission" and shall be governed by the provisions of N.J.S.A. 40:55D-107 et seq. **[Amended 12-17-2003 by Ord. No. 07-03]**
- D. Creation; appointments; terms; officers. **[Amended 12-17-2003 by Ord. No. 07-03]**
- (1) The Historic Preservation Commission shall consist of five members, each of whom shall be appointed by the Mayor. Of the regular members, a total of at least one less than a majority shall be of Classes A and B. The Commission shall include at least one member of each of the following classes:
 - (a) Class A: a person who is knowledgeable in building design and construction or architectural history and who may reside outside the municipality.
 - (b) Class B: a person who is knowledgeable or with a demonstrated interest in local history and who may reside outside the municipality.
 - (c) Class C: Those regular members who are not designated as Class A or B shall be designated as Class C members. Class C members shall be citizens of the municipality who shall hold no other municipal office, position or employment except for membership on the Planning Board.
 - (d) Alternate members. The Historic Preservation Commission shall consist of five regular members and may not have more than two alternate members. The alternate members shall meet the qualifications of Class C members.
 - (2) The Mayor shall appoint all members of the Commission and shall designate at the time of the appointment the regular members by class and the alternate members as "Alternate No. 1" and "Alternate No. 2." The terms of the members first appointed under this act shall be so determined that, to the greatest

practicable extent, the expiration of the terms shall be distributed, in the case of regular members, evenly over the first four years after their appointment, and in the case of alternate members, evenly over the first two years after their appointment; provided that the initial term of no regular member shall exceed four years and that the initial term of no alternate member shall exceed two years. Thereafter, the term of a regular member shall be four years; and the term of an alternate member shall be two years. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only.²³

- (3) Notwithstanding any other provision herein, the term of any member common to the Historic Preservation Commission and the Planning Board shall be for the term of membership on the Planning Board.
- (4) The Historic Preservation Commission shall elect a Chairman and Vice Chairman from its members and select a Secretary who may or may not be a member of the Historic Preservation Commission or a municipal employee.
- (5) Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.
- (6) No member of the Historic Preservation Commission shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest.
- (7) A member of the Historic Preservation Commission may, after public hearing if he requests it, be removed by the governing body for cause.
- (8) The governing body shall make provision in its budget and appropriate funds for the expenses of the Historic Preservation Commission.
 - (a) The Historic Preservation Commission may employ, contract for and fix the compensation of experts and other staff and services as it shall deem necessary. The Commission shall obtain its legal counsel from the Municipal Attorney at the rate of compensation determined by the governing body, unless the governing body, by appropriation, provides for separate legal counsel for the Commission. Expenditures pursuant to this subsection shall not exceed, exclusive of gifts or grants, the amount appropriated by the governing body for the Commission's use.
- (9) The Historic Preservation Commission shall have the responsibility to:
 - (a) Prepare a survey of historic sites of the municipality pursuant to criteria identified in the survey report.

23. Editor's Note: Original Sec. 10-6.6.d.3, providing expiration of member terms, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

- (b) Make recommendations to the Planning Board on the historic preservation plan element of the Master Plan and on the implications for preservation of historic sites of any other Master Plan elements.
 - (c) Advise the Planning Board on the inclusion of historic sites in the recommended capital improvement program.
 - (d) Advise the Planning Board on applications for development pursuant to § 380-20D(11).
 - (e) Carry out such other advisory, educational and informational functions as will promote the historic preservation in the municipality.
- (10) The Planning Board shall refer to the Historic Preservation Commission every application for development submitted to the Board for development in historic zoning districts or on historic sites designated on the Zoning or Official Map or identified in any component element of the Master Plan. This referral shall be made when the application for development is deemed complete or is scheduled for a hearing, whichever occurs sooner. Failure to refer the application as required under this subsection shall not invalidate any hearing or proceeding. The Historic Preservation Commission may provide its advice, which shall be conveyed through its delegation of one of its members or staff to testify orally at the hearing on the application and to explain any written report which may have been submitted.
- (11) The Historic Preservation Commission shall keep minutes and records of its meetings and proceedings, including voting records, findings, determinations and recommendations. Copies of same shall be forwarded to the Planning Board for use in making final determinations on any application for development or other matter referred to the Historic Preservation Commission for review. Copies shall also be forwarded to Council and made available to other municipal bodies, agencies and officials for their use.
- (12) Members of the Historical Preservation Commission shall serve without compensation but may be reimbursed for expenses incurred in the performance of official business if said reimbursement is included in the budget and approved by City Council.
- E. Powers of Historic Preservation Commission. The Historic Preservation Commission shall have the following powers:
- (1) All powers as set forth in N.J.S.A. 40:55D-109, as heretofore and hereafter amended, and, in addition thereto,
 - (2) To seek advisory opinions and technical assistance from all municipal employees, agencies and boards or other public officials on any matter within its jurisdiction.
 - (3) To report periodically to the Planning Board and to the City Council on the state of historic preservation in Estell Manor and to recommend measures to improve the same.
 - (4) To collect and disseminate material on the importance of historic preservation and techniques for achieving the same.

- (5) To advise all municipal agencies regarding goals and techniques of historic preservation.
 - (6) To recommend the adoption of such regulations and procedures not inconsistent with this chapter as are necessary and proper for the effective performance of the duties herein assigned.²⁴
- F. Designation of historic landmarks. The Historic Preservation Commission shall make a comprehensive survey of the City of Estell Manor for the purpose of identifying historic landmarks which are worthy of protection and preservation. Based on the survey or upon the recommendation of concerned citizens, the Commission shall document the importance and historic significance to the City, county, state and/or nation of each site so recommended for landmark designation according to the criteria established in the definition of "historic landmark" contained in Article II of this chapter and prepare a tentative nomination list and map of such proposed landmarks. Sites or structures accepted on the National or State Register of Historic Places, as well as Pinelands-designated sites, shall be automatically included on the list.
- (1) The Historic Preservation Commission shall, as soon as practicable, make public a complete list and map of the tentatively designated landmarks, specifying the locations, boundaries and popular names thereof and, in each case, the reason for such tentative designation.
 - (2) Upon completion of the survey and the tentative nomination list and map, the Historic Preservation Commission, by certified mail, shall:
 - (a) Notify each owner that his or her property has been recommended for designation as an historic landmark and the reason therefor; and
 - (b) Advise each owner of the significance and consequences of such designation and advise him of his opportunity to participate in the public hearing held pursuant to the provisions of § 380-20F(3) hereof.
 - (3) The tentative list and map shall, within 45 days thereafter, be presented at a public hearing held by the Historic Preservation Commission for the examination and criticism of the public. Interested persons shall be entitled to present their opinions, suggestions and objections at this public hearing. A list and map showing all proposed historic districts and landmarks shall be published, together with notice of the hearing, in the official newspaper of the City not less than 10 days before such hearing is to be held.
 - (4) After full consideration of the evidence brought forth at the public hearing, the Historic Preservation Commission shall make its final recommendations on such designations and shall issue its final report to the public stating reasons in support of its recommendations with respect to each landmark and historic district.
 - (5) The Historic Preservation Commission's report shall, within 45 days thereafter, be submitted to the Secretary of the Planning Board. The Planning Board shall then determine whether to recommend adoption, rejection or modification of the

24. Editor's Note: Former Subsection 10-6.6f of the 1974 Revised General Ordinances, dealing with ancillary powers of the Zoning Board, which previously followed this subsection, was repealed 4-5-1989 by Ord. No. 89-4.

Historic Preservation Commission's proposed designations to the City Council. The Planning Board shall clearly specify its findings with respect to a recommendation to reject or modify the Historic Preservation Commission's proposed designations and shall incorporate into the Master Plan all proposed designations which have been recommended for adoption.

- (6) Upon action by the Planning Board, the Board's recommendations shall be submitted to the City Clerk. The City Council shall then consider whether to enact the designation list and map as part of this chapter. Upon enactment, the requirements of Subsection H hereof shall govern all such designated landmarks and historic districts.
- (7) Copies of the designation list and official map, as enacted by the City Council, shall be made public and distributed to all municipal agencies reviewing development applications and all construction, zoning and other permits.
- (8) After passage of an amendment to the Zoning Ordinance of the City of Estell Manor adopting any designation of historic landmarks, the same shall be made public and distributed to all municipal agencies reviewing development applications and all building and housing permits. A certificate of designation shall be issued for each said property by the Historic Preservation Commission and served by certified mail upon the owner of each site included in the final list, and a true copy of the same shall be filed with the County Clerk for recording in the same manner as certificates of lien upon real property.
- (9) Each designated landmark may be marked by an appropriate plaque, in such form as the Historic Preservation Commission shall promulgate and with permission of the owner of the designated site.
- (10) Any resource designated by the City Council in accordance with Subsection F(1) through (8) hereof may be removed from designation if the City Council determines that the resource no longer meets the criteria set forth in the definition of a landmark.

G. Amendments to the designation list and map.

- (1) Once enacted, the designation list and map may be amended by submission to the Planning Board of an application for landmark designation. Amendments may be proposed by any interested person or party.
- (2) An application for landmark designation shall be submitted on a National Register of Historic Places Inventory-Nomination Form, with the accompanying information listed in the State and National Register Manual, as published by the New Jersey Department of Environmental Protection. The application shall contain the following information:
 - (a) A statement detailing the basis for designation with reference to the criteria set forth in the definition of a landmark;
 - (b) One or more photographs, if appropriate, together with descriptive captions, illustrating the features of the proposal which support its designation.

- (c) A detailed description of the present and original, if known, condition of any structure or site proposed for designation, including a detailed architectural description, if applicable; and
 - (d) One or more maps clearly identifying the boundaries of the area proposed for designation and a written statement justifying those boundaries on the basis of the criteria set forth in the definition of a landmark.
- (3) Upon receipt of an application for landmark designation, the Planning Board shall refer a copy of the application to the Historic Preservation Commission for review and comment. Upon a recommendation from the Historic Preservation Commission, the Planning Board may request further information from the applicant in order to complete a thorough review of the application.
 - (4) If the designation is proposed by anyone other than the property owner, the Historic Preservation Commission shall notify the owner in the same manner as provided in § 380-20F(2) hereof.
 - (5) Action on the application for an amendment to the designation list and map shall be taken in accordance with § 380-20F(1) through (9) hereof.

H. Certificates of appropriateness.

- (1) A certificate of appropriateness shall be required before any other permit or approval is issued for any of the following or, in the event that no other type of permit or approval is otherwise required, before work can commence on any of the following activities:
 - (a) Demolition or destruction of an archaeological remnant or any other portion of a landmark or a Pinelands-designated site.
 - (b) Relocation of any landmark or Pinelands-designated site.
 - (c) Change in the exterior appearance of any existing landmark, Pinelands-designated site or lot shown on the Tax Map of the City of Estell Manor abutting a landmark or within 200 feet of the same.
 - (d) Any new construction of a principal or accessory structure.
 - (e) Subdivision into two or more lots of a lot on which is situate a landmark, historic district site or Pinelands-designated site.
- (2) The Planning Board shall issue certificates of appropriateness for any of the activities listed in Subsection H(1) above. The Historic Preservation Commission shall review all applications for a certificate of appropriateness and provide a written report, including its recommendations to the Planning Board. **[Amended 11-5-1997 by Ord. No. 97-6]**
- (3) Following receipt of the report of the Historic Preservation Commission, the Planning Board shall take action on the application for a certificate of appropriateness. In taking said action, the Planning Board shall consider the recommendation of the Historic Preservation Commission, but is not bound by the same. No approval agency may approve an application for development

described in Subsection H(1) above in the absence of such a certificate, nor may a building permit or certificate of occupancy be issued in the absence of the same. **[Amended 11-5-1997 by Ord. No. 97-6]**

- (4) Repair of a landmark or Pinelands-designated site as defined in Article II hereof shall not require a certificate of appropriateness nor shall repainting or interior alterations.
- (5) An applicant may allege that his application should be granted because the addition or alteration contemplated will not be visible from any place to which the public normally has access and, therefore, that said addition or alteration cannot adversely affect the public interest. In that event, the Historic Preservation Commission may forthwith recommend approval of the plans on that basis. However, the provisions of Subsection H(15) shall apply for such applications subject to Pinelands Commission review.
- (6) The Planning Board shall make available to the Historic Preservation Commission a copy of every application submitted to the Board for development on the property of any landmark on a Pinelands-designated site or on any lot within 200 feet of the same. The Historic Preservation Commission may provide its advice, which shall be conveyed through delegation of one of its members or staff to testify orally at the hearing on the application and to explain any written report which may have been submitted. **[Amended 11-5-1997 by Ord. No. 97-6]**
- (7) All applicants shall pay a fee to the Historic Preservation Commission for preliminary review, as provided in Chapter 185, Article III, Fees for City Services.
- (8) An application for a certificate of appropriateness shall be submitted to the administrative officer. No such application shall be deemed complete unless it includes the following information:
 - (a) Detailed plans depicting the exact work to be performed, including detailed renderings of the exterior of any proposed new sign or structure or any exterior alterations to existing structures. A delineation of the relationship of the renderings of the proposal in relation to adjacent structures or surrounding lands may be requested. Architectural drawings and certifications may be waived in appropriate cases at the discretion of the Planning Board or Historic Preservation Commission where the nature of the site plan approval is such as to be deemed not to require the expense of the same. **[Amended 11-5-1997 by Ord. No. 97-6]**
 - (b) A statement of the relationship of the proposed work to the standards for landmark designation and for Pinelands designation, if applicable, and the standards for approval of certificates of appropriateness.
 - (c) In the event the requested certificate of appropriateness, if issued, would permit the demolition or relocation of a landmark or Pinelands-designated site, a detailed analysis of the economic feasibility of maintaining the structure in its present form, including: the amount paid for the property; the date of purchase; the current assessed value of the lands and improvements; real estate taxes for the previous two years; the annual debt

service, if any, for the previous two years; gross income from the property for the previous two years; and annual cash flow, if any.

- (d) A statement of measures to be taken to mitigate any adverse effects of the proposed work on the landmark or Pinelands-designated site, including recording procedures for the site in its present state, if appropriate.
 - (e) If the proposed work involves the disturbance of a designated archaeological site, a statement describing the mitigation program proposed and the qualifications of those professionals who will be conducting data recovery operations.
 - (f) If the proposed work involves a Pinelands-designated site or if it involves development associated with a landmark subject to Pinelands Commission review pursuant to § 380-77D of this chapter, evidence that the procedures relating to notification of the Pinelands Commission have been met.
 - (g) Any other information which the Historic Preservation Commission determines is necessary to evaluate the application.
- (9) The approval authority shall make available to the Historic Preservation Commission a copy of all applications for permits governed by Subsection H(1) hereof.
- (10) In the event that no permit is otherwise required for an activity governed by Subsection H(1) hereof, the applicant shall apply directly to the Planning Board for a certificate of appropriateness and shall provide the information listed in Subsection H(8)(a) through (g) hereof. The Planning Board shall refer a copy of the application to the Historic Preservation Commission for its review.
- (11) The following standards shall be employed by the Planning Board in determining whether to approve, disapprove or approve with conditions the issuance of a certificate of appropriateness:
- (a) The Board shall first consider which of the following general treatment prescriptions shall apply:
 - [1] Preservation of the resource in place, if possible;
 - [2] Preservation of the resource at another location if preservation in place is not possible; or
 - [3] Recordation of the resource if neither preservation of the resource in place or at another location is possible.
 - (b) Preservation of the landmark, historic district site or Pinelands designated site in place is the preferred treatment and shall be required, unless all of the following conditions apply:
 - [1] Continuation of the present use of the resource is not feasible.
 - [2] The resource cannot reasonably be modified for the proposed use.
 - [3] Adaptation of the resource for an alternative use is not feasible.

- [4] A bona fide offer of sale of the resource for purposes of preservation at the present location has been tendered for a reasonable period without an acceptable response.
- (c) Preservation of the landmark, historic district site or Pinelands designated site at another location shall be required if preservation in place is not possible, unless one of the following conditions applies:
 - [1] Relocation of the resource is not feasible because of obstructions or impediments that prevent relocation.
 - [2] No suitable alternative site is available.
 - [3] The condition of the structure precludes its removal to another site.
 - [4] Relocation would not serve to protect those qualities that led to its designation.
- (d) Thorough and complete recordation of the landmark, historic district site or Pinelands-designated site shall be required if preservation in place and preservation at another location are not possible, unless one of the following conditions applies:
 - [1] The resource has been disturbed, altered or modified to such an extent that recordation will not contribute to an understanding of its historic character or evolution.
 - [2] The information provided by recordation would be redundant.
- (e) The following requirements shall apply to the treatment alternatives specified above:
 - [1] Preservation in place:
 - [a] Historic buildings and structures, architectural features and engineering features.
 - [i] Deed covenants, easements or other appropriate mechanisms must be developed to provide that any rehabilitation of the building or feature must be performed in accordance with the Secretary of the Interior's Standards for Rehabilitation (36 CFR Part 67); and the structure or feature must be protected sufficiently to preserve those qualities that make it significant.
 - [ii] Before beginning rehabilitation, the original condition of the building or other architectural or engineering feature must be documented photographically in accordance with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation.
 - [b] Archaeological sites and archaeological remnants associated with historic structures.

- [i] A deed covenant, easement or other appropriate mechanism must be developed to provide for protection, through restricted access, if necessary, to preserve those qualities that make the resource important. Any on-site activities must have no detrimental effect on the preservation of the resource. The covenant or other appropriate mechanism must further direct that any stabilization of the resource will be carried out in conformance with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation.
 - [ii] The archaeological resource shall be incorporated into open space whenever project designs or land use activities permit.
 - [iii] Land allocated for resource preservation may need to be set aside for that single use if the preservation of the resource is not compatible with other activities.
- [c] Alterations or additions to historic structures, as well as any new construction which is visually related to an historic structure, shall be carried out in such a way as to be compatible with the structure in such aspects as height, scale, massing, proportion, materials and major construction details, including but not limited to, roof shapes and fenestration.
- [d] Subdivision into two or more lots.
- [i] Subdivision, for purposes of new construction, shall not be permitted unless the information required in Subsection H(9) hereof indicates that the proposed work is consistent with the requirements of this section.
 - [ii] Subdivision for purposes other than new construction shall not be subject to the provisions of this chapter.
- [e] Preservation at another location:
- [i] Deed covenants, easements or other appropriate mechanisms must be developed to provide that any rehabilitation of a building or feature must be performed in accordance with the Secretary of the Interior's Standards for Rehabilitation (36 CFR Part 67), and the structure or feature must be protected and maintained sufficiently to preserve those qualities that make it significant.
 - [ii] The relocation of the resource must be designed to minimize the damage to the resource and to preserve those qualities that make it significant. The relocation shall be undertaken in accordance with the Secretary of the Interior's publication Moving Historic Buildings.

- [iii] The resource shall be recorded to the requirements of the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation prior to removal from its original location. Minimally, this will include the preparation of a site plan, sufficient archaeological investigation to document the resource and any associated features, appropriate photographs and/or drawings and a narrative description of any historic functions or processes carried out at the site.
 - [iv] If the relocation site is within an historic district and/or the project will involve new construction or an alteration or addition to the landmark at the new location, the provisions of § 380-20H(11)(e)[1][c] above shall apply.
 - [f] Recordation. In the event that the proposed work involves the disturbance of an archaeological site or the demolition of or additions or alterations to a building or structure, issuance of a certificate of appropriateness shall be conditioned upon full documentation of the affected resource by a qualified professional according to the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation, including the Guidelines for Recovery of Scientific, Prehistoric, Historic and Archaeological Data (36 CFR Part 66).²⁵
- (12) Within 45 days of the receipt of the report of the Historic Preservation Commission as set forth in Subsection H(2), the Planning Board shall approve, disapprove or approve with conditions the issuance of a certificate of appropriateness upon determining that the proposed plans are or are not in conformity with this section. All subsequent development approvals shall be issued or denied in a manner consistent with the certificate of appropriateness. Failure to act within the forty-five-day period shall be deemed to constitute approval of the issuance of a certificate of appropriateness without conditions.
 - (13) Issuance of a certificate of appropriateness shall be deemed to be the final action pursuant to this section subject to the provisions of Subsection H(15) hereof. Such approval shall neither cause nor prevent the filing of any collateral application or other proceeding revised by any article or ordinance to be made prior to undertaking the action requested concerning the landmark or Pinelands-designated site. A certificate of appropriateness shall be valid for a period of two years.
 - (14) Denial of a certificate of appropriateness shall be deemed to be a final action pursuant to this section and shall preclude the applicant from understanding the activity applied for concerning the landmark or Pinelands-designated site.
 - (15) Any certificate of appropriateness which is subject to the Pinelands Area review procedures as specified in Subsection H(8)(f) hereof shall be submitted to the

25. Editor's Note: See 48 FR 44716-01, 1983 WL 113234.

Pinelands Commission for its review pursuant to § 380-77D hereof. No such certificate of appropriateness shall take effect until this review has been completed.

- (16) Notwithstanding any other provision of this section, in any case where the Construction Code Official determines that alterations, remodeling or demolition of a designated structure is necessary to remedy a condition that is dangerous to life, health or safety, a certificate of appropriateness which is required under the provisions of this section may be used with the signature of the Mayor under the following conditions:
 - (a) The certificate of appropriateness shall fully describe and justify the action which is being taken to correct the condition.
 - (b) The action which is being taken shall be the minimum necessary to correct the condition.
 - (c) If the proposed work involves a Pinelands-designated site or if it involves development associated with a landmark subject to Pinelands Commission review pursuant to § 380-77D of this chapter, the Construction Code official shall immediately notify the Pinelands Commission of the action being taken and shall, within seven days, provide the Commission with a copy of the certificate of appropriateness.
 - (d) The certificate of appropriateness shall require that the standards of this Subsection H shall be applied to the extent possible.
- (17) Nothing herein shall be deemed to limit the right of any party to judicial review of a decision by the Planning Board or Historic Preservation Commission on a certificate of appropriateness. [**Amended 11-5-1997 by Ord. No. 97-6**]

I. Interpretive statement.

- (1) In adopting this § 380-20 it is the intention of the City Council of the City of Estell Manor to create an agency which can administer a system of preservation regulations, based on a rational plan and objective criteria, which will complement the existing land use and Construction Code legislation.²⁶
- (2) Nothing contained herein shall supersede the powers of other local legislative or regulatory bodies or relieve any property owner of complying with the requirements of any other state statutes or municipal ordinances or regulations.
- (3) In the event of any inconsistencies, ambiguity or overlapping of requirements between this section and any other requirement enforced by the municipality, the more restrictive shall apply, to the effect that the state or federal legislation has not preempted the municipality's power to enforce more stringent standards.

26. Editor's Note: See Ch. 155, Construction Code, Art. I, Enforcement.

§ 380-21. Manufactured homes. [Amended by Ord. No. 78-13; Ord. No. 85-9]

Manufactured homes are permitted to the same extent as one-family detached dwellings, subject to the following terms and conditions:

- A. The manufactured home in question must be a minimum of 22 feet wide, must be on land the title to which is held by the manufactured home owner and must be located on a permanent foundation.
- B. All regulations applicable to a one-family detached dwelling in the zone in which the manufactured home is located shall apply to said manufactured home.

§ 380-22. Animals. [Amended by Ord. No. 78-13; Ord. No. 79-8; Ord. No. 82-6; Ord. No. 83-4]

- A. The following animals may be kept in connection with any residential or agricultural use where not raised for commercial purposes: cats, dogs, hamsters, gerbils, caged birds, fish or other usual household pets.
- B. All farm animals/fowl shall be divided into classifications as follows: **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
 - (1) Large animals, including cows, bulls, horses, donkeys and ponies.
 - (2) Medium animals, including sheep, goats and pigs.
 - (3) Small animals/fowl, including chickens, geese, ducks, rabbits and turkeys.
- C. None of the above farm animals/fowl may be raised on any tract consisting of less than two acres. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- D. On any lot consisting of between two acres and up to three acres, one horse or pony may be kept or two medium animals. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- E. On any lot between three acres and up to five acres, two large animals or six medium animals may be kept. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- F. On any lot between five acres and up to 10 acres, four large animals or 12 medium animals may be kept. One additional large animal or three additional medium animals may be kept for each additional two acres over 10 acres. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- G. The number of small animals/fowl may not exceed 20 times the number of medium animals except for turkeys. It shall be unlawful to operate or maintain a commercial turkey farm within the City limits, and it shall be unlawful for any person to raise more than five turkeys at any time. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- H. Where a mixture of more than one size animal is kept, 20 small animals shall equal one medium animal, and three medium animals shall equal one large animal. The total

number of small, medium and large animals shall not, in using this ratio, exceed the total number of large animals permitted, except for lots of between one and 2 1/2 acres, where no large animals may be kept except horses or ponies.

- I. Any lot located in the R-25, R-10, R-5 or AP Zones shall be exempt from the above requirements, provided that it is at least 10 acres in size and is properly maintained as set forth under Subsection J below.
- J. The above provisions allowing the keeping of farm animals are subject to the following provisions:
 - (1) All sanitary provisions shall be maintained and all public health codes shall be followed.
 - (2) All animals shall be kept at least 50 feet from the edge of the road and at least 25 feet from side property lines.
 - (3) All animals shall be properly contained within a fenced-in area. No ground tying shall be permitted.
 - (4) Fencing requirements.
 - (a) The total fenced-in area, referred to in Subsection J(3) herein, shall be the sum total of the following:
 - [1] Each large animal: 4,000 square feet.
 - [2] Each medium animal: 1,333 square feet.
 - [3] Each small animal: 66.65 square feet.
 - (b) Separate fencing shall not be required for each animal.
 - (5) Adequate shelter shall be provided for each animal.
 - (6) In calculating the average above, only usable acreage can be included, which would be that portion of the property which, in its then present state, can be used for the raising of the animals in question. That portion of the premises devoted to residential use or wooded areas shall be excluded.
 - (7) Buildings necessary to any use permitted in this section shall be permitted, including barns, stables and chicken coops or similar buildings. Except for farms in R-25, R-10, R-5, RV and AP Zones, no such building may exceed in square feet the living area of the dwelling house erected on that property.
 - (8) The total number of pigs shall not exceed 12 on any one property, notwithstanding the above provisions.
- K. This section shall not authorize the raising of any animals not normally raised on a farm. The raising of rare or exotic nonfarm animals for commercial purposes shall be prohibited.

ARTICLE VI

General Regulations**§ 380-23. General. [Amended by Ord. No. 89-4; 11-14-2018 by Ord. No. 04-2018]**

General. No building shall hereafter be erected and no existing building shall be moved, structurally altered, rebuilt, added to or enlarged nor shall any land be used for any purpose other than those included among the uses listed as permitted uses in each zone by this chapter and meeting the requirements set forth in the Schedule of Area, Yard and Bulk Requirements²⁷; nor shall any open space contiguous to any building be encroached upon or reduced in any manner, except in conformity to the yard, lot area, building location, percentage of lot coverage, off-street parking space and all other regulations designated in the revised schedule and this chapter for the zone district in which the building or space is located. In the event of any such unlawful encroachment or reduction, the building or use shall be deemed to be in violation of this chapter, and the building permit and all other permits shall become void. No more than one principal use shall be located on one lot, except for forestry, agriculture, horticulture, fish and wildlife management, wetlands management and recreational development on agricultural lands.

§ 380-24. Frontage on public street.

Every principal building shall be built upon a lot with frontage on a public street which has been improved to meet the approval of the City standards or for which the improvement has been insured by the posting of a performance guaranty pursuant to the provisions of Chapter 340, Subdivision of Land.

§ 380-25. Irregularly shaped lots.

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

§ 380-26. Principal building.

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

§ 380-27. Yards. [Amended by Ord. No. 85-4]

All yards facing on a public street shall be considered front yards and shall conform to the minimum front yard requirement for the zone in which it is located, except that in the case of corner lots in RV Village Residence Zones and R-5 Residence Zones, the minimum front

27. Editor's Note: The Schedule of Yard, Area and Bulk Requirements is included as an attachment to this chapter.

yard requirement for that portion of the lot in question facing on the street having the larger frontage shall be 100 feet.

§ 380-28. Hedge, fence or wall at intersection of streets.

At the intersection of two or more streets, no hedge, fence or wall, other than a single post or tree not exceeding one square foot in cross section, which is higher than three feet above curb level, nor any obstruction to vision shall be permitted in the triangular area formed by the intersecting street lines and a line joining points each 25 feet distant from the intersection along the street lines.

§ 380-29. Artificial lights.

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

§ 380-30. Conflict with Master Plan or Official Map.

Where a building lot has frontage upon a street which on the Master Plan or Official Map of the City is proposed for right-of-way widening, the required front yard area shall be measured from such proposed right-of-way line.

§ 380-31. Accessory structures.

- A. No accessory structure shall be closer to any principal building than a distance equal to the height of the building unless it is attached to and is part of the principal building.
- B. No accessory structure shall exceed a height of 16 feet in residential areas. Defined height for accessory structures only, shall be measured as follows: the vertical distance measured from grade to the highest point of the roof for flat roofs, to the deck line for mansard roofs. Any roof that has a gable end, shall be measured to the center of the gable end, that center of a gable end is known to be the "mean height line." This same measurement practice will be used for hip and gambrel type roofs as well. The formula used to find the mean height line on a gable end is defined as follows: measure from the bottom of the eave, to the top of the roof ridge, and then divide that measurement in half. This divided measurement is the mean height line. Then add the wall height (from grade to top of the wall) to the mean height line measurement. This will be the total measurement for finished roof height. No accessory structures shall have more than one story. This subsection was drafted for residential zoned areas only, with no commercial and/or business use allowed. Should the Zoning Officer find that such applicant has misrepresented their use, for the purpose of commercial use, or a business, the applicant and/or the owner of said property shall be fined a fee as provided in Chapter 1, Article II, General Penalty, of the Code of the City of Estell Manor, until said building is removed or dismantled with the Zoning Officer's complete inspection and his report is submitted to this Planning Board for its review of satisfactory completion, and to be in compliance with this chapter. **[Amended 3-13-2007 by Ord. No. 04-2007; 6-6-2007 by**

Ord. No. 11-2007; at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

- C. No accessory structure shall be located in a required front yard.
- D. Patios and unroofed porches may extend into side and rear yards to a point not less than 10 feet from the lot line.
- E. No accessory building shall be used for residence purposes, except for a chauffeur or gardener or for housing servants of the family and where there are more than two living rooms therein; and such building shall be at least 25 feet distant from any lot line.

§ 380-32. Prohibited uses. [Amended by Ord. No. 82-6]

- A. Any use not specifically permitted in a zone established by this chapter is hereby specifically prohibited from that zone; and the following uses and activities are specifically prohibited in any zone in the City.
 - (1) Any use of any building or premises in such a manner that the health, morals, safety or welfare of the community may be endangered.
 - (2) Any use which emits excessive and objectionable amounts of dust, fumes, noise, odor, smoke, vibration, glare or waste products.
 - (3) Any trade, industry or purpose that is noxious or offensive by reason of emission of odor, dust, smoke, gas or noise. The standards of the Air Pollution Control Commission of New Jersey shall be the enforcement standard for this provision.
 - (4) Residential structures without permanent foundations, including, without limitation, mobile homes and mobile home parks; or without permanent connection to utilities. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
 - (5) The use of a lot in any zone primarily for the storage of bulk oil or gasoline above the ground.
 - (6) The business of selling defunct or junked motor vehicles or parts or used lumber or building material or the storage thereof.
 - (7) Junkyards, automobile wrecking yards or disassembly yards, motor vehicle salvage operations or the sorting or bailing of scrap metal, paper, rags or other scrap material.
 - (8) The manufacture of explosives, volatile chemicals or any uses which would produce a similar hazard or nuisance, such as but not limited to the following industrial uses: abattoir; acetylene gas manufacture and/or storage; acid manufacture, hydrochloric, nitric, acrid, sulfuric, sulfurous or carbolic; ammonia, bleaching powder or chlorine manufacture; arsenal; asphalt manufacture or refining; blast furnace; celluloid manufacture; lime gypsum, plaster of paris manufacture; coal distillation; coke ovens; creosote treatment or manufacture; dead animal and offal reduction; distillation of bones, coal, petroleum, refuse grain or wood; distillation of tar; explosives, fireworks and gunpowder

manufacture or storage; fat rendering; fertilizer manufacture; forge plant, incineration, reduction, storage or dumping of slaughterhouse refuse, rancid fats, garbage, dead animals or offal; oil cloth or linoleum manufacture; ore reduction; petroleum or kerosene refining, distillation or derivation of by-products and/or storage; potash works; rolling mill; steel furnace; blooming mill; stockyards; rubber treatment or reclaiming plant; the use of any premises or building in such a manner that the health, morals, safety or welfare of the community may be endangered; signs or similar devices which move or have moving parts or moving lights or any light or part simulating movement.²⁸

§ 380-33. General modifications. [Amended by Ord. No. 78-13; Ord. No. 82-6; Ord. No. 83-4; Ord. No. 89-4; Ord. No. 89-11; Ord. No. 93-9; Ord. No. 94-4; Ord. No. 97-3]

The following modifications to the requirements of this chapter are permitted under the terms and specifications herein stated.

- A. Height. The height limitations of this chapter shall not apply to any of the following structures, provided that such structures are compatible with uses in the immediate vicinity: antennas which do not exceed a height of 200 feet and which are accessory to an otherwise permitted use, silos, barns and other agricultural structures, church spires, cupolas, domes, monuments, water towers, fire observation towers, electric transmission lines and supporting structures, windmills, smokestacks, derricks, conveyors, flag poles and masts, or aerials, solar energy facilities, chimneys and similar structures to be placed above the roof level and not intended for human occupancy. The height limitations of this chapter shall also not apply to the antenna and any supporting structure of a local communication facility of greater than 35 feet, provided that the standards set forth in N.J.A.C. 7:50-5.4(c) are met. The structures enumerated above as exempt from the height limitations shall, however, be erected only to such height as is necessary to accomplish the purposes they are to serve. The provisions of this chapter shall not apply to prevent the erection above the building height limit of a parapet wall or cornice for ornament (and without windows) extending above such height limitation no more than five feet.
- B. Projection. Chimneys, cornices or eaves may project into any front, side or rear yard not more than 24 inches, provided that the total area of the projection does not exceed nine square feet. An open or lattice-enclosed fire escape or fireproof outside stairway may project into any yard not more than 25% of the distance from the building wall to the lot line. There shall be no other projections into yards of more than four feet. Under no circumstances shall any projection be closer to any lot line than two feet in any residential zone.
- C. Undersized lots of record. Any parcel of land, other than in an SD Zone, with an area or width less than that prescribed for a lot in the zone in which said lot is located may be used as a lot for any purpose in the zone in which said lot is located, provided that a conditional use permit be obtained for the same and that the following conditions are met.

²⁸ Editor's Note: Original Sec. 10-7.10(2), referencing Section 4-6, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

- (1) The parcel was not in common ownership with a contiguous parcel on February 7, 1979, unless said parcel was included in a subdivision approved by the Pinelands Commission after said date, as well as by the approval agency of the City of Estell Manor having jurisdiction of the same, provided that all conditions attached to said subdivision approvals have been met.
 - (2) Any owner of two or more contiguous parcels of land whose total area or width is less than that prescribed for a lot in the zone in which said lot is located may elect to treat all of the contiguous parcels as one parcel for purposes of this section.
 - (3) The minimum area requirements for such lot shall be one acre of lot size and 150 feet of lot width.
 - (4) The minimum side yard area for any building shall be no less than 20 feet.
 - (5) To qualify as an undersized lot of record under this subsection, in addition to meeting the above requirements, said lot must have been included in a subdivision plat which was either:
 - (a) Duly approved by the approval agency having authority to approve the same, provided that all conditions of approval have been met and that all instruments required to be recorded in the office of the County Clerk have been so recorded within the time provided by the law then in effect; provided, however, that, in the case of any major subdivision which was given preliminary approval prior to the effective date of Ord. No. 82-6, the parcel included in said subdivision meeting all other requirements set forth above shall qualify under this section if final approval is received within three years from the date of preliminary approval, and said final approval is duly recorded in the office of the County Clerk within the time required by law; or
 - (b) Said parcel was included in a subdivision plat which was approved under the Municipal Planning Act of 1953 prior to December 30, 1968, but subsequent to January 1, 1954 (the effective date of the Act); or
 - (c) The records of the City of Estell Manor indicate that said parcel was in existence as the result of a subdivision which had legally been approved prior to January 1, 1954.
 - (6) The front yard shall be as close to 200 feet as practicable, taking into consideration the depth of the lot in question.
 - (7) To the extent practicable, the requirements of the Schedule of Area, Yard and Bulk Requirements²⁹ for the use in question and for the zone in question shall be adhered to.
- D. Ratio of lot width to lot depth. No new lot exceeding 900 feet in depth shall be created by subdivision of a lot existing on November 26, 1974, in which the lot depth is more than four times the lot width.

29. Editor's Note: The Schedule of Yard, Area and Bulk Requirements is included as an attachment to this chapter.

- E. Density transfer program. Single-family dwellings on lots of at least one acre existing as of January 14, 1981, shall be permitted in the SD, R-5 and R-10 Zones, provided that:
- (1) The owner of the lot proposed for development acquires sufficient vacant contiguous or noncontiguous land which, when combined with the acreage of the lot proposed for development, equals at least the following:
 - (a) Three and two-tenths acres if development is proposed in the SD Zone and all acquired noncontiguous lands are also located in the SD Zone.
 - (b) Four and five-tenths acres if development is proposed in the SD Zone and all acquired noncontiguous lands are located in the R-5 Zone.
 - (c) Eight acres if development is proposed in the SD Zone and all acquired noncontiguous lands are located in the R-10 Zone.
 - (d) Eighteen acres if development is proposed in the SD Zone and all required noncontiguous lands are located in the R-25 or C Zones.
 - (e) Five acres if development is proposed in the R-5 Zone and all acquired noncontiguous lands are also located in the R-5 Zone.
 - (f) Nine acres if development is proposed in the R-5 Zone and all acquired noncontiguous lands are located in the R-10 Zone.
 - (g) Twenty-one acres if development is proposed in the R-5 Zone and all required noncontiguous lands are located in the R-25 or C Zones.
 - (h) Ten acres if development is proposed in the R-10 Zone and all acquired noncontiguous lands are also located in the R-10 Zone.
 - (i) Twenty-four acres if development is proposed in the R-10 Zone and all acquired noncontiguous lands are located in the R-25 or C Zones.
 - (j) If the required noncontiguous lands are in more than one zone, the minimum number of acres required for the zone requiring the higher acreage shall apply.
 - (2) If development is proposed in the SD Zone, all lands acquired pursuant to § 380-33E(1) above, which may or may not be developable, are located within the SD, R-5, R-10, C or R-25 Zones.
 - (3) If development is proposed in the R-5 Zone, all lands acquired pursuant to § 380-33E(1) above, which may or may not be developable, are located within the R-5, R-10, C or R-25 Zones.
 - (4) If development is proposed in the R-10 Zone, all lands acquired pursuant to § 380-33E(1) above, which may or may not be developable, are located within the R-10, C or R-25 Zones.
 - (5) All noncontiguous lands acquired pursuant to Subsection E(1) through (4) above shall be permanently protected through recordation of a deed of restriction in

accordance with the following requirements: **[Amended 11-14-2018 by Ord. No. 04-2018]**

- (a) The deed of restriction shall permit the parcel to be managed for:
 - [1] Low-intensity recreation, ecological management and forestry, provided that no more than 5% of the parcel may be cleared, no more than 1% of the parcel may be covered with impervious surfaces and any such uses or activities are approved and conducted in accordance with the requirements of this chapter;
 - [2] Where agricultural use exists on a parcel proposed to be protected, the following standards shall apply:
 - [a] For those agricultural uses in existence as of April 6, 2009, the deed of restriction may provide for the continuation of agricultural uses and the expansion of the area of agricultural use by up to 50%;
 - [b] For those agricultural uses established after April 6, 2009, the deed of restriction may provide for the continuation of agricultural uses, provided the agricultural use has been in existence for a period of at least five years prior to submission of an application for density transfer;
 - [c] For those agricultural uses established after April 6, 2009 which do not meet the standards of Subsection E(5)(a)[2][b] above, the deed of restriction shall permit the land to be managed only in accordance with Subsection E(5)(a)[1] above and shall not provide for continuation of any agricultural use on the parcel; and
 - [d] The deed of restriction to be recorded pursuant to Subsection E(5)(a)[2][a] or [b] above shall authorize agricultural uses and provide that impervious surface may not exceed that which currently exists or 3%, whichever is greater, unless a Resource Management System Plan has been prepared. Before these impervious surface limits may be exceeded, evidence of Pinelands Commission approval of the Resource Management System Plan shall be provided. If the deed of restriction is in favor of Atlantic County or the State Agricultural Development Committee, evidence of their approval shall also be provided.
- (b) The deed of restriction shall be in favor of the parcel to be developed and the City or another public agency or nonprofit conservation organization. In all cases, such restriction shall be expressly enforceable by the Pinelands Commission. The deed restriction shall be in a form to be approved by the City Solicitor and the Pinelands Commission.
- (6) Tax assessments for the acquired noncontiguous lands are combined and assigned to the land to be developed with a nominal value to be assigned to the land not be developed.

- (7) The lot proposed for development otherwise meets the minimum standards of § 380-42 of this chapter.
- (8) Both parcels of land shall be maintained as a combined unit in accordance with all applicable laws and ordinances. Any violation on one parcel shall be considered a violation regarding all applicable parcels. Specifically, all parcels must adhere to the provisions of §§ 249-3 through 249-6 of the Code of the City of Estell Manor, but this subsection shall not be limited to these enumerated provisions.

§ 380-34. Construction trailers. [Amended by Ord. No. 86-10]

- A. Permits for construction trailers shall be issued by the Zoning Officer, shall be valid for a period of six months from the date of issuance and shall be renewable for a like period of time. A fee shall be charged for each six-month period, as provided in Chapter 185, Article III, Fees for City Services. This shall be in addition to any other fees which may be required under the provisions of § 340-14. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- B. No construction trailer permit shall be issued by the Zoning Officer unless a building permit for the land on which the construction trailer is to be located has been issued.
- C. Construction trailers shall be removed within 60 days after issuance of a certificate of occupancy for the building for which the building permit referred to herein was issued or the date of revocation of such building permit.
- D. Violations of this subsection shall be subject to the penalty provided in Chapter 1, Article II, General Penalty, of the Code of the City of Estell Manor. Each day of violation shall be considered a separate offense. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

§ 380-35. Inland and coastal wetlands. [Amended by Ord. No. 82-6; Ord. No. 83-4]

The purpose and intent of this section is to prevent excessive and unsafe development in areas deemed inappropriate for such development by reason of flood danger and related conditions and hazards; to minimize danger to public health by protecting the water supply, recharge areas and natural drainage systems; and to promote the health, safety and welfare of the City's residents and property owners in and near beds and other areas subject to flooding. It is recognized that coastal and inland wetlands constitute a vital element of the ecological character of the City and the Pinelands and provide habitats for certain threatened and endangered plant and animal species and play many other important roles, including the maintenance of surface water and groundwater quality. The following regulations shall apply in order to accomplish these aims:

- A. Flood hazard areas. There are hereby designated within the City flood hazard areas composed of those portions of coastal and inland wetlands which are within the one-hundred-year floodplain as defined by the United States Department of Housing and Urban Development, Flood Insurance Administration, the boundary of which is delineated on the map made a part of this chapter and referred to as the "Flood Hazard

Map."³⁰ The areas within such boundaries shall constitute the FH Flood Hazard Zone and shall be subject to the uses enumerated for said zone under § 380-17 above.

- B. Performance standards for development in flood hazard area outside wetlands. Any development carried out in the portion of the Flood Hazard Zone which is outside the wetlands shall be as a conditional use, provided that the requirements of § 380-58 are met.
- C. Wetlands transitional areas. Outside the flood hazard area, but within the area classified as coastal or inland wetlands by N.J.A.C. 7:50, the uses shall be limited to those permitted in an FH Flood Hazard Zone, in addition to accessory structures or buildings not exceeding 150 square feet of floor area and subject to the provisions of § 380-59 of this chapter.
- D. Performance standards for development in and near wetlands. No development in the Pinelands Area shall be carried out in a wetland or within 300 feet of a wetland unless the applicant obtains a conditional use permit under the provisions of § 380-59.
- E. Allocated densities in wetlands. All coastal and inland wetlands located outside the flood hazard area shall have a residential density equivalent to 2/5 of the density of the zone containing such wetlands.

§ 380-36. Registration and transfer of Pinelands development credits. [Amended by Ord. No. 93-9]

- A. Registration of Pinelands development credits. Any person receiving Pinelands development credits shall, within 10 days of being issued a certificate for the same by the New Jersey Pinelands Development Bank, register the Pinelands development credits with the Clerk of the City of Estell Manor. Said registration shall consist of supplying the Clerk of the City of Estell Manor with a copy of the Pinelands development credit certificate as well as the street address and tax lot and block number of each parcel affected by the Pinelands development credit certificate. A fee, in such amount as provided in Chapter 185, Article III, Fees for City Services, shall be charged for each Pinelands development credit certificate so registered. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- B. Clerk to notify Planning Board. The Clerk of the City of Estell Manor shall, immediately following said registration of Pinelands development credits, notify the Secretary of the Planning Board of the registration of the same and shall include in said notification the street address and lot and block number of each parcel included in the certificate. **[Amended 11-5-1997 by Ord. No. 97-6]**
- C. Transfer of the Pinelands development credits. In each case where Pinelands development credits which have been registered with the Clerk of the City of Estell Manor are transferred, the City Clerk shall be immediately notified by the purchaser of said purchase, and the Clerk shall note the same on the register, advising the Secretary of the Planning Board of the transfer of said credits. Said credits shall no longer be

30. Editor's Note: Said Flood Hazard Map is on file in the office of the City Clerk.

available for transfer until such time as a certificate to the contrary is issued by the New Jersey Pinelands Development Bank. **[Amended 11-5-1997 by Ord. No. 97-6]**

- D. Registration of Pinelands development credits emanating from lands outside Estell Manor. Whenever a person or firm is authorized to purchase Pinelands development credits emanating from premises not located within the City of Estell Manor, notice of said transfer shall be forwarded to the Clerk of the City of Estell Manor within 10 days of the same. The Clerk of the City of Estell Manor shall note such transfers on the register of Pinelands development credits, including the location, tax lot and block, municipality and county of the premises from which said Pinelands development credits are generated. A copy of said notification shall be sent by the Clerk of the City of Estell Manor to the Secretary of the Planning Board. A fee shall be charged for said registration, in such amount as provided in Chapter 185, Article III, Fees for City Services. **[Amended 11-5-1997 by Ord. No. 97-6; at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- E. Notification of Pinelands development credits emanating from premises located within Estell Manor for use with lands located outside City. Whenever a person or firm shall transfer Pinelands development credits emanating from premises located within the City of Estell Manor, but for utilization for premises located outside the boundaries of the City of Estell Manor, notice of said transfer shall be forwarded to the Clerk of the City of Estell Manor within 10 days of the same. The Clerk of the City of Estell Manor shall note such transfers on the register of Pinelands development credits, including the location, tax lot and block, municipality and county of the premises to which said Pinelands developments credits are transferred. A copy of said notification shall be sent by the Clerk of the City of Estell Manor to the Secretary of the Planning Board. A fee shall be charged for said registration, in such amount as provided in Chapter 185, Article III, Fees for City Services. **[Amended 11-5-1997 by Ord. No. 97-6; at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

§ 380-37. Authority of Zoning Officer to allow special barrier-free access for disabled persons. [Added 12-15-2004 by Ord. No. 0-7-1999]

A special barrier-free access shall be permitted to a residential dwelling to exceed the requirements, maximum limitations or minimum limitations of the Schedule of Area, Yard and Bulk Requirements,³¹ provided that:

- A. The Zoning Officer be presented with documentation in the form of a doctor's certification that at least a single identified individual residing in that dwelling requires special barrier-free access and approval of the Zoning Officer for same.
- B. The special barrier-free access is located and constructed in the least obtrusive manner possible and built in accordance with the Uniform Construction Code.

31. Editor's Note: The Schedule of Yard, Area and Bulk Requirements is included as an attachment to this chapter.

ARTICLE VII

Special Regulations**§ 380-38. Sign regulations. [Amended by Ord. No. 82-6; Ord. No. 83-4; Ord. No. 86-10; Ord. No. 93-9]**

- A. General regulations. Signs may be erected, altered, maintained, used, removed or moved only in accordance with the regulations set forth below, regardless of where located. These general regulations shall apply to all signs within the City of Estell Manor, but nothing contained in this subsection shall be constructed as permitting any particular sign otherwise prohibited within the City or within any zone or zones:
- (1) No sign shall be permitted which is designed or intended to attract attention by sudden, intermittent or rhythmic movement, other than warning or safety signs.
 - (2) No sign shall be erected or maintained on any lot or on any building, structure or other improvement erected or maintained thereon, unless the message on the sign directly relates to the use of said lot, tract or parcel, with the exception of those set forth in Subsection B(1).
 - (3) No sign shall be placed in a way that impedes or interferes in any way with the operation of a traffic light, traffic directional signal or general traffic visibility.
 - (4) Banners, flags, pennants, tents and similar blank devices are prohibited, except upon the occasion of the opening of a new business use or for special sale events or promotions but said banners, pennants or flags shall not be displayed for more than 14 consecutive days nor more than 56 days in any calendar year. Once banners, pennants or flags utilized in connection with the opening of a new business use or special sale or promotion have been removed, such devices may not be again displayed on the premises in question for a period of at least 30 consecutive days, and such displays shall not be made more than four times in any calendar year.
 - (5) No sign shall be attached, affixed or painted on any tree, fence, rock, curb, walk, hydrant, bench or bridge except for signs warning of any hazard, "no-trespassing" signs and political signs as defined in Subsection G(1)(d) below.
 - (6) No billboard or billboard-type signs shall be erected or maintained.
 - (7) No vehicle shall be regularly parked, stopped or located in such a manner as to be used as or considered to be a sign. Any other sign which is not permanently attached to a building or not placed in the ground in such a fashion as to be permanent in a manner conforming to the Uniform Construction Code or which is located or attached to a trailer, vehicle or is on wheels or is otherwise attached so that the sign may be moved from place to place, either within the lot upon which it is located or to another lot, is prohibited.
 - (8) To the maximum extent practical, the character and composition of construction materials for all signs shall be harmonious with the scenic values of the Pinelands. All signs shall be of sound construction and shall be permanently affixed to the ground or building in such a manner so as to conform to the New Jersey Uniform Construction Code.

- (9) In addition to the requirements imposed by this chapter, all signs shall meet all applicable state regulations, including, but not limited to, those set forth in the Roadside Sign Control and Outdoor Advertising Act (N.J.S.A. 27:5-5 et seq.). To the extent that the regulations imposed by the State of New Jersey or any of its agencies are more restrictive than those set forth in this chapter, the more restrictive regulations shall apply. Compliance with this chapter does not in any respect substitute for compliance with the state law; rather, all signs must meet with the more restrictive of the regulations set forth in this chapter and those set forth by the Laws of the State of New Jersey.
- B. Exceptions. The regulations set forth in Subsection A shall be subject to the following exceptions:
- (1) The same shall not apply to any sign or directional device erected or maintained by any governmental body or agency.
 - (2) In the ease of permitted commercial and industrial uses, said regulations shall not apply to parking lot markers, directional or entrance and exit signs erected on the premises, provided that the sign does not exceed two square feet in area, and that the number and location of the signs have been approved either as part of a site plan application or otherwise by the Planning Board, and that no such sign contains any advertising matter.
 - (3) Off-site directional signs are permitted, provided that the sign does not exceed six square feet in area, that the information on the sign includes no more than a directional arrow, the name of the establishment in question and the distance of that establishment to the sign location, and provided further that only one such sign may be erected or maintained on each street, road or highway serving said establishment.
- C. Maintenance. All signs shall be periodically maintained by their owners, which maintenance shall include painting, repairing and cleaning as necessary. Any sign that falls into a state of disrepair, so that the same is no longer functional, visible or dangerous to the safety of others, or which is peeling or contains missing letters shall cause to be repaired by the owner of said sign.
- D. Sign content. Except for off-premises directional signs as limited herein, all signs, other than temporary signs, shall indicate only the principal name of the establishment, proprietor or owner and a brief description of the principal goods or services or use thereof and a logo or trademark by which the business or owner may be identified.
- E. Discontinued uses. All signs which identify an establishment or business which is no longer in existence or operation shall be removed within 60 days from the date said operation or establishment of business ceases to exist or operate. In the event that said sign is not removed within said time, the City Council may proceed under the provisions of Subsection I(3) hereunder.
- F. Illuminated signs. Where permitted, illuminated signs shall be arranged so that no light or glare is directed or reflected to adjoining lots or streets or into residential windows. Any beam or beacon emanating from a sign whose sole source of artificial illumination is outside the display portion of the sign shall be directed downwards whenever feasible

and shall be shielded to prevent spillage off the lot or onto streets, parking and driveway areas.

G. Signs permitted in all zones. The following types of signs shall be permitted in all zones, subject to the regulations set forth below and elsewhere in this section:

- (1) Temporary signs. Temporary signs, which shall not be illuminated, are permitted only for the following purposes. Said signs shall be erected or placed so as not to obstruct or obscure visibility at corners or intersections or otherwise cause a traffic safety hazard. Temporary signs are also subject to the regulations set forth herein for the type of sign in question.
 - (a) Temporary signs advertising events, such as fairs, bazaars, auctions, or other special activities of a similar nature, shall be permitted. Such signs may not be posted more than one month prior to the event being advertised and must be removed within 10 days following the conclusion of the event. Signs for garage sales shall comply with Chapter 212, Garage Sales, of the Code of the City of Estell Manor. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
 - (b) Window signs are permitted on the premises of a business or a commercial use, provided that the same relate to the business or commercial activity conducted on the premises.
 - (c) One temporary sign shall be permitted pertaining to the lease, rental or sale of the lot or building upon which the same is erected or maintained, provided that the sign is placed at least five feet inside the property line, and that it shall not exceed six square feet in area, except in the HC Highway Commercial Zone, in which zone it shall not exceed 12 square feet in area. All signs erected or maintained under this subsection shall be removed within seven days following closing or settlement on said property or the execution of a lease for same.
 - (d) Political signs, which are signs endorsing a candidate for public office or a position on a public question to be voted upon in an upcoming election shall be permitted, provided that the same are removed within seven days after the election in question has taken place, except that in the case of a successful candidate in a primary election, the sign may be permitted to remain on the premises until seven days after the general election which follows.
 - (e) No temporary sign advertising a mechanic, contractor, artisan or tradesman shall be permitted under this section.
- (2) Historical signs. Notwithstanding anything in this chapter to the contrary, signs on structures of historical significance for historical informational purposes are permitted, provided that the information set forth on said signs is limited to one or more of the following items: the name of the original or historic inhabitant or builder, date of construction of the structure and/or historical significance of the structure. Historical signs shall not exceed two square feet in area, and there shall be no more than one historical sign on the premises.

- (3) Signs for nonprofit institutions. Notwithstanding the sign standards for the zone in which the property is located, any property used for a church, school, lodge, club, veterans' organization or similar use which is organized and operated not for profit pursuant to Title 15 of the Revised Statutes of the State of New Jersey may have one sign per street frontage identifying the use by name. Said sign may be freestanding or attached and may contain such messages as those describing upcoming events, times of service or meetings and inspirational messages. The maximum size of a freestanding sign shall be 15 square feet, with a maximum height of 10 feet. No such sign shall be erected or displayed within five feet of any property line. An attached sign may not exceed 10% of the wall surface area of the wall on which said sign is placed.
 - (4) Warning signs. Signs warning of any danger, as well as prohibiting trespassing, fishing or hunting, may be erected in all zones.
- H. Signs restricted to particular uses or particular zones. The following regulations shall apply to signs in the following zones:
- (1) Residential signs. The following signs may be used in connection with a residence which is a permitted or valid nonconforming use in any zone:
 - (a) One attached or freestanding residential nameplate sign situated within the property line and not to exceed 150 square inches shall be allowed.
 - (b) One attached or freestanding sign indicating a permitted home occupation may be permitted, provided that such sign does not exceed 200 square inches in size and that it contains no advertising.
 - (2) Highway Commercial Zones. The following regulations shall apply in the HC Highway Commercial Zones only:
 - (a) One sign which relates to the business being conducted on the premises and which does not exceed an area equal to 15% of the area of the facade may be placed or inscribed upon the front facade of the building, provided that it shall not project outward more than 12 inches from the facade or extend above the uppermost edge of the facade.
 - (b) One freestanding sign relating to the business being conducted on the premises and which does not exceed 32 square feet on any one side shall be permitted. The sign shall not be located closer than 10 feet to any property line.
 - (c) If there is one business or use on the lot, the business may elect to use two attached signs and no freestanding sign.
 - (d) A roof sign may be used in place of the permitted attached sign if the owner of the building can demonstrate that there is no other location on the building where the legal attached sign can be located. The size of the roof sign may not exceed the size requirements set forth below, nor shall it exceed 10 feet in height in any event.
 - (e) The size of permitted freestanding signs shall not exceed 24 square feet or a height of 25 feet.

- (f) Permitted signs may be illuminated either from the interior or exterior, but not both, and shall be subject to the limitations of § 380-38F herein.
 - (g) Motor vehicle service stations and tire and battery sales outlets are subject to the provisions of § 380-54J.
- (3) Signs permitted for business and industrial uses. The following regulations shall apply to signs for business and industrial uses in zones other than the HC Highway Commercial Zones:
- (a) One sign which relates to the business being conducted on the premises and which does not exceed an area equal to 15% of the area of the facade may be placed or inscribed upon the front facade of the building, provided that it shall not project outward more than 12 inches from the facade or extend above the uppermost edge of the facade.
 - (b) One freestanding sign relating to the business being conducted on the premises and which does not exceed 32 square feet on any one side shall be permitted. The sign may be illuminated but shall not be located closer than 10 feet to any property line.

I. Sign permits and approval.

- (1) Sign permit required. It shall be unlawful to erect, alter, maintain, relocate, reconstruct or change in any manner by rewording or otherwise have a sign within the City of Estell Manor, except those exempted under Subsection I(2) hereunder, without first making application for and obtaining a permit for same from the Zoning Officer, which said permit shall be in addition to any other licenses or permits which may be required for the premises in question. A person seeking such permit shall follow the following procedure:
- (a) Application shall be made to the Zoning Officer in such form as may be required by him, showing the location of the sign in question, the size of the sign, the materials of which it is to be constructed, the nature of the illumination, if any, including the brightness of the same, and the height of the sign above the ground. Information regarding the exact location of signs to be attached to a building or structure should also be given. Except in the case of announcement-type signs with movable letters, the size and content of all wording on said sign shall be included.
 - (b) The application shall be accompanied by a fee as provided in Chapter 185, Article III, Fees for City Services, and, in addition, there shall be an additional fee charged for each square foot of sign relating to business or commercial uses. This provision shall not apply to noncommercial signs. This fee shall be in addition to any fees required by § 340-14.
- (2) The following types of signs do not require a sign permit, nor shall a fee be charged for the same:
- (a) Signs for residential uses, as set forth under Subsection H(1) above.
 - (b) Signs erected by a governmental agency.

- (c) Warning signs, such as "no-trespassing," "no-fishing" or "no-hunting" signs.
 - (d) Temporary signs as permitted by Subsection G above, including political signs.
- (3) Notification. If at any time any sign is in violation of the provisions of this Code or constitutes a menace to the health, safety, morals or general welfare of the community, it shall notify the record owner and beneficial user of the premises on which the sign is located by serving a written notice upon him, together with a written notice of demand that the condition be remedied within 10 days from the receipt of said notice and demand. Said notice shall be deemed to be served when served to the last known address of said record owner and/or beneficial user and, if said address cannot be located, if sent to the address listed for the owner of the property in question on the tax lists of the City. If the condition is not so remedied within the time in question, the City Council may undertake necessary steps to rectify the same; in which case, all costs incident to the efforts may be assessed against the premises in question in the same manner as a special assessment and shall constitute a lien against the property on which said sign is erected or maintained as such.
- J. Nonconforming signs. The following provisions are intended to either eliminate or bring into conformity all existing signs that do not conform to this chapter:
- (1) Any sign located within the City which does not conform to the provisions of this chapter, but did conform to the applicable laws and ordinances relating to signs at the time it was erected, shall be deemed a nonconforming sign and may continue its use until said sign loses its nonconforming status as defined below.
 - (2) A nonconforming sign shall immediately lose its nonconforming status if a sign is altered in any way in structure or size, if the sign is replaced or if it is completely destroyed. Upon the occurrence of any one of the events described in this subsection, the sign shall immediately be brought into compliance with this chapter or removed. The replacement or repair of any sign losing its nonconforming status shall be subject to all provisions of this § 380-38, including the requirement for a permit, if applicable.
 - (3) Periodic maintenance, as required herein, shall not be considered an alteration resulting in the loss of a sign's nonconforming status.
 - (4) Nothing contained in this § 380-38J shall prevent the Pinelands Commission from requiring the removal of any sign that is not then in compliance with the terms of this § 380-38, regulating signs, or any other section of the Code of the City of Estell Manor, as the same may have hereafter been amended, by January 14, 1991.

§ 380-39. Buffering and screening. [Amended by Ord. No. 82-6]

A. Buffer strip.

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

from structures, accessory buildings, signs, driveways, parking areas, outdoor storage areas, recreation facilities or other active uses.

- (2) Buffer strips shall be attractively planted with trees, shrubs, plants and grass lawns of species approved by the Planning Board and in accordance with approved site plans.
- B. Screening. Where specified, screening shall be provided with buffer strips so as to provide a visual or partial acoustical barrier to conceal the view or sounds of various utilitarian operations and uses from the street or adjacent properties. Screening may consist of the following:
- (1) A solid masonry wall not less than five feet six inches above ground level.
 - (2) A solid fencing uniformly painted or of a naturally durable material, such as cedar, cypress or redwood, not less than six feet above ground level and open to the ground to a height of not more than four inches above ground level.
 - (3) Dense hedges of shrubbery or evergreens planted at 30 inches on center in a single row or at five feet on center in two staggered rows. Evergreens or shrubs shall be a minimum of four feet above ground level at the time of planting and maintained at a minimum of six feet above ground level after reaching maturity. The composition of such plantings shall be subject to § 380-42A of this chapter.

§ 380-40. Off-street parking. [Amended by Ord. No. 78-13; Ord. No. 82-6; Ord. No. 96-2]

- A. General provisions. Off-street parking spaces, open air or indoor, shall be provided with all new construction or the creation of new uses as specified in this chapter, on the same lot as the use which they are intended to service, except as provided under § 380-40B, and shall be furnished with necessary passageways and driveways. All such space shall be deemed to be required space on the lot on which the use it serves is situated and shall not be encroached upon or reduced in any manner. All parking areas, passageways and driveways shall be surfaced with a dustless, durable, all-weather surface, clearly marked for car spaces, except when provided in connection with one-family residences, and shall be adequately drained and subject to the approval of the City Engineer. The provision of off-street parking, in accordance with the standards of this section, shall accompany any rebuilding, reconstruction, alteration or remodeling insofar as possible and reasonable without increasing the degree of amount of nonconformance with this chapter existing December 30, 1968.
- (1) The collective provision of off-street parking areas by two or more buildings or uses located on adjacent lots is permitted, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately, and further provided that the land upon which the collective facilities are located is owned by one or more of the collective users.
 - (2) All parking areas and appurtenant passageways and driveways serving business uses shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation. Adequate shielding shall be provided by business

users to protect adjacent residential zones from the glare of such illumination and from that of automobile headlights.

- (3) None of the off-street parking facilities that are required in this chapter shall be required for any existing building or use, unless the building or use shall be enlarged, rebuilt, reconstructed, altered or remodeled.
 - (4) Access aisles and driveways, including driveways to parking areas, shall be not less than 12 feet in width in all zones. Aisles and driveways within parking areas shall have a minimum width of:
 - (a) For parking at ninety-degree- to sixty-degree-angle parking, 25 feet.
 - (b) For sixty-degree- to forty-five-degree parking, 19 feet.
 - (c) For less than forty-five-degree parking, 17 feet.
 - (d) For parallel parking, 12 feet.
 - (5) A site plan shall be filed with the building permit application where off-street parking facilities are required or permitted under the provisions of this chapter in connection with the use or uses for which application is being made. Surfacing, landscaping and the location and design of entrances, exits, marking and lighting shall be subject to the approval of the Planning Board to ensure adequate relation to traffic safety and protection of the adjacent residence area. The Building Inspector shall hereafter issue a building permit, which may be revoked at any time that the aforementioned requirements are not complied with. Any permittee who uses premises to which the permit relates in violation of any of the conditions specified by this section or fixed to such permit shall be deemed in violation of this chapter and shall be subject to the penalties enumerated in § 380-81, Violations and penalties, of this chapter. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- B. Parking areas in commercial zones. Every parcel of land hereafter used as a public or private parking area in a commercial zone shall be developed and maintained in accordance with the following requirements:
- (1) Off-street parking areas shall be effectively screened on any side which adjoins or faces premises situated, in any residence zone district or institutional premises, by a solid, uniformly painted fence or wall not less than four nor more than six feet in height maintained in good condition, provided that, where the adjacent owners agree, in writing, a screening of hedge or other natural landscaping may be substituted for the required fence or wall. No part of any parking area shall be closer than 10 feet to any lot containing any school, hospital or other institutional building unless screened by an unpierced masonry wall.
 - (2) Parking areas may be located in any yard space for commercial uses and in any yard but the front yard for other uses, but shall not be closer than 10 feet to any street line or property line.
 - (3) Not more than two curb cuts of not less than 20 feet or more than 30 feet in width used as a means of ingress or egress for nonresidential off-street parking areas shall be submitted for each 200 feet of frontage on a public street, nor shall

any such curb cut be located closer than 50 feet to the intersection of two public streets.

- (4) Off-street parking areas located in the HC Highway Commercial Zones and which provide parking for 20 or more vehicles shall be provided with shade trees of a type approved by the Planning Board. The shade trees shall be located in a planned manner within the parking lot area in quantity equal to not less than one shade tree for every 10 parking spaces.
- (5) For all commercial and all nonresidential uses in the RV Residential Village and HC Highway Commercial Zones, required parking shall be provided within 150 feet of such use. It shall be measured from the nearest point of the building that such facility is required to serve.
- (6) The provisions of this section may be set by participation in a community parking program designed to serve a larger area, provided that plans for such community parking have been approved by the Planning Board.

C. Required off-street parking space.

- (1) For one-family detached dwellings, two spaces shall be provided for each dwelling unit.
- (2) Barber and beauty shops, two spaces per chair, plus one additional space for each employee.
- (3) Banks, financial and business offices and professional offices, one parking space for every 150 square feet of building area or major fraction thereof.
- (4) Retail and service stores, except when otherwise specifically covered here, one parking space for every 100 square feet of building area or major fraction thereof.
- (5) For any building, dwelling or structure where more than three persons are sheltered or fed for profit, one space shall be provided for each such person in addition to other spaces which may elsewhere be required.
- (6) Home professional office, three spaces for client use exclusive of spaces required for residential purposes.
- (7) Churches, assembly halls and similar places of public and quasi-public assembly having fixed seating facilities, one parking space for every five seats in the main assembly unit.
- (8) Auditoriums, exhibition halls, assembly halls, community centers and similar places of public and quasi-public assembly not having fixed seating facilities, one parking space for every six persons who may legally be admitted therein at one time under the state fire prevention laws.
- (9) Stores for the retail sale of furniture, appliances, hardware, one parking space for every 400 square feet of building area or major fraction thereof.
- (10) Restaurants and diners (indoor service only), one parking space for every four seats for customers, plus one space for every two employees.

- (11) Drive-in restaurants and coffee shops, one parking space for every 25 square feet of area or major fraction thereof.
 - (12) Industrial establishments, one parking space for every 500 square feet of gross floor area of manufacturing or storage area and one parking space for each 200 square feet of gross floor area of office use.
 - (13) Other outdoor recreation uses, five parking spaces for each gross acre of land.
 - (14) The enumeration of any specific use set forth above shall not be construed as making any such use a legal use in any zone within the City.
- D. Off-street loading and unloading provisions.
- (1) For every building, structure or part thereof having over 4,000 square feet of gross floor area erected and occupied for commerce, laundry, dry cleaning, places of public and quasi-public assembly, industry and other similar uses involved in the receipt and distribution by vehicles of materials or merchandise, there shall be provided and permanently maintained adequate space for standing, loading and unloading services in order to avoid undue interference with the public use of streets or alleys. Every building structure or addition thereto having a use which complies with the above definition shall be provided with at least one loading space. One additional truck space of these dimensions shall be provided for every additional 20,000 square feet or fraction thereof of gross area in the building.
 - (2) Access to truck standing, loading and unloading space shall be provided directly from a public street or alley or from any right-of-way that will not interfere with public convenience and will permit orderly and safe movement of truck vehicles.
 - (3) Loading space as required under this section shall be provided an area in addition to off-street parking space and shall not be considered as supplying off-street parking space.
 - (4) The enumeration of any specific use set forth above shall not be construed as making any such use a legal use in any zone within the City.
- E. Storage of motor vehicles. Where otherwise permitted by this Code, except in the case of automobile sales establishments in the HC Highway Commercial Zone, if 10 or more automobiles, trucks or other motor vehicles, whether or not they are in operating condition, shall be stored on any lot only if such motor vehicles are adequately screened from adjacent residential uses and scenic corridors under § 380-39. All vehicles not in operating condition shall be stored only if the gasoline tanks of such vehicles are drained. This subsection shall not apply to vehicles which are in operating condition and which are maintained for agricultural purposes.

§ 380-41. Fences and walls.

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

- B. No fence or wall hereafter erected, altered or reconstructed in any residential zone or on lots in any other zone on which residential buildings are erected shall exceed six feet in height above the adjacent ground level when located more than 25 feet from the street line toward which the front entrance of the main building on the property faces.
- C. The foregoing restrictions shall not be applied so as to prevent the erection of an open wire fence not exceeding 15 feet in height above ground level anywhere within a public park, public playground or public school properties. These restrictions shall not be applied so as to restrict the erection of a wall for the purpose of retaining earth, provided that the wall does not exceed the heights to be measured from the ground level of the highest adjacent grade.
- D. Every fence or wall shall be maintained in a safe, sound, upright condition and in accordance with the approved plan on file with the Building Inspector.
- E. All fences or walls must be erected within the property lines, and no fences shall be erected so as to encroach upon a public right-of-way.
- F. If the Building Inspector, upon inspection, determines that any fence or wall or portion of any fence or wall is not being maintained in a safe, sound, upright condition, he shall notify the owner of such fence, in writing, of his findings and state briefly the reasons for the findings and order such fence or wall or portion of such fence or wall repaired or removed within 15 days of the date of the written notice.
- G. Fences between the lands of adjoining landowners constructed of barbed wire or wire on which barbs or points are strung or fastened shall not be deemed lawful fences unless their erection is consented to by the adjoining owner, and such fences are hereby prohibited without such consent. **[Added by 8-2-2006 by Ord. No. 07-2006]**

§ 380-42. Special development standards in the Pinelands Area. [Amended by Ord. No. 82-6; Ord. No. 83-4; Ord. No. 84-10; Ord. No. 89-4; Ord. No. 97-32; Ord. No. 98-2]

In addition to the standards set forth in the Code of the City of Estell Manor, all development in the Pinelands Area of the City shall be also consistent with the goals, policies and objectives of the Pinelands Comprehensive Management Plan and N.J.A.C., Title 7, Chapter 50. These standards are intended to be the minimum provisions necessary to achieve the purposes and objectives of this chapter and the Pinelands Protection Act. In the event of a conflict between any provisions, the stricter provision shall apply. All development in the Pinelands Area shall comply with the standards herein set forth, the requirements of § 340-13F of the Estell Manor Code, as heretofore or hereafter amended, and all of the provisions of the ordinances of the City of Estell Manor:

- A. Vegetation and landscaping. No development shall be carried out by any person in the Pinelands Area unless it is designed to avoid irreversible adverse impacts on the survival of any local population of threatened or endangered plants of the Pinelands designated in N.J.A.C. 7:50-6.27. In addition, the following standards shall apply:
 - (1) All clearing and soil disturbance activities shall be limited to that which is necessary to accommodate an activity, use or structure which is permitted by this chapter.

- (2) Where practical, all clearing and soil disturbance activities associated with an activity, use or structure, other than agriculture, forestry and resource extraction, shall:
 - (a) Avoid wooded areas, including New Jersey's Record Trees as published by the New Jersey Department of Environmental Protection in 1991 and periodically updated; and
 - (b) Revegetate or landscape areas temporarily cleared or disturbed during development activities.
 - (3) All applications for major development shall contain a landscaping or revegetation plan which incorporates the elements set forth in Subsection A(4) below.
 - (4) In order to conserve water, conserve natural features and reduce pollution from the use of fertilizers, pesticides and other soil supplements, all landscaping or revegetation plans prepared pursuant to Subsection A(3) above shall incorporate the following elements:
 - (a) The limits of clearing shall be identified.
 - (b) Existing vegetation, including New Jersey's Record Trees as published by the New Jersey Department of Environmental Protection in 1991 and periodically updated, shall be incorporated into the landscape design where practical.
 - (c) Permanent lawn or turf areas shall be limited to those specifically intended for active human use such as play fields, golf courses and lawns associated with a residence or other principal nonresidential use. Existing wooded areas shall not be cleared and converted to lawns except when directly associated with and adjacent to a proposed structure.
 - (d) Shrubs and trees authorized by N.J.A.C. 7:50-6.25 shall be used for revegetation or landscaping purposes. Other shrubs and trees may be used in the following circumstances:
 - [1] When the parcel to be developed or its environs contain a predominance of shrubs and tree species not authorized by N.J.A.C. 7:50-6.25;
 - [2] For limited ornamental purposes around buildings and other structures; or
 - [3] When limited use of other shrubs or tree species is required for proper screening or buffering.
- B. Fish and wildlife. No development shall be carried out on the Pinelands Area unless it is designed to avoid irreversible adverse impacts on habitats that are critical to the survival of any local populations of those threatened or endangered animal species designated by the Department of Environmental Protection pursuant to N.J.S.A. 23:2A-1 et seq., as heretofore or hereafter amended, and unless it avoids disturbance of

distinct fish and wildlife habitats that are essential to the continued resting, nesting or eating and feeding of significant populations of fish and wildlife in the Pinelands.

- C. Forestry. Forestry in the Pinelands Area shall be carried out in accordance with the standards set forth in N.J.A.C. 7:50-6.46; as well as those set forth in Chapter 357, Article II, Tree Cutting and Forestry, of the Code of the City of Estell Manor. **[Amended 11-14-2018 by Ord. No. 04-2018]**
- D. Recommended management practices for agriculture. All agricultural activities and fish and wildlife management activities, including the preparation of land and the planting, nurturing and harvesting of crops, shall be carried out in accordance with recommended management practices established for the particular agricultural activity by the New Jersey Department of Agriculture, the Soil Conservation Service and the New Jersey Agricultural Experimental Station at Rutgers University.
- E. Waste management. No hazardous or toxic substances, including hazardous wastes, shall be stored, transferred, processed, discharged, disposed or other used in the Pinelands Areas. The land application of waste or waste-derived materials is prohibited in the Pinelands Area, except as expressly authorized in N.J.A.C. 7:50-6.79. Waste management facilities shall only be permitted in the Pinelands Area in accordance with the standards set forth in N.J.A.C. 7:50-6.
- F. Water quality.
- (1) All development shall be designated and carried out so that the quality of surface water and groundwater will be protected and maintained. Agricultural use shall not be considered development for purposes of this subsection.
 - (2) Except as specifically authorized in this section, no development which degrades surface water or groundwater quality or which establishes new point sources of pollution shall be permitted.
 - (3) No development shall be permitted which does not meet the minimum water quality and potable water standards of the State of New Jersey or the United States.
 - (4) The following point and nonpoint sources may be developed and operated in the Pinelands:
 - (a) Development of new or the expansion of existing commercial, industrial and wastewater treatment facilities, or the development of new or the expansion of existing nonpoint sources, except those specifically regulated in Subsection F(4)(b) through (f) below, provided that:
 - [1] There will be no direct discharge into any surface water body.
 - [2] All discharges from the facility or use are of a quality and quantity such that groundwater exiting from the parcel of land or entering a surface body of water will not exceed two parts per million nitrate/nitrogen.
 - [3] All public wastewater treatment facilities are designed to accept and treat septage.

- [4] All storage facilities, including ponds or lagoons, are lined to prevent leakage into groundwater.
- (b) Development of new wastewater treatment or collection facilities which are designed to improve the level of nitrate/nitrogen attenuation of more than one existing on-site wastewater treatment system where a public health problem has been identified may be exempted from the standards of Subsection F(4)(a)[2] above, provided that
 - [1] There will be no direct discharge into any surface water body.
 - [2] The facility is designed only to accommodate wastewater from residential, commercial and industrial development existing at the time of the application.
 - [3] Adherence to Subsection F(4)(a)[2] above cannot be achieved due to limiting site conditions or that the costs to comply with the standard will result in excessive user fees as judged against relevant Federal Environmental Protection Agency guidelines.
 - [4] The design level of nitrate/nitrogen attenuation is the maximum possible within the cost limitations imposed by such user fee guidelines, but in no case shall groundwater exiting from the parcel or entering a surface body of water exceed five parts per million nitrate/nitrogen.
- (c) Improvements to existing commercial, industrial and wastewater treatment facilities which discharge directly into surface waters, provided that:
 - [1] There is no practical alternative available that would adhere to the standards of Subsection F(4)(a)[1] above.
 - [2] There is no increase in the existing approved capacity of the facility.
 - [3] All discharges from the facility into surface waters are such that the nitrate/nitrogen levels of the surface waters at the discharge point do not exceed two parts per million. In the event that nitrate/nitrogen levels in the surface waters immediately upstream of the discharge point exceed two parts per million, the discharge shall not exceed two parts per million nitrate/nitrogen.
- (d) Individual on-site septic wastewater treatment systems which are not intended to reduce the level of nitrate/nitrogen in the wastewater, provided that:
 - [1] The proposed development to be served by the system is otherwise permitted pursuant to the provisions of this chapter or authorized by variance.
 - [2] The design of the system and its discharge point, and the size of the entire contiguous parcel on which the system or systems is located, will ensure that groundwater exiting from the entire contiguous parcel or entering a surface body of water will not exceed two parts per

million nitrate/nitrogen, calculated pursuant to the Pinelands dilution model dated December 1993, as amended, subject to the provisions of Subsection F(4)(d)[3] below. The entire contiguous parcel may include any contiguous lands to be dedicated as open space as part of the proposed development but may not include previously dedicated road rights-of-way or any contiguous lands that have been deed restricted pursuant to § 380-33E or 380-44.

- [3] Only contiguous lands located within the same zoning district and Pinelands management area as the proposed system or systems may be utilized for septic dilution purposes, except for the development of an individual single-family dwelling on a lot existing as of January 14, 1981, nonresidential development on a lot of five acres or less existing as of January 14, 1981, or cluster development as permitted by N.J.A.C. 7:50-5.19.
 - [4] The depth to seasonal high water table is at least five feet.
 - [5] Any potable water well will be drilled and cased to a depth of at least 100 feet, unless the well penetrates an impermeable clay aquiclude, in which case the well shall be cased to at least 50 feet.
 - [6] The system will be maintained and inspected in accordance with the requirements of Subsection F(5) below.
 - [7] The technology has been approved for use by the New Jersey Department of Environmental Protection.
 - [8] Flow values for nonresidential development shall be determined based on the values contained in N.J.A.C. 7:9A-7.4, as amended, except that number of employees may not be utilized in calculating flow values for office uses. In the event that N.J.A.C. 7:9A-7.4 does not provide flow values for a specific use, but a flow value is assigned for that use in N.J.A.C. 7:14A-23.3(a), the flow value specified in N.J.A.C. 7:14A-23.3(a) shall be used in calculating flow.
- (e) Individual on-site septic wastewater treatment systems which are intended to reduce the level of nitrate/nitrogen in the wastewater, provided that:
- [1] The standards set forth in Subsection F(4)(d)[1] and [3] through [8] above are met.
 - [2] If the proposed development is non-residential and located outside of the RV zone, the standards of N.J.A.C. 7:50-6.84(a)5iii(2) are met. **[Amended 11-14-2018 by Ord. No. 04-2018]**
 - [3] The design of the system and its discharge point, and the size of the entire contiguous parcel on which the system or systems is located, will ensure that groundwater exiting from the entire contiguous parcel or entering a surface body of water will not exceed two parts per million nitrate/nitrogen, calculated pursuant to the Pinelands dilution model dated December 1993, as amended, subject to the provisions of

Subsection F(4)(d)[3] above and the assumptions and requirements set forth in N.J.A.C. 7:50-6.84(a)5iv. The entire contiguous parcel may include any contiguous lands to be dedicated as open space as part of the proposed development but may not include previously dedicated road rights-of-way or any contiguous lands that have been deed restricted pursuant to § 380-33E or 380-44.

(f) Surface water runoff, provided that:

- [1] The total runoff generated from any net increase in impervious surfaces by a ten-year storm of a twenty-four-hour duration shall be retained and infiltrated on site. Runoff volumes shall be calculated in accordance with the United States Soil Conservation Service Technical Release No. 55 or the S.C.S. National Engineering Handbook, Section 4.
- [2] The rates of runoff generated from the parcel by a two-year, ten-year and one-hundred-year storm, each of a twenty-four-hour duration, shall not increase as a result of the proposed development. Runoff rates shall be calculated in accordance with the United States Soil Conservation Service Technical Release No. 55 or the S.C.S. National Engineering Handbook, Section 4.
- [3] Surface water runoff shall not be directed in such a way as to increase the volume and rate of discharge into any surface water body from that which existed prior to development of the parcel.
- [4] Excessively and somewhat excessively drained soils, as defined by the Soil Conservation Service, should be avoided for recharge of runoff wherever practical.
- [5] A minimum separation of two feet between the elevation of the lowest point of the bottom of the infiltration or detention facility and the seasonal high water table is met, or a lesser separation when it is demonstrated that the separation, either due to soil conditions or when considered in combination with other stormwater management techniques, is adequate to protect groundwater quality.
- [6] A four-year maintenance guarantee for the entire stormwater management system, including inlets, piping and stormwater storage areas, shall be posted by the developer in a form and amount approved by the City Solicitor. The form and amount of the guarantee shall be sufficient to ensure that in the event of a default on the part of the developer, the City will have available the necessary resources to have the maintenance work completed. In addition, the applicant shall be required to guarantee the availability of sufficient funds for inspection and maintenance for a period of not less than 10 years. Said guarantee shall also be in such form and amount as approved by the City Solicitor. The amount of the guarantee shall be sufficient to ensure that all foreseeable maintenance will be funded in the event of a default on the part of the applicant. In addition to the above, the

Planning Board may set forth such other conditions as are reasonable and proper under the circumstances. The inspections provided for under this subsection shall be carried out by the City Engineer, or by some other person or entity to whom he delegates said responsibility. Any required maintenance of the stormwater system shall be the responsibility of the developer or applicant or his, her or its successor in interest.

- (g) Alternate design pilot program treatment systems, provided that: **[Added 4-2-2003 by Ord. No. 03-03]**
- [1] The proposed development to be served by the system is residential and is otherwise permitted pursuant to the provisions of this chapter or authorized by variance;
 - [2] The design of the system and its discharge point and the size of the entire contiguous parcel on which the system or systems is located will ensure that groundwater exiting from the entire contiguous parcel or entering a surface body of water will not exceed two parts per million nitrate/nitrogen, calculated pursuant to the Pinelands dilution model dated December, 1993, as amended, subject to the provisions of Subsection F(4)(g)[3] below. The entire contiguous parcel may include any contiguous lands to be dedicated as open space as part of the proposed development but may not include previously dedicated road rights-of-way or any contiguous lands that have been deed restricted pursuant to § 380-33E or 380-44;
 - [3] Only contiguous lands located within the same zoning district and Pinelands management area as the proposed system or systems may be utilized for septic dilution proposes, except for the development of an individual single-family dwelling on a lot existing as of January 14, 1981, nonresidential development on a lot of five acres or less existing as of January 14, 1981, or cluster development as permitted by N.J.A.C. 7:50-5.19;
 - [4] The depth to seasonal high water table is at least five feet;
 - [5] Any potable water well will be drilled and cased to a depth of at least 100 feet, unless the well penetrates an impermeable clay aquiclude, in which case the well shall be cased to at least 50 feet;
 - [6] No more than 10 alternate design pilot program treatment systems utilizing the same technology shall be installed in the development of any parcel if those systems are each serving one single-family dwelling;
 - [7] Each system shall be equipped with automatic dialing capability to the manufacturer, or its agent, in the event of a mechanical malfunction;

- [8] Each system shall be designed and constructed so that samples of effluent leaving the alternate design pilot program septic system can be readily taken to confirm the performance of the technology;
- [9] The manufacturer or its agent shall provide to each owner an operation and maintenance manual approved pursuant to N.J.A.C. 7:50-10.22(a)2iv;
- [10] Each system shall be covered by a five-year warranty and a minimum five-year maintenance contract consistent with those approved pursuant to N.J.A.C. 7:50-10.22(a)2v that cannot be cancelled and is renewable and which includes a provision requiring that the manufacturer or its agent inspect the system at least once a year and undertake any maintenance or repairs determined to be necessary during any such inspection or as a result of observations made at any other time; and **[Amended 11-14-2018 by Ord. No. 04-2018]**
- [11] The property owner shall record with the deed to the property a notice consistent with that approved pursuant to N.J.A.C. 7:50-10.22(a)2vi that identifies the technology, acknowledges the owner's responsibility to operate and maintain it in accordance with the manual required in Subsection F(4)(g)[9] above, and grants access, with reasonable notice, to the local Board of Health, the Commission and its agents for inspection and monitoring purposes. The recorded deed shall run with the property and shall ensure that the maintenance requirements are binding on any owner of the property during the life of the system and that the monitoring requirements are binding on any owner of the property during the time period the monitoring requirements apply pursuant to the pilot program or any subsequent regulations adopted by the Commission that apply to said system. **[Amended 11-14-2018 by Ord. No. 04-2018³²]**
- (5) The owner of every on-site septic wastewater treatment facility in the Pinelands Area which was installed pursuant to any construction which received final approval on or after April 1, 1933 shall, as soon as suitable septic disposal facility capacity is available, in accordance with the provisions of Chapter 236 of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and Section 201 of the Clean Water Act:
- (a) Have the facility inspected by a qualified technician at least once every five years.
 - (b) Where shown to be necessary by said inspection, have such facility cleaned.
 - (c) Once every five years, submit to the Board of Health serving the City a sworn statement that the facility has been inspected and cleaned and is functional, setting forth the name of the person who performed the

32. Editor's Note: This ordinance also repealed original Subsection f4(g)(12), which immediately followed this subsection, and which stated that no system would be installed after August 5, 2007.

inspection and the date of the same and, if cleaned, the name of the person who performed the cleaning and the date of the same.

- (6) The owners of commercial petroleum storage tanks shall comply with the requirements of Chapter 102 of the Laws of 1986.³³
 - (7) Interbasin transfer of water between watersheds shall be avoided to the maximum extent practical. Should central sewers be installed, in any area served by them, water-saving devices such as water-saving toilets, showers and sink facilities shall be installed in all new developments. Water shall not be exported from the Pinelands, except as otherwise provided in N.J.S.A. 58:1A-7.1.
- G. Miscellaneous regulations regarding chemical and toxic substances. The following regulations shall apply:
- (1) All storage facilities for deicing chemicals shall be lined to prevent leaking into the soil and shall be covered with an impermeable surface which shields the facility from precipitation.³⁴
 - (2) Use of the following substances is prohibited in the Pinelands Area to the extent that such use will result in direct or indirect introduction of any such substances to any surface water or groundwater or any land:
 - (a) Septic tank cleaners; and
 - (b) Waste oil.
 - (3) No person shall apply any herbicide to any road or public utility right-of-way within the Pinelands Area unless necessary to protect an adjacent agricultural activity.
- H. Scenic quality. The following regulations shall apply:
- (1) All structures in the Pinelands Area within 1,000 feet of the center line of the Tuckahoe River, Middle River or Egg Harbor River, as designated in N.J.A.C. 7:50-6.105, shall be designated to avoid visual impact as viewed from the river.³⁵
 - (2) New utility distribution lines and telephone lines to locations not presently served by utilities shall be placed underground, except for those lines which are located on or adjacent to active agricultural operations.
 - (3) Aboveground generating facilities, switching complexes, pumping stations, storage tanks and substations shall be screened with vegetation from adjacent uses in accordance with § 380-42A.
 - (4) All electric transmission lines shall be located on existing towers or underground to the maximum extent practical.

33. Editor's Note: See N.J.S.A. 58:10A-21 et seq.

34. Editor's Note: Former Subsection 10-8.5g2 of the 1974 Revised General Ordinances, regarding storage, discharge or disposal of hazardous waste, which previously followed this subsection, was repealed 7-2-1997 by Ord. No. 97-3.

35. Editor's Note: Former Subsection 10-8.5h1 of the 1974 Revised General Ordinances, dealing with the Pinelands Area, which previously preceded this subsection, was repealed 4-5-1989 by Ord. No. 89-4.

- (5) This Subsection H shall not be construed as amending any of the requirements on the revised Schedule of Yard, Area and Bulk Requirements.³⁶ To the contrary, the more stringent requirement of this Subsection H or the Revised Schedule of Yard, Area and Bulk Requirements shall apply.
- I. Recreation. All recreation areas and facilities in the Pinelands Area shall be designed in accordance with N.J.A.C. 7:50-6.143(a)2 and 7:50-6.144(a)1 through 3 and with the New Jersey Department of Environmental Protection's publication Administrative Guidelines: Barrier Free Design Standards for Parks and Recreation Facilities.
- J. Historic resource preservation.
- (1) For all resources designated by the Pinelands Commission or by the City Council as historic landmarks pursuant to § 380-20F through G hereof, the provisions § 380-20H regarding the requirement for a certificate of appropriateness shall apply.
- (2) The requirement for a certificate of appropriateness shall also apply in the same manner and according to the same procedures for any development not otherwise exempted from review pursuant to § 380-77A(2) of this chapter where a significant resource has been identified pursuant to Subsection J(3) below.
- (3) A cultural resource survey shall accompany all applications for development in the RV Village Residence Zone and all applications for major development in order to determine whether any significant historic resources exist on the parcel. Guidelines for this survey are contained in Appendix B of the Cultural Resource Management Plan, dated April 1991, as amended. In general, the survey shall include: a statement as to the presence of any properties listed on the National and State Registers of Historic Places on the site or within the area of the projects' potential environmental impacts; a thorough search of state, local and any other pertinent inventories to identify sites of potential significance; a review of the literature and consultation with professional and avocational archaeologists knowledgeable about the area; thorough pedestrian and natural resources surveys; archaeological testing as necessary to provide reasonable evidence of the presence or absence of historic resources of significance; adequate recording of the information gained and methodologies and sources used; and a list of personnel involved and qualifications of the person(s) performing the survey.
- (a) This requirement for a survey may be waived by the local approval agency if:
- [1] There is insufficient evidence of significant cultural activity on the project site or, in the case of archaeological resources, within the vicinity;
- [2] The evidence of cultural activity on the site lacks the potential for importance because further recording of the available data will not contribute to a more comprehensive understanding of Pinelands culture; or

36. Editor's Note: The Schedule of Yard, Area and Bulk Requirements is included as an attachment to this chapter.

- [3] The evidence of cultural activity lacks any potential for significance pursuant to the standards of Subsection J(3)(b) below.
- (b) A resource shall be deemed to be significant if it meets the qualifications for an historic landmark as defined in Article II hereof.
- (4) A certificate of appropriateness issued as a result of the cultural resource survey requirement set forth in Subsection J(3) above shall be effective for two years. If the resource is not designated by the Pinelands Commission pursuant to N.J.A.C. 7:50-6.154 or by the Mayor and City Council pursuant to § 380-20G hereof within that two-year period, the historic resource standards of this section shall no longer apply to the resource in question until such time as the Pinelands Commission designates the resource pursuant to N.J.A.C. 7:50-6.154.
- (5) The following information will be required to document resources which are not found to be significant but which are otherwise found to present graphic evidence of a cultural activity:
- (a) A narrative description of the resource and its cultural environment;
- (b) Photographic documentation to record the exterior appearance of buildings, structures and engineering resources;
- (c) A site plan depicting in correct scale the location of all buildings, structures and engineering resources; and
- (d) A New Jersey State inventory form as published by the New Jersey Department of Environmental Protection for buildings and a narrative description of any process or technology, if necessary to elaborate upon the photographic record.
- (6) If archaeological data is discovered on a site at any time after construction has been commenced, the developer shall immediately cease construction, notify the Planning Board and the Pinelands Commission and take all reasonable steps to protect the archaeological data in accordance with the Guidelines for the Recovery of Scientific, Prehistoric, Historic and Archaeological Data; Procedures for Notification, Reporting, and Data Recovery (36 CFR Part 66).³⁷

K. Fire management.

- (1) All proposed developments, or units or sections thereof, of 25 dwelling units or more shall have two accessways of a width and surface composition sufficient to accommodate and support firefighting equipment.
- (2) No development in the Pinelands Area shall be carried out in vegetated areas which are classified as moderate, high or extreme hazard under the fire hazard classification set out in N.J.A.C. 7:50-6.113 unless such development complies with the following standards:
- (a) All dead-end roads will terminate in a manner which provides safe and efficient entry and exit for fire equipment.

37. Editor's Note: See 48 FR 44716-01, 1983 WL 113234.

- (b) The rights-of-way of all roads shall be maintained so that they provide an effective fire break.
- (c) A fire hazard fuel break is provided around structures proposed for human use by the selective removal or thinning of trees, shrubs and ground cover, as follows:
 - [1] In moderate fire hazard areas, a fuel break of 30 feet measured outward from the structure in which:
 - [a] Shrubs, understory trees and bushes and ground cover are to be selectively removed, mowed or pruned on an annual basis.
 - [b] All dead plant material is removed.
 - [2] In high fire hazard areas, a fuel break of 75 feet measured outward from the structure in which:
 - [a] Shrubs, understory trees and ground cover are to be selectively removed, mowed or pruned on an annual basis.
 - [b] All dead plant material is removed.
 - [3] In extreme high hazard areas, a fuel break of 100 feet measured outward from the structure in which:
 - [a] Shrubs, understory trees and bushes and ground cover are to be selectively removed, mowed or pruned on an annual basis.
 - [b] No pine tree (*Pinus* species) is closer than 25 feet to another pine tree.
 - [c] All dead plant material is removed.
- (d) All structures shall meet the following specifications:
 - [1] Roofs and exteriors will be constructed of fire-resistant materials such as asphalt rag felt roofing, tile, slate, asbestos cement shingles, sheet iron, aluminum or brick. Fire-retardant-treated wood shingles or shake-type roofs are prohibited in high or extreme fire hazard areas.
 - [2] All projections, such as balconies, ducts and roof gables, shall be construed of fire-resistant materials or materials treated with fire-retardant chemicals.
 - [3] Chimneys and stovepipes which are designed to burn solid or liquid fuels shall be equipped with screens over the outlets; and
 - [4] Flat roofs are prohibited in areas where vegetation is higher than the roof.
- (e) All residential development of 100 dwelling units or more in high or extreme high hazard areas will have a perimeter fuel break of 200 feet between all structures and the forest in which:

- [1] Shrubs, understory trees and bushes and ground cover are selectively removed, mowed or pruned and maintained on an annual basis;
- [2] All dead plant material is removed;
- [3] Roads, rights-of-way, wetlands and waste disposal sites shall be used as fire breaks to the maximum extent practical; and
- [4] There is a specific program for maintenance.

L. Air quality.

- (1) All development shall adhere to the relevant air quality standards of N.J.A.C. 7:27 et seq.
- (2) Applications for residential development of 100 or more units and any other development involving more than 300 parking spaces located in any district in the Pinelands Area shall ensure that all state ambient air quality standards in N.J.A.C. 7:27 et seq. for carbon monoxide shall not be exceeded at places of maximum concentration and at sensitive receptors.
- (3) Adherence to the standards of this section shall be determined by means of an air quality simulation model approved by the New Jersey Department of Environmental Protection pursuant to N.J.A.C. 7:27-18.3.

M. Recommended management practices for agriculture.

- (1) All agricultural activities and fish and wildlife management activities, including the preparation of land and the planting, nurturing and harvesting of crops, shall be carried out in accordance with recommended management practices established for the particular agricultural activity by the New Jersey Department of Agriculture, the Soil Conservation Service and the New Jersey Agricultural Experimental Station at Rutgers University.
- (2) In the Agricultural Production Zone, a resource conservation plan shall be prepared by the operator of every agricultural use, or the appropriate Soil Conservation District, located in an area which has been designated by an agency of federal, state or local government as having substandard surface water or groundwater. If prepared by the operator, such plan shall be submitted to the Soil Conservation District for review. The resource conservation plan shall be reviewed, updated and revised as necessary and shall provide for the use of recommended management practices as found in, but not limited to, the following publications:
 - (a) Erosion and runoff: Soil Conservation Service Technical Guide;
 - (b) Animal waste: Soil Conservation Service Animal Waste Management Field Manual; and
 - (c) Fertilizers and pesticides: Rutgers University, Cook College, Cooperative Extension Service Annual Recommendations.
- (3) All agricultural operations in the Agricultural Production Zone shall be exempt from any ordinance or regulation which inhibits efficient crop production,

including, but not limited to, ordinances and regulations imposing time limits on operations, dust limits and odor restrictions, except those ordinances and regulations which are strictly necessary for the maintenance of public health. The provisions of § 380-22 of this chapter shall apply, however.

N. Cluster development in the Pinelands forest area. In the R-25, R-10, R-5, SD and C Zones, clustering of one-family detached dwellings shall be required whenever two or more units are proposed as part of a residential development. The following standards shall apply: **[Added 11-14-2018 by Ord. No. 04-2018]**

- (1) Permitted density:
 - (a) In the R-25 and C Zones: one unit per 25 acres.
 - (b) In the R-10 Zone: one unit per 10 acres.
 - (c) In the R-5 Zone: one unit per five acres.
 - (d) In the SD Zone: one unit per 3.2 acres.
- (2) The number of residential lots permitted within the cluster shall be calculated on the basis of the size of the parcel of land and the density permitted in Subsection N(1) above, with a bonus applied as follows:

Parcel Size	SD Zone	R-5 Zone	R-10 Zone
<50 acres	0	0	0
50 to 99.99 acres	10%	15%	20%
100 to 149.99 acres	15%	20%	25%
≥150 acres	20%	25%	30%

- (3) The residential cluster shall be located on the parcel such that the development area:
 - (a) Is located proximate to existing roads;
 - (b) Is located proximate to existing developed sites on adjacent or nearby parcels;
 - (c) Is or will be appropriately buffered from adjoining or nearby nonresidential land uses; and
 - (d) Conforms with the minimum environmental standards of N.J.A.C. 7:50-6.
- (4) Development within the residential cluster shall be designed as follows:
 - (a) Residential lots shall be one acre in size but may be larger if dictated by unusual site conditions. In no case shall the average size of residential lots within a cluster exceed 1.1 acres;
 - (b) The following minimum yard and bulk requirements shall apply:

- [1] Lot frontage: 120 feet.
 - [2] Lot depth: 150 feet.
 - [3] Front yard: 50 feet.
 - [4] Side yard, each: 20 feet.
 - [5] Side yard, both: 50 feet.
 - [6] Rear yard: 25 feet.
- (c) Individual on-site septic wastewater treatment systems which are not intended to reduce the level of nitrate/nitrogen in the waste that comply with the standards of § 380-42F(4)(d) may serve the lots within the cluster development area. However, in the event that existing agricultural uses will continue on the parcel in accordance with Subsection N(5)(b)[2] below, individual on-site septic wastewater treatment systems shall comply with the standards of § 380-42F(4)(e) or (g). Community on-site wastewater treatment systems serving two or more residential dwelling units which meet the standards of § 380-42F(4)(e) or (g) shall also be permitted;
- (d) The residential cluster development area shall include such land and facilities as are necessary to support the development, including wastewater facilities, stormwater management facilities and recreation amenities; and
- (e) Permitted recreation amenities may include playgrounds, tot lots, swimming pools, tennis courts and other such recreational facilities, which are solely for use by the residents of the cluster development. Recreational amenities shall not be limited to the foregoing so that the applicant may propose additional facilities. All such facilities shall be accessory to the residential cluster development. No advertising or commercial enterprise shall be permitted. In no case may such amenities occupy more than one-half acre of land or the equivalent of one acre of land for every 25 residential lots, whichever is greater.
- (5) The balance of the parcel located outside of the residential cluster development shall be owned and managed by a duly constituted homeowners' association, a nonprofit conservation organization, Estell Manor City or incorporated as part of one of the lots within the cluster development area.
- (a) All such land shall be permanently protected through recordation of a deed of conservation restriction. Such restriction shall be in favor of Estell Manor City or another public agency or nonprofit organization. In all cases, such restriction shall be expressly enforceable by the Pinelands Commission; and
 - (b) The deed of restriction shall permit the parcel to be managed for:
 - [1] Low-intensity recreation, ecological management and forestry, provided that no more than 5% of the land may be cleared, no more than 1% of the land may be covered with impervious surfaces and

any such uses or activities are approved and conducted in accordance with the requirements of this chapter; and

- [2] Where agricultural use exists on a parcel proposed for cluster development, the following standards shall apply:
- [a] For those agricultural uses in existence as of April 6, 2009, the deed of restriction may provide for the continuation of agricultural uses and the expansion of the area of agricultural use by up to 50%;
 - [b] For those agricultural uses established after April 6, 2009, the deed of restriction may provide for the continuation of agricultural uses, provided the agricultural use has been in existence for a period of at least five years prior to submission of an application for cluster development;
 - [c] For those agricultural uses established after April 6, 2009 which do not meet the standards of Subsection N(5)(b)[2][b] above, the deed of restriction shall permit the land to be managed only in accordance with Subsection N(5)(b)[1] above and shall not provide for continuation of any agricultural use on the parcel;
 - [d] The deed of restriction to be recorded pursuant to Subsection N(5)(b)[2][a] or [b] above shall authorize agricultural uses and provide that impervious surface may not exceed that which currently exists or 3%, whichever is greater, unless a Resource Management System Plan has been prepared. Before these impervious surface limits may be exceeded, evidence of Pinelands Commission approval of the Resource Management System Plan shall be provided. If the deed of restriction is in favor of Atlantic County or the State Agricultural Development Committee, evidence of their approval shall also be provided; and
 - [e] For parcels which meet the standards of Subsection N(5)(b)[2][a] or [b] above, a provision shall be recorded in the deed for each residential lot within the cluster development area which acknowledges agricultural use of the protected land outside the cluster development area and recognizes the legal protections afforded to that use through the deed of restriction and any applicable statutes.

§ 380-43. Windmills. [Amended by Ord. No. 82-6]

Windmills shall be designed and located so as to minimize noise and other disturbances to surrounding properties.

§ 380-44. Pinelands development credits. [Amended by Ord. No. 83-4; Ord. No. 89-4; Ord. No. 91-2; Ord. No. 91-11; Ord. No. 92-4; Ord. No. 93-9; Ord. No. 94-4; Ord. No. 97-3]

- A. Except for land which was owned by a public agency on January 14, 1981, land which is thereafter purchased by the state for conservation purposes, land which is subject to an easement limiting the use of land to nonresidential uses or land otherwise excluded from entitlement Subsection B below, every parcel of land in the AP Agricultural Production Zone shall have a use right known as "Pinelands development credits" that can be used to secure a density bonus for lands located in a regional growth area. Pinelands development credits may also be allocated to certain properties in the City by the Pinelands Commission pursuant to N.J.A.C. 7:50-4.01 et seq., as amended or supplemented.
- B. Pinelands development credits are hereafter established in the AP Agricultural Production Zone at the following ratios:
- (1) Uplands which are undisturbed but approved for resource extraction pursuant to this chapter: two Pinelands development credits per 39 acres.
 - (2) Uplands which are mined as a result of a resource extraction permit approved pursuant to this chapter: zero Pinelands development credits per 39 acres.
 - (3) Other uplands and areas of active berry agricultural bogs and fields: two Pinelands development credits per 39 acres.
 - (4) Wetlands in active field agriculture use currently and as of February 7, 1979: two Pinelands development credits per 39 acres.
 - (5) Other wetlands: 0.2 Pinelands development credit per 39 acres.
- C. The allocations established in Subsection B above shall be reduced as follows:
- (1) Any property of 10 acres or less which is developed for a commercial, industrial, resource extraction, intensive recreation, institutional, campground or landfill use shall not receive Pinelands development credit entitlement. For such an improved property of more than 10 acres, the area actively used for such use or 10 acres, whichever is greater, shall not receive Pinelands development entitlement.
 - (2) The Pinelands development credit entitlement of a parcel of land shall be reduced by 0.25 Pinelands development credit for each existing dwelling unit on the property.
 - (3) The Pinelands development credit entitlement for a parcel of land shall be reduced by 0.25 Pinelands development credit for each reserved right to build a dwelling on the parcel retained by the owner of the property pursuant to Subsection G below or when a variance for cultural housing is approved by the City pursuant to § 380-18A(11) of this chapter.
 - (4) The Pinelands development credit entitlement for a parcel of land shall also be reduced by 0.25 Pinelands development credit for each dwelling unit approved pursuant to N.J.A.C. 7:50-4.61 et seq., as amended or supplemented, when a waiver of strict compliance is granted by the Pinelands Commission.

- D. The owners of parcels of land which are smaller than 39 acres shall have a fractional Pinelands development credit at the same ratio established in Subsection B above.
- E. Notwithstanding the provisions above, the owner of record of 0.10 or greater acres of land in the Agricultural Production Zone as of February 7, 1979, shall be entitled to 0.25 Pinelands development credits, provided that the parcel of land is vacant, was not in common ownership with any contiguous land on or after February 7, 1979, and has not been sold or transferred except to a member of the owner's immediate family. The provisions of this section shall also apply to owners of record of less than 0.10 acres of land in the Agricultural Production Zone, as of February 7, 1979, provided that said owners acquired vacant, contiguous lands to which Pinelands development credits are allocated pursuant to Subsection B above, which lands, when combined with the acreage of the parcel owned prior to February 7, 1979, total at least 0.10 of an acre.
- F. No Pinelands Development Credit may be conveyed, sold, encumbered or transferred unless the owner of the land from which the credit has been obtained has received a Pinelands development credit certificate from the New Jersey Pinelands Development Credit Bank pursuant to N.J.A.C. 3:42-3 and has deed restricted the use of the land in perpetuity to those uses set forth in Subsection I below by a recorded deed restriction which is in favor of a public agency or not-for-profit incorporated organization and specifically and expressly enforceable by the Pinelands Commission.
- G. Notwithstanding the provision of Subsection F above, an owner of property from which Pinelands development credits are sold may retain a right for residential development on that property, provided that the recorded deed restriction expressly provides for the same and that the total allocation of Pinelands development credits for that property is reduced by 0.25 Pinelands development credit for each reserved right to build a dwelling unit. Subdivision of the property shall not be required until such time as the residential development right is exercised.
- H. No conveyance, sale or transfer of Pinelands development credits shall occur until the municipality with jurisdiction over the parcel of land from which the Pinelands development credits were obtained, the agency or organization to which the restriction is in favor and the Pinelands Commission have been provided with evidence of recordation of a restriction on the deed to the land from which the development credits were obtained.
- I. Such deed restrictions shall specify the number of Pinelands development credits sold and that the property in the AP Agricultural Production Zone may only be used in perpetuity for the following uses: agriculture; forestry; agricultural employee housing as an accessory use; low-intensity recreational uses in which the use of motorized vehicles is not permitted except for necessary transportation, access to water bodies is limited to no more than 15 feet of frontage per 1,000 feet of frontage on the water body, clearing of vegetation does not exceed 5% of the parcel and no more than 1% of the parcel will be covered with impermeable surfaces; fish and wildlife management; wetlands management; agricultural sales establishments, excluding supermarkets and restaurants and convenience stores, where the principal goods or products available for sale were produced in the Pinelands and the sales area does not exceed 5,000 square feet; airports and heliports accessory to agricultural uses and which are used exclusively for the storage, loading and operation of aircraft as part of an ongoing agricultural operation;

agricultural products processing facilities; and accessory uses. In all other Pinelands zones the deed restriction shall specify that the property may only be used in perpetuity for agriculture, forestry, and low-intensity recreational uses. Said deed restrictions shall be in a form approved by both the Pinelands Commission and the solicitor for the approval agency. **[Amended 11-14-2018 by Ord. No. 04-2018]**

- J. Pinelands development credits shall be used in the following manner:
- (1) When a variance of density or minimum lot area requirements for a residential or principal nonresidential use in the RV Zone is granted by the City, Pinelands development credits shall be used for all dwelling units or lots in excess of that permitted without the variance.
 - (2) When a variance for cultural housing is granted by the City in accordance with § 380-18 all of this chapter.
 - (3) When a waiver of strict compliance is granted by the Pinelands Commission pursuant to N.J.A.C. 7:50-4.61 et seq., as amended or supplemented.
- K. No development involving the use of Pinelands development credits shall be approved until the developer has provided the Pinelands Commission and the City with evidence of legal or equitable ownership of the requisite Pinelands development credits; provided, however, that the City may grant preliminary subdivision or site plan approval conditioned upon such evidence being presented as a prerequisite to final subdivision or site plan approval. For such a final subdivision or site plan the developer shall provide evidence of either legal or equitable Pinelands development credit ownership to secure the same proportion of lots or residential units as was approved for Pinelands development credit use in the preliminary approval. In no case shall a building or construction permit be issued for any development involving the use of Pinelands development credits until the developer has provided the Pinelands Commission and the City with evidence of his, her or its ownership of the requisite Pinelands development credit, that those Pinelands development credits have been redeemed with the City and that title in fee to the premises in question (which title may be subject to mortgage liens and easements which in the opinion of the Pinelands Commission and Approval Agency do not affect the ability of the developer to complete the project) is in the developer. Notification of any such preliminary or final approval shall be made to the Pinelands Commission pursuant to § 380-77D and to the New Jersey Pinelands Development Credit Bank in accordance with N.J.A.C. 3:42-3. Redemption of Pinelands Development Credits shall thereafter be accomplished in accordance with N.J.A.C. 3:42-3.6.

§ 380-45. Recycling area for multifamily housing developments. [Amended by Ord. No. 94-4]

- A. There shall be included in any new multifamily housing development that requires subdivision or site plan approval an indoor or outdoor recycling area for the collection and storage of residentially generated recyclable materials. The dimensions of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number and which are consistent with anticipated usage and with current methods of collection in the area in which the project is located. The

dimensions of the recycling areas and the bins or containers shall be determined in consultation with the Municipal Recycling Coordinator and shall be consistent with the District Recycling Plan adopted pursuant to Section 3 of P.L. 1987, c. 102 (N.J.S.A. 13:1E-99.13), and any applicable requirements of the Municipal Master Plan, adopted pursuant to Section 26 of P.L. 1987, c. 102.³⁸

- B. The recycling area shall be conveniently located for the residential disposition of source-separated recyclable materials, preferably near, but clearly, separated from, a refuse dumpster.
- C. The recycling area shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling areas without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling areas and the bins or containers placed therein against theft of recyclable materials, bins or containers.
- D. The recycling area or the bins or containers placed therein shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard and which are located in an outdoor recycling area shall be equipped with a lid or otherwise covered so as to keep the paper or cardboard dry.
- E. Signs clearly identifying the recycling area and the materials accepted therein shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.
- F. Landscaping and/or fencing shall be provided around any outdoor recycling area and shall be developed in an aesthetically pleasing manner.

§ 380-46. Driveways. [Amended by Ord. No. 96-2]

- A. The purpose of this § 380-46 is to set certain standards for the design and location of driveways and driveway openings in order to promote the safety, public well-being, convenience and public welfare of the City and to permit access to properties for the purposes of combating fires and other emergencies and to ensure emergency vehicle access, and the promotion of public safety.
- B. No driveway which connects to an existing or proposed public right-of-way within the City of Estell Manor may be constructed or substantially modified unless the owner first obtains a driveway permit from the Zoning Officer. Application for said driveway permit shall be made in duplicate with the Zoning Officer, who shall transmit one copy thereof to the City Clerk. The applicant shall also file with the Fire Department a copy of said application. Said application can be in conjunction with an application for a zoning permit or a building permit. In such case, only the portions of the application dealing with the driveway need be submitted to the Fire Department. No fee shall be charged for a driveway permit, but if a driveway permit is sought in conjunction with a zoning or building permit, the normal fees for such permits shall be applicable.

³⁸. Editor's Note: See N.J.S.A. 40:55D-28.

- C. The Fire Official shall, after receiving the application for a permit, cause to review the proposed plans and, if necessary, inspect the site of the proposed driveway or modified driveway.
- D. Minimum design requirements. All driveways to be constructed or modified shall be done in accordance with the following minimum requirements:
- (1) Driveways shall intersect the public way at an angle to as near 90° as site conditions will permit and in no case less than 60°.
 - (2) Driveways shall have a minimum width of 12 feet maintained.
 - (3) The minimum driveway width plus a two-foot-wide strip on each side shall be kept cleared of vegetation and other obstructions. This cleared width shall extend from one foot above the driveway surface to a height of 14 feet and shall be properly maintained.
 - (4) Driveways shall be designed to provide as straight a route as possible from the public road to the premises on site. If it is necessary to construct an angle point in the driveway, this angle point shall be no greater than 30°, as measured from the center line of the driveway.
 - (5) Any vertical curve on a driveway shall be flat enough to prevent the dragging of any vehicle undercarriage.
 - (6) All driveways constructed after the effective date of this chapter shall be surfaced with compacted material of such quality as to provide a hard surface sufficient to bear a minimum vehicle weight of 36,000 pounds [18 tons] in rainy or snowy weather. This requirement shall not apply to any drives which have been contracted or are under active construction on the effective date of this chapter.
- E. Visibility. All driveways shall be constructed or modified at such an angle so as to assure maximum visibility in both directions, taking into account physical obstructions which may be present and which cannot be removed or modified by the person seeking to construct the driveway. Any obstructions to vision which can be removed or modified by the person seeking to construct the driveway should be so removed or modified.
- F. Plot plan or sketch.
- (1) All applications for a permit for a driveway or modified driveway shall include a plot plan or sketch, which need not be drawn by a licensed engineer and need not be drawn to scale, showing the location of the proposed driveway and shall include, at a minimum, the following:
 - (a) The name and address of the owner and applicant.
 - (b) The Tax Map Sheet, block and lot number.
 - (c) The property lines and North arrow.
 - (d) The setback and location of structures, proposed and existing.

- (e) The type of storm drainage to be constructed at the driveway entrance, if necessary.
 - (f) The location of all existing drives.
- (2) In addition, the Fire Department is authorized to approve an application form which, if so approved, shall be utilized by the applicant.
- G. Approval of fire department. No driveway or modified driveway shall be constructed in the City of Estell Manor without the approval of the Fire Department, which approval shall be conveyed to the Zoning Officer. The Zoning Officer shall not issue a permit for the driveway until said approval has been received in writing; provided, however, that if the Fire Department has not inspected and conveyed to the Zoning Officer its approval or disapproval of the proposed plans within 30 days of receipt of its copy of the application, the plan shall be deemed to be approved by the Fire Department.
- H. Existing drives. The Fire Official may review existing drives to ascertain whether or not fire equipment can safely enter the premises and have access to all structures and other flammable objects on said premises in order to fight any fires or handle any other emergencies that may occur. The Fire Official may enter onto private property for this purpose. In the event that the Fire Official shall ascertain that there is an obstacle preventing the full utilization of fire or other equipment in emergency situations, that official shall notify the owner or occupant of said property and request that said condition be abated.
- I. Permits where no driveway contemplated. The lack of a driveway permit shall not prevent the issuance of a building permit, zoning permit or certificate of occupancy, so long as the construction plans do not provide for construction or reconstruction of any driveway.
- J. Other construction pending driveway permit. The lack of a driveway permit shall not prevent the issuance of a building permit or zoning permit, so long as there is no construction work involving either a new driveway or modified driveway until said permit shall be received. However, in the case of any such construction involving a new or modified driveway, no certificate of occupancy shall be issued until a driveway permit has been received and its requirements met.
- K. Certificate of occupancy. There shall be no certificate of occupancy for any construction involving either a new or modified driveway until a driveway permit is received and construction in accordance with its terms has been approved by the Construction Official.
- L. Records. The Fire Department shall keep records of all permits issued and all inspections made under the provisions of this subsection.
- M. Maintenance of driveways. The owner of any driveway for which a permit has been issued under this § 380-46 shall maintain the same so that the minimum design standard set forth in Subsection D above shall at all times be met.

ARTICLE VIII
Conditional Uses

§ 380-47. Guiding principles. [Amended by Ord. No. 78-13; Ord. No. 82-6]

- A. Recognizing that certain uses, activities and structures are necessary to serve the needs and convenience of the City and at the same time recognizing that such uses may be or become inimical to the public health, safety and general welfare if located and operated without proper consideration being given to existing conditions and character of the surrounding area, such uses are hereby designated as conditional uses.
- B. The Planning Board shall have jurisdiction and power to grant a permit for a conditional use under the terms and conditions established by this chapter, under the following stipulations and guiding principles: **[Amended 11-5-1997 by Ord. No. 97-6]**
- (1) The use for which application is being made is specifically authorized as a conditional use in Article V of this chapter for the zone in which located.
 - (2) The design, arrangement and nature of the particular use is such that the public health, safety and welfare will be protected and reasonable consideration is afforded to the:
 - (a) Character of the neighborhood and zone.
 - (b) Conservation of property values.
 - (c) Health and safety of residents or workers on adjacent properties and in the surrounding neighborhood.
 - (d) Potential congestion of vehicular traffic or creation of undue hazard.
 - (e) Principles and objectives of this chapter, the Master Plan of the City and the Pinelands Comprehensive Management Plans, except where said plan conflicts with the provisions of this Code.
 - (f) In addition, the conditional uses shall adhere to the minimum standards specified for the particular use in this article and to such additional conditions and safeguards as in the opinion of the Planning Board will implement the intent and objectives of this chapter.

§ 380-48. Public, parochial or private schools. [Amended by Ord. No. 86-10; Ord. No. 89-4]

Public, parochial or private schools, including institutions of higher learning, but not trade or business schools, may be permitted in a residential zone district except for the AP Agricultural Production Zone as a conditional use.

- A. The application shall be on the official forms heretofore made part of this chapter and shall include a plot and drainage plan of the site, drawn to scale, indicating overall dimensions, topographical conditions, before and after, the location and intended use of existing and proposed buildings, locations of recreational areas, the relationships of the proposed use to streets and adjacent properties and such physical features as might

present any deterrent to the protection of the health and safety of the pupils. The application shall include a complete set of architectural plans and a site plan showing existing and proposed buildings and structures. A statement shall be submitted, indicating the grade levels of the pupils to be housed in the building or buildings, the planned pupil capacity of such building or buildings and the contemplated eventual enrollment of the school.

B. Before authorizing the Building Inspector to issue a permit, the Planning Board shall determine that the following standards are met:

- (1) Off-street parking shall be provided in the following ratios: elementary schools shall provide one parking space for each staff member or employee, plus adequate space for buses and delivery vehicles; all other schools shall provide 1 1/2 parking spaces for each staff member or employee plus adequate space for buses or delivery vehicles. These requirements may be increased if, in the judgment of the Planning Board, the unavailability of bus services, the particular location or a relatively high percentage of pupils driving or anticipated to be driving cars to school make such increased requirements desirable. **[Amended 11-5-1997 by Ord. No. 97-6]**
- (2) No driveway shall open onto a public street within 75 feet of an intersection of the street with another street.
- (3) Illumination for night athletic activities shall be shielded from illuminating adjoining streets and residential areas.

§ 380-49. Places of worship. [Amended by Ord. No. 89-4]

Places of worship may be permitted in all residential zones, except for the AP Agricultural Production Zone, provided that the Planning Board shall determine that:

- A. The proposed use is a bona fide, nonprofit religious use.
- B. The proposed use in the proposed location will not adversely affect the safe and comfortable enjoyment of property rights and otherwise adversely affect the value of adjacent properties; the design of any structures to be erected in connection with such use are in keeping with the general character of the residential area; and sufficient landscaping, including trees, shrubs and lawn, are provided to appropriately buffer the use from adjoining residential properties and to ensure an attractive appearance for the use.
- C. The buildings will not occupy more than 25% of the lot area and that all other requirements as set forth in this chapter for the zone in which it is to be located are observed, and such use will in no way be detrimental to the surrounding property values. The structure of the use proposed will serve a useful purpose to the general welfare of the City.

§ 380-50. Home crafts. [Amended by Ord. No. 82-6]

Home crafts, as defined by this chapter, may be permitted in an RV Village Residence Zone, R-5 Residence Zone and SD Special Districts with a conditional use permit, provided that the following standards are met and any other requirements as deemed necessary by the Planning Board.

- A. A home craft shall be carried on entirely within the principal building and shall under no circumstances exceed 20% of the total gross habitable floor area of the principal building.
- B. No crafts shall require interior or exterior alterations of the principal structure.
- C. No sign shall be permitted in connection with home crafts.
- D. No mechanical equipment shall be permitted and no commodity shall be sold on the premises in connection with the home craft.
- E. A home craft shall be carried on only by a member of the family living within the principal structure.

§ 380-51. Home professional office. [Amended by Ord. No. 82-6]

Home professional offices, as defined by this chapter, may be permitted in an RV Village Residence Zone, R-5 Residence Zone and SD Special Districts with a conditional use permit, provided that the following standards are met and any other requirements as deemed necessary by the Planning Board.

- A. A home professional office shall be carried on entirely within the principal building and shall not, under any circumstances, exceed 50% of the total gross habitable floor area of the principal building.
- B. No home professional office shall require exterior alterations of the principal structure which will cause the structure to be at variance or further at variance with the schedule for the district in which it is located.
- C. No home professional office shall permit the employment of more than two employees who are not permanent residents of the principal structure.
- D. No home professional office shall permit any advertising display other than a professional nameplate as provided for in Article VII.

§ 380-52. Public service infrastructure. [Amended by Ord. No. 89-4]

Public service infrastructure uses, including electric transmission facilities and supporting structures, may be permitted, except that no service or storage yards may be permitted in any zone district with a conditional use. No conditional use permit shall be issued unless the Planning Board shall determine that:

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

service by the utility to the neighborhood or area in which the particular use is to be located.

- B. The design of any building in connection with such facility conforms to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights of the zone in which it is located.
- C. Adequate and attractive fences and other safety devices will be provided.
- D. A buffer strip five feet in width and screening are provided and will be periodically maintained as specified in § 380-39.
- E. Adequate off-street parking will be provided.
- F. All of the area, yard, and building coverage requirements of the respective zone will be met.

§ 380-53. Quasi-public buildings and recreation areas.

Quasi-public buildings and recreation areas and facilities, including clubhouses, parks, playgrounds, tennis courts and other activities operated by nonprofit organizations, may be permitted. Before authorizing the Building Inspector to issue a permit, the Planning Board shall determine that the following standards are met:

- A. A statement setting forth full particulars on the operation of the use and a complete list of the proposed charter membership, including names and resident addresses, shall be filed with the Planning Board.
- B. It is ascertained by the Planning Board that the proposed use is a bona fide, nonprofit organization operated solely for the recreation and enjoyment of the members of the organization.
- C. It is ascertained by the Planning Board that the proposed use in the proposed location will not adversely affect the safe and comfortable enjoyment of property rights and otherwise adversely affect the value of adjacent properties, so that the design of any structures erected in connection with such use is in keeping with the general character of the residential area, and that sufficient landscaping, including trees, shrubs and lawn, is provided to serve as a buffer between the use and adjoining residential properties and to ensure an attractive appearance for the use.
- D. The Planning Board finds that buildings will not occupy more than 25% of the lot area, all other requirements as set forth in this chapter for the zone in which it is to be located are observed, that the use will in no way be detrimental to the surrounding property values and that the structure or use proposed will serve a useful purpose to the general welfare of the City.
- E. The front, rear and side yards shall be increased one foot for each foot by which the building exceeds the height limit herein established for the zone in which it is located.
- F. The appropriate area and number of off-street parking spaces have been established and met.

- G. Signs may be illuminated but nonflashing and limited in area to not more than 15 square feet on any one side and shall not be closer than 15 feet from any property line or five feet from any street line.
- H. All utilitarian and service areas are adequately screened in accordance with standards set forth in § 380-39.

**§ 380-54. Motor vehicle service stations and tire and battery sales and service.
[Amended by Ord. No. 78-13; Ord. No. 83-4]**

Motor vehicle service stations and tire and battery sales and services may be permitted in the HC Highway Commercial Zone, provided that the following standards are observed:

- A. In addition to the information required in the site plan as spelled out in § 380-73A, the site plan shall also show the number and location of fuel tanks to be installed, the dimensions and capacity of each storage tank, the depth the tanks will be placed below the ground, the number and location of pumps to be installed, the type of structure and accessory buildings to be constructed and the number of automobiles which are to be garaged.
- B. The proposed use will not unduly burden public services, including, but not limited to, water, sewer and roads.
- C. Driveways shall not be more than 24 feet wide at any point. Driveways must be at least 10 feet from any side lot line and 25 feet from the intersection of street lines. No more than two driveways shall be permitted for each 100 feet of street frontage.
- D. The entire area of the site traveled by motor vehicle shall be hard-surfaced.
- E. Any repair of motor vehicles shall be performed in a fully enclosed building, and no motor vehicle shall be offered for sale on the site. No motor vehicle parts or partially dismantled motor vehicles shall be stored outside of an enclosed building.
- F. Accessory goods for sale may be displayed on the pump island and the building island only. The outdoor display of oil cans or antifreeze and similar products may be displayed on the respective island if provided for in a suitable metal stand or rack.
- G. No motor vehicle service station, public garage or tire or battery sales outlet shall be located within 500 feet of any public entrance to a school, library, hospital or charitable institution. The distance shall be measured in a straight line from the public entrance to the lot line nearest the entrance along the street line.
- H. Where the uses abut another property, they shall be screened by a buffer strip not less than 10 feet in width. Screening shall be provided along the rear and side property lines. Buffer strips and screening shall be in accordance with the standard set forth in § 380-39.
- I. All fuel pumps shall be located at least 20 feet from any street or property line and shall be attendant operated.

- J. A motor vehicle service station or a tire or battery sales outlet may erect one freestanding pole-mounted identification sign, not to exceed 25 feet in height or 50 square feet in area on either of two sides.³⁹

§ 380-55. Extension of use from HC Zone into neighboring zones. [Amended by Ord. No. 78-13; Ord. No. 82-6; 11-5-1997 by Ord. No. 97-6]

Where a lot or parcel is located in part in an HC Zone District and in part in another zone district, the entire lot or a portion thereof not located in the HC Zone District may be used for a purpose permitted in the HC Zone District upon application for a conditional use permit and upon determination by the Planning Board that the following standards and conditions are met:

- A. The use contemplated can best be established by utilizing the portion of the lot or plat in the neighboring zone.
- B. The site plan shall be appropriate to the adjoining area.
- C. No portion of the proposed use shall extend more than 500 feet beyond the right-of-way along which the lot has frontage.

§ 380-56. Neighborhood business uses in RV Residence Village Zone. [Amended by Ord. No. 78-13; Ord. No. 82-6]

Neighborhood business uses shall be permitted in the RV Residential Village Zone, provided that the following requirements are met:

- A. Within retail outlet establishments, up to 50% of the building area may be devoted to the processing, assemblage or storing of goods or products to be retailed on the premises, provided that no such area shall front on a public street at street level.
- B. Where the property line of a proposed business lot abuts a residential lot, a buffer area shall be established which shall include an area of land 10 feet in width as measured from the property line. Such buffer area shall be provided with screening as specified in § 380-39.
- C. Neighborhood commercial uses shall front upon a major arterial or major collector road as specified by the Master Plan of the City.
- D. The site plan shall be appropriate to the adjoining area.

§ 380-57. Exemptions to flood hazard and wetlands restrictions. [Amended by Ord. No. 82-6]

Any use normally allowed or permitted as a conditional use in the zone underlying a Flood Hazard Zone or a wetland may be permitted as a conditional use if the developer can establish to the satisfaction of the Planning Board that the land in question should not be

³⁹ Editor's Note: Original Sec. 10-9.9, Mobile home parks, as amended by Ord. Nos. 78-13 and 85-9, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

classified as a flood hazard area or wetland and should not be restricted from the specific use proposed. In such case, said proposal shall be exempt from the requirements of § 380-35 of this chapter, but all other regulations applicable to said land use shall apply.

§ 380-58. Development in a Flood Hazard Zone outside wetlands. [Amended by Ord. No. 82-6]

Development in that portion of the Flood Hazard Zone which is outside the wetlands may be permitted if the applicant demonstrates to the satisfaction of the Planning Board that the development meets the following objectives and conditions:

- A. Protection and maintenance of water table and water recharge areas.
- B. Retention of existing floodwater storage capacity.
- C. Location of construction of public utilities, including sewer, water, gas and electric systems, in a manner which minimizes or eliminates flood damage and infiltration.
- D. Adequacy of the methods of disposal for sewage, refuse and other wastes resulting from the uses permitted on the site and the methods for providing adequate drainage so as to minimize flood damage.
- E. Elevation of the lowest floor, including the basement, of a newly constructed or substantially improved structure at or above the level of the one-hundred-year flood.

§ 380-59. Development in or near wetlands. [Amended by Ord. No. 82-6; Ord. No. 83-4; Ord. No. 89-4; Ord. No. 93-9]

- A. Uses. No development in the Pinelands Area shall be permitted in a wetland or a wetlands transition area except for the following uses:
 - (1) Horticulture of native Pinelands species in accordance with the requirements of § 380-42D;
 - (2) Berry agriculture in accordance with the requirements of § 380-42D;
 - (3) Beekeeping;
 - (4) Forestry in accordance with the requirements of § 380-42C;
 - (5) Fish and wildlife activities and wetlands management in accordance with N.J.A.C. 7:50-6.10; **[Amended 11-14-2018 by Ord. No. 04-2018]**
 - (6) Low-intensity recreational uses which do not involve use of a structure, including hunting, fishing, trapping, hiking, boating and swimming and other low-intensity recreational uses provided that any development associated with those other uses does not result in a significant adverse impact on the wetland as set forth in Subsection B below;
 - (7) Private docks, piers, moorings and boat launches for the use of a landowner, provided that there is no significant adverse impact on the wetland as set forth in Subsection B below;

- (8) Commercial or public docks, piers, moorings and boat launches shall be permitted, provided that:
- (a) There is a demonstrated need for the facility that cannot be met for existing facilities;
 - (b) The development conforms with all state and federal regulations; and
 - (c) The development will not result in a significant adverse impact, as set forth in Subsection B below.
- (9) Bridges, roads, trails and utility transmission and distribution facilities and other similar facilities, provided that:
- (a) There is no feasible alternative route for the facility that does not involve development in a wetland or, if none, that another feasible route which results in less significant adverse impacts on wetlands does not exist.
 - (b) The need for the proposed linear improvement cannot be met by existing facilities or modification thereof.
 - (c) The use represents a need which overrides the importance of protecting the wetland.
 - (d) Development of the facility will include all practical measures to mitigate the adverse impact on the wetland.
 - (e) The resources of the Pinelands will not be substantially impaired as a result of the facility and its development as determined exclusively based on the existence of special and unusual circumstances.
 - (f) The determination as to whether the standards set forth in this § 380-59A(9) have been met shall be with the approval agency and the Pinelands Commission. If the development does not require the action of any approval agency, then the determination of whether the requirements have been met shall vest in the Zoning Officer of the City of Estell Manor and the Pinelands Commission. The facilities in question shall require the unanimous agreement of both the approval agency or Zoning Officer, as the case may be, and the Pinelands Commission.

B. Performance standards.

- (1) No development, except for those uses which are specifically authorized in Subsection A(1) through (4) above, shall be carried out within 300 feet of any wetland unless the applicant has demonstrated that the proposed development will not result in a significant adverse impact on the wetland.
- (2) A significant adverse impact shall be deemed to exist where it is determined that one or more of the following modifications of a wetland will have an irreversible effect on the ecological integrity of the wetland and its biotic components, including, but not limited to, threatened or endangered species of plants or animals:
- (a) An increase in surface water runoff discharging into a wetland;

- (b) A change in the normal seasonal flow patterns in the wetland;
 - (c) An alteration of the water table in the wetland;
 - (d) An increase in erosion resulting in increased sedimentation in the wetland;
 - (e) A change in the natural chemistry of the ground- or surface water in the wetland;
 - (f) A loss of wetland habitat;
 - (g) A reduction in wetland habitat diversity;
 - (h) A change in wetlands species composition; or
 - (i) A significant disturbance of areas used by indigenous and migratory wildlife for breeding, nesting or feeding.
- (3) Determinations under Subsection B(2) above shall consider the cumulative modifications of the wetland due to the development being proposed and any other existing or potential development which may affect the wetland.

§ 380-60. Resource extraction. [Amended by Ord. No. 82-6; Ord. No. 83-4; Ord. No. 89-4; Ord. No. 97-3]

The continuation of existing resource extraction operations, other than sandwashes, is permitted in the R-25 and R-10 Zones, provided that the applicant meets the requirements of N.J.A.C. 7:50-6, Part VI, Chapter 315, Soil Removal, of the Code of the City of Estell Manor and the following requirements:

- A. Any application filed for conditional use approval of resource extraction operations shall include at least the following information:
- (1) The applicant's name and address and his interest in the subject property.
 - (2) The owner's name and address, if different from the applicant's, and the owner's signed consent to the filing of the application.
 - (3) The legal description, including block and lot designation and street address, if any, of the subject property.
 - (4) A description of all existing uses of the subject property.
 - (5) A brief written statement generally describing the proposed development.
 - (6) A United States Geological Survey Quadrangle Map, or copy thereof, and a copy of the Municipal Tax Map sheet on which the boundaries of the subject property and the Pinelands management area designation and zoning designation are shown.
 - (7) A topographic map at a scale of one inch equals 200 feet, showing the proposed dimensions, location and operations on the subject property.
 - (8) The location, size and intended use of all buildings.

- (9) The location of all points of ingress and egress.
 - (10) A location map, including the area extending at least 300 feet beyond each boundary of the subject property, showing all streams, wetlands and significant vegetation, forest associations and wildlife habitats.
 - (11) The location of all existing and proposed streets and rights-of-way, including railroad rights-of-way.
 - (12) A soils map.
 - (13) A reclamation plan which includes:
 - (a) The method of stockpiling topsoil and overburden;
 - (b) The proposed grading and final elevations;
 - (c) The topsoil material application and preparation;
 - (d) The type, quantity and age of vegetation to be used;
 - (e) Fertilizer application, including method and rates;
 - (f) Planting method and schedules; and
 - (g) Maintenance requirements schedule.
 - (14) A signed acknowledgment from both the owner and the applicant that they are responsible for any resource extraction activities which are contrary to any provision of this chapter or of the approved resource extraction plan done by any agent, employee, contractor, subcontractor or any other person authorized to be on the parcel by either the owner or the applicant;
 - (15) A financial surety guaranteeing performance of the requirements of this subsection in the form of a letter of credit, certified check, surety bond or other recognized form of financial surety acceptable to the Pinelands Commission. The financial surety shall be equal to the cost of restoration of the area to be excavated during the two-year duration of any approval which is granted. The financial surety shall be posted by the property owner or his agent with the City and, for operations in the Pinelands Area, shall name the Commission and the City as the obligee.
 - (16) For operations in the Pinelands Area, a certificate of filing from the Pinelands Commission issued pursuant to N.J.A.C. 7:50-4.34 or, until January 14, 1991, evidence of prior approval from the Pinelands Development Review Board or the Pinelands Commission pursuant to the interim and regulations.
 - (17) When prior approval for an operation in the Pinelands Area has been granted by the approval agency, evidence of Pinelands Commission review pursuant to § 380-77E of this chapter.
- B. Resource extraction operations shall be approved only if the applicant can demonstrate that the proposed resource extraction operation:

- (1) Is designed so that no area of excavation, sedimentation pond, storage area, equipment or machinery or other structure or facility is closer than 200 feet to any property line or 500 feet to any residential or nonresource-extraction-related commercial use which is in existence on the date the permit is issued.
 - (2) Is to be located on a parcel of land of at least 20 acres.
 - (3) Provides that all topsoil that is necessary for restoration will be stored on the site and will be protected from wind or water erosion.
 - (4) Is fenced or blocked so as to prevent unauthorized entry into the resource extraction operation through access roads.
 - (5) Provides ingress and egress to the resource extraction operation from public roads by way of gravel or porous paved roadways.
 - (6) Is designed so that surface runoff will be maintained on the parcel in a manner that will provide for on-site recharge to groundwater.
 - (7) Will not involve excavation below the seasonal high water table.
 - (8) Will be carried out in accordance with an extraction schedule which depicts the anticipated sequence, as well as anticipated length of time that each portion of the parcel proposed for extraction will be worked.
 - (9) Will involve restoration of all disturbed areas at the completion of resource extraction in accordance with the requirements of Subsection C, restoration standards, below and the implementation of the restoration plan is secured by a letter of credit, surety bond or other guaranty of performance in such amount as may be determined by the Planning Board.
 - (10) Will not involve clearing adjacent to ponds in excess of 20 acres or an area necessary to complete scheduled operations; or will not involve unreclaimed clearing exceeding 100 acres or 50% of the area to be determined, whichever is less, for age excavation at any time.
 - (11) Will not result in a substantial adverse impact upon those significant resources depicted on the Special Areas Map appearing as Figure 7.1 in the Pinelands Comprehensive Management Plan.
- C. All parcels of land which are used for resource extraction operations shall be restored as follows:
- (1) Restoration shall be a continuous process, and each portion of the parcel shall be restored such that the ground cover be established within two years and tree cover established within three years after resource extraction is completed for each portion of the site mined.
 - (2) Restoration shall proceed in the same sequence and time frame set out in the extraction schedule in § 380-60B(8).
 - (3) All restored areas shall be graded so as to conform to the natural contours of the parcel to the maximum extent practical; grading techniques that help to control erosion and foster revegetation shall be utilized; the slope of surface of restored

surfaces shall not exceed one foot vertical to three feet horizontal except as provided in Subsection C(6) of this section.

- (4) Topsoil shall be restored in approximately the same quality and quantity as existed at the time the resource extraction operation was initiated.
- (5) Drainage flows, including direction and volume, shall be restored to the maximum extent practical to those flows existing at the time the resource extraction operation was initiated.
- (6) Any body of water created by the resource extraction operation shall have a shoreline not less than three feet above and three feet below the projected average water table elevation. The shoreline both above and below the surface water elevation shall have a slope of not less than five feet horizontal to one foot vertical. This requirement shall apply to any water body or portion of a water body created after December 5, 1994. For any water body or portion of a water body created prior to December 5, 1994, this requirement shall apply to the extent that it does not require grading of acres which have not been disturbed by mining activities. Where grading would require such disturbance, a reduction in the distance of the graded shoreline above and below the average water table elevation shall be permitted.
- (7) All equipment, machinery and structures, except for structures that are usable for recreational purposes or any other use authorized in the area, shall be removed within six months after the resource extraction operation is terminated and restoration is completed.
- (8) Reclamation shall to the maximum extent practical result in the reestablishment of the vegetation association which existed prior to the extraction activity and shall include:
 - (a) Stabilization of exposed areas by establishing ground cover vegetation.
 - (b) Reestablishment of the composition of the natural forest and shrub types that existed prior to the extraction activity through one of the following:
 - [1] The planting of a minimum of 1,000 one-year-old pitch pine seedlings or other native Pinelands tree species per acre in a random pattern;
 - [2] Cluster planting of characteristic Pinelands oak species, such as blackjack oak, bear oak, chestnut oak and black oak, and shrubs such as black huckleberry, sheep laurel and mountain laurel, at a spacing sufficient to ensure establishment of these species;
 - [3] A combination of the planting techniques set forth Subsection C(8)(b)[1] and [2] above; or
 - [4] The use of other planting techniques or native Pinelands species as may be necessary to restore the vegetation association which existed prior to the extraction activity.
- (9) Slopes beyond a water body's shoreline shall be permitted at the natural angle of repose to the bottom of the pond.

- (10) The letter of credit, surety bond or other guaranty of performance which secures restoration of each section shall be released after the City has determined that the requirements of Subsection C(1) through (9) above are being met and the guaranty of performance is replaced with a maintenance guaranty for a period of two years thereafter.

D. Except as otherwise authorized in this chapter, the extraction or mining of mineral resources other than sand, gravel, clay and ilmenite is prohibited in the Pinelands Area.

§ 380-61. Shops, stores and markets. [Amended by Ord. No. 82-6]

Stores, shops and markets as enumerated under § 380-12B(1) shall be permitted in the RV Village Residence Zone with a conditional use, provided that the Planning Board determines that the development plan is appropriate to and compatible with the existing adjacent land uses and shall not adversely affect them, and provided that the proposed structures are designed to harmonize with the general character of the neighborhood.

§ 380-62. Undersized lots of record. [Amended by Ord. No. 89-4]

Undersized lots of record as enumerated under § 380-33C, as amended, shall be permitted under a conditional use permit, provided that the Planning Board determines that the development plan is appropriate to and compatible with the existing adjacent land uses and shall not adversely affect them and provided that the proposed structures are designed to harmonize with the general character of the neighborhood.

§ 380-63. Non-clustered single-family detached dwellings. [Added 11-14-2018 by Ord. No. 04-2018]

Single-family detached dwellings in the R-5, R-10, R-25, SD or C Districts that are not clustered in accordance with the standards of § 380-42N may be permitted as a conditional use, provided that:

- A. The Planning Board finds that:
 - (1) Clustering of the proposed dwellings would be inconsistent with the minimum environmental standards of N.J.A.C. 7:50-6; or
 - (2) Clustering of the proposed dwellings would disrupt the contiguity of the forest ecosystem to a greater degree than non-clustered development.
- B. Minimum lot size requirements:
 - (1) R-5 District: five acres.
 - (2) R-10 District: 10 acres.
 - (3) R-25 District: 25 acres.
 - (4) SD District: 3.2 acres.
 - (5) C District: 25 acres.

ARTICLE IX

Nonconforming Uses**§ 380-64. Continuance. [Amended by Ord. No. 82-6; Ord. No. 83-4]**

Except as otherwise provided in this article, the lawful use of land or buildings which did not violate the Land Use Ordinances of the City of Estell Manor or any law of the State of New Jersey regulating uses in the Pinelands Area at the time said use commenced or was commenced pursuant to a duly authorized variance and/or other approval issued by the Pinelands Commission may be continued, although the use of the building does not conform to the regulations specified by this chapter for the zone in which the land or buildings are located, provided that:

- A. No nonconforming lot shall be further reduced in size.
- B. No nonconforming buildings shall be enlarged, extended or increased if the enlargement would tend to increase the degree of nonconformance.
- C. No nonconforming use may be expanded other than conforming residences on nonconforming undersized lots of record.

§ 380-65. Abandonment. [Amended 11-6-2002 by Ord. No. 07-02]

The Planning Board shall find a nonconforming use to be abandoned in the event of an overt act or failure to act which carries a sufficient implication that the owner neither claims nor retains any interest in the subject matter of the abandonment and an intention to abandon.

§ 380-66. Restoration. [Amended 11-6-2002 by Ord. No. 07-02]

The Zoning Officer shall issue a zoning permit for the restoration of any nonconforming use where the restoration does not exceed the original area of disturbance or footprint. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition any wall floor or roof which the Building Inspector has declared unsafe.

§ 380-67. Reversion.

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

§ 380-68. Alterations.

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

§ 380-69. Zone changes. [Amended by Ord. No. 83-4]

In the case of an area which has been or may be in the future transferred from one zone to another zone of a different classification or having different requirements as a result of any changes in the Land Use Ordinances of the City of Estell Manor, the foregoing provisions shall also apply to any nonconforming use created thereby.

ARTICLE X
Administration

§ 380-70. Enforcement.

The duty of administering and enforcing the provisions of this chapter is hereby conferred upon the Zoning Officer, who shall have powers as are conferred upon him by this section and as reasonably may be implied. He shall be appointed by the City Council and shall receive compensation as the City Council shall determine.

§ 380-71. Duties of the Zoning Officer.

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

A. Written order of violation.

- (1) Where the Zoning Officer, in the course of his duties, determines that any plans, buildings or premises are in violation of the provisions of this chapter, he shall order the responsible party in writing to remedy the conditions. The written order shall specify the nature of the violation found to exist, the remedy ordered and the time permitted for the action, the penalties and remedies which may be invoked by the City and the violator's rights of appeal, all as provided for by this chapter and the laws of the State of New Jersey.

- (2) A copy of the written order shall be transmitted to the Building Inspector, who shall thereupon cause the certificate of occupancy for the building or premises in question to be held null and void. A new certificate of occupancy shall be required for any further use of the building or premises.

B. A zoning permit, temporary use permit or conditional use permit, as appropriate and provided for elsewhere by this section, shall be a prerequisite to the issuance of a building permit as prescribed by the Building Code for the construction, erection or alteration of any building or part of a building. No such permits shall be issued for any plans which would be in violation of the provisions of this chapter.

C. The Zoning Officer shall maintain a permanent record of all matters considered and all action taken by him. The records shall form a part of the records of his office and shall be available for the use of the City Council and other officials of the City, county and state. The records to be maintained shall include at least the following: **[Amended 11-5-1997 by Ord. No. 97-6]**

- (1) Application file. An individual permanent file for each application for a permit provided for by this section shall be established at the time the application is made. The file shall contain one copy of the application and all supporting documents, maps and plans, notations regarding pertinent dates and fees; one copy of the resolution of the Planning Board in acting on the application; and the date the permit applied for was issued or denied by the Zoning Officer.
- (2) Monthly report. The Zoning Officer shall prepare a monthly report for the City Council. The report shall cite all actions taken by the Zoning Officer, including all referrals made by him, all permits and certificates issued and denied and all complaints of violations received and all violations found by him and the action taken by him consequent thereon. A copy of the monthly report shall also be transmitted by the Zoning Officer to the Tax Assessor and Planning Board at the same time it is transmitted to the City Council.

§ 380-72. Certificates and permits. [Amended by Ord. No. 78-13; Ord. No. 79-22; Ord. No. 86-10; Ord. No. 87-4; Ord. No. 89-9]

The certificates and permits enumerated herein are hereby established for the equitable enforcement and administration of the provisions of this chapter.

- A. Zoning permit. The Zoning Officer is hereby empowered to issue a zoning permit for any plans regarding the construction or alteration of any building or part of any building or the change in the use of any land or building or part thereof where he or she shall determine that the plans are not in violation of the provisions of this chapter. Notwithstanding compliance with all other provisions of this chapter, no zoning permit shall be issued by the Zoning Officer where it is determined that any unsafe structure or condition or any nonconforming buildings not otherwise exempted under this chapter are currently present upon the property for which the permit is sought. All applications for zoning permits shall be made to the Zoning Officer, accompanied by a fee payable to the City of Estell Manor, in such amounts as provided in Chapter 185, Article III, Fees for City Services, for a zoning permit for a primary structure and for an accessory building or structure. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- B. Temporary use permit. Upon written direction of the Planning Board, the Zoning Officer is hereby empowered to issue a temporary use permit. A temporary use permit shall only be effective for a period not to exceed six months. The permit may be extended by the Zoning Officer not more than once for an additional period not to exceed six months. **[Amended 11-5-1997 by Ord. No. 97-6]**
- C. Conditional use permit. Upon written direction of the Planning Board, the Zoning Officer is hereby empowered to issue any conditional use permit provided for by this section.
- D. Certificate of occupancy permits. Certificates of occupancy shall be issued in accordance with the procedures set forth by the City Council.
 - (1) New uses. No building shall be occupied or used until such time as a certificate of occupancy is issued by the Housing Officer after determination that the

building, structure or use is in conformance with the provisions of this chapter and all other applicable local ordinances.

- (2) Existing uses. Upon written request from the owner, tenant, occupant or purchaser under contract, the Housing Officer, after inspection, shall issue an occupancy permit for a use legally existing on December 30, 1968, certifying the extent and kind of use and any other existing use which conforms to the provisions of this chapter.
- (3) Change of use. No owner, tenant or other person shall use or occupy any building or structure thereafter, the use of which shall be changed after December 30, 1968, without first procuring an occupancy permit. An occupancy permit once granted under this chapter shall continue in effect for a building not used for residential purposes so long as there is no change of use, regardless of change of identity in tenant or occupant. This section shall not, however, affect any occupancy permit which may be required under any other chapter of this Code.
- (4) Change of tenancy or ownership. From and after the effective date of this chapter, a certificate of occupancy shall be required whenever there is a change in ownership or tenancy of any building or structure used for dwelling purposes. The owner of said building or dwelling shall open it to reasonable inspection during reasonable hours by the Housing Officer.
- (5) A fee shall be paid to the Housing Officer, in such amount as provided in Chapter 185, Article III, Fees for City Services, by each applicant for a certification of occupancy. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

§ 380-73. Procedures for zoning permit. [Amended by Ord. No. 78-10; Ord. No. 78-13; Ord. No. 80-6; Ord. No. 81-10; Ord. No. 82-6; Ord. No. 84-2; Ord. No. 84-10; Ord. No. 85-4; Ord. No. 86-10; Ord. No. 89-4; Ord. No. 89-9; 11-5-1997 by Ord. No. 97-6; 7-11-2001 by Ord. No. 05-01; 12-15-2004 by Ord. No. 11-04; at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

All applications for zoning permits shall be made to the Zoning Officer, accompanied by a fee payable to the City Clerk in the amount as provided in Chapter 185, Article III, Fees for City Services. The Zoning Officer shall carefully consider the application and all supporting documents and shall make a determination whether the application is in compliance with the provisions of this chapter and, based upon that determination, shall either issue or deny the zoning permit applied for. In the event that the Zoning Officer denies the permit because the application is not a complete application as defined by N.J.S.A. 40:55D-3, the Zoning Officer shall, within the time provided by said statute, return the application to the applicant with a statement setting forth why said application is not deemed to be complete. Upon obtaining a zoning permit, the applicant may apply to the Building Inspector for a building permit and a certificate of occupancy in the manner prescribed in the Construction Code.

A. Design and site plan review process.

- (1) Any applicant for construction of any use, other than a one-family dwelling in a residential zone, garage, toolshed, swimming pool which is an accessory use to a

single-family dwelling, patio, porch, accessory buildings which will not result in an enlargement or substantial change in the external appearance, or any applicant for a land use permit for a building other than that normally associated with one-family detached dwellings or his agent shall submit to the administrative officer at least 20 days prior to but no more than 28 days prior to the Planning Board meeting at which consideration is desired 18 copies of a notice of filing and application for site plan review on official forms, the site plan and such other information as is reasonably necessary to make an informed decision as to whether the requirements necessary for preliminary site plan approval have been met. Said documents shall be submitted in such form to permit discussion purposes for preliminary approval. The administrative officer shall submit one copy of the same to the Zoning Officer and one copy to the City Engineer. The administrative officer shall immediately notify the Secretary of the Board having jurisdiction over the matter upon receipt of the application for site plan approval.

- (2) The plans and drawings shall be true and accurate and, in a case other than that for a minor site plan, shall be drawn to a scale of not less than one inch equals 50 feet and certified. Architectural drawings and certification may be waived in appropriate cases at the discretion of the Planning Board or, in the case of applications involving historic landmarks, by the Historic Preservation Commission, where the nature of the site plan approval is such as to be deemed not to require the expense of the same. The administrative officer shall refer 14 copies of the plans, drawings and statements to the Planning Board. In case of an application involving an historic landmark or abutting within 200 feet of a site containing an historic landmark, an additional seven copies of the plans, drawings and statements shall be submitted to the administrative officer, to be referred to the Historic Preservation Commission.
- (3) At the time of the submission of the site plan for review, all fees required by § 340-14 shall be paid, and, in addition, if the site plan involves an historic landmark or abuts or is within 200 feet of the site containing an historic landmark, the fees provided by § 380-20H(7) shall be paid.
 - (a) Public notice, as described by N.J.S.A. 40:55D-12 of the New Jersey Statutes, as heretofore or hereinafter amended, shall be given by the developer of all hearings at which request is made for preliminary and/or final site plan review for a major site plan.
 - (b) The Planning Board shall determine whether the materials submitted are sufficient to enable it to fully consider the criteria required for site plan approval, as set forth by Subsection A(4) and (5) below. If the Planning Board determines that the materials submitted are adequate, it may grant or deny both preliminary and final approval at the initial hearing. If the Planning Board determines that an amendment is required in the application, plans or layout of improvements proposed by the developer, it may require the developer to submit an amended application and such additional or supplemental materials as may be reasonably required for the Planning Board to make a final determination. The Planning Board shall, if the materials submitted tentatively indicate that the proposed development complies with this chapter and all other applicable laws, grant preliminary

site plan approval, subject to consideration of final site plan approval upon submission of the additional materials required by it.

- (4) The Planning Board shall determine whether or not the proposed site plan and structures will compare favorably with community standards and other neighborhood improvements. In making the determination, the Planning Board shall consider:
 - (a) The height, bulk and area of buildings.
 - (b) The setback distances from all property lines.
 - (c) The size, type and location of signs.
 - (d) The size, location, construction and screening of automobile parking areas.
 - (e) The relation to the existing buildings and structures in the general vicinity and area.
 - (f) All provisions of the Zoning Chapter not mentioned specifically above and the relationship of the proposed project to the health, safety and general welfare of the community, specifically, its relationship to the Comprehensive Plan of the City as it is developed.
 - (g) The location of vehicle egress and ingress routes, driveways, etc., and their relationship to neighboring streets.
 - (h) For development in the Pinelands Area, all of the requirements of § 380-42 must be met.
 - (i) For development in a Flood Hazard Zone, there must be certification by a registered professional engineer or certified architect that all floodproofing measures used for the structure are reasonably adequate to enable it to withstand the impacts and effects of the one-hundred-year flood.
- (5) In addition, where a site plan is deemed to be other than a minor site plan, the Planning Board shall also consider the following:
 - (a) Description and location of utility service, including gas and electric lines.
 - (b) Size, shape and location of any area reserved for public use.
 - (c) The amount, location, sizes, materials and species of landscaping.
 - (d) The lighting of buildings, signs and grounds.
 - (e) Water supply, drainage and sewerage facilities on the tract of land in question.
 - (f) Size, shape and location of any open space to be set aside for the use and benefit of the project or residents thereof.
 - (g) Provisions for protection and conservation of soils from erosion from wind or water or from excavation or grading.

- (h) Energy conservation standards as set forth under § 340-13H.
 - (i) The environmental impact of the proposed development. To that end, the Planning Board may require an applicant for a major site plan to provide an environmental impact statement, which shall include therein the fiscal impact on City services and facilities and shall conform in every respect to the definition and requirements as set forth in the New Jersey Coastal Area Facility Review Act, N.J.S.A. 13:19-1 et seq., and regulations adopted pursuant thereto, and specifically to include all requirements set forth in Subchapters 4.0, 9.0 and 10.0 of the New Jersey Coastal Area Facility Review Act rules and regulations promulgated by the Commissioner of Department of Environmental Protection under Docket No. DEP 005-76-03 and as may hereafter be otherwise amended pursuant to the authority aforesaid. Notwithstanding anything therein contained to the contrary, all procedures pertaining to the submission of an application for major site plans as set forth in this Code shall apply to the submission and processing of such environmental impact statement unless otherwise required in the case of a site plan within the jurisdiction of the aforesaid New Jersey Coastal Area Facility Review Act. This requirement is applicable regardless of whether the site in question is subject to the jurisdiction of the New Jersey Coastal Area Facility Review Act.
- (6) In addition, in the case of all applications involving an historic landmark, a site designated by the Pinelands Commission or a historic resource deemed significant pursuant to § 380-42J, the approval agency shall employ the standards contained in § 380-20H in deciding whether to issue, issue with conditions or deny a certificate of appropriateness. In determining the appropriate treatment of a landmark or the conditions that shall be attached to a certificate of appropriateness, the approval agency may also consider the following additional factors:
- (a) Improvements and demolitions. With respect to any application involving alterations to or an addition, improvement, repair, replacement or removal of an historic landmark, the following matters may be considered:
 - [1] Its importance to the municipality and the extent to which its historical or architectural value is such that its alteration, improvement, repair, replacement, removal or any addition thereto would be detrimental to the public interest.
 - [2] The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could not be reproduced or could be reproduced only with great difficulty or expense.
 - [3] The extent to which its retention in its present or altered state would promote the general welfare by maintaining and increasing real estate values, generating business, creating new jobs, attracting tourists, students, writers, historians, artists and artisans, attracting new residents, encouraging study and interest in American history, stimulating interest and study in architecture and design, educating

citizens in American culture and heritage or making the municipality a more attractive and desirable place in which to live.

- [4] The probable impact of said alterations, additions, improvements, repairs, replacements or removals upon other historic landmarks within proximity thereto.
- (b) Visual compatibility considered for additions, alterations, improvements or removals. With regard to any application to move an historic landmark or to create an alteration, addition, improvement, repair or replacement of an historic landmark, the visual compatibility of the proposed structure with the structures and surroundings to which it would be visually related shall be considered.
 - (c) Other considerations. With regard to all applications for alterations, additions, improvements, repairs, replacement or removal of historic landmarks, the following matters shall be considered:
 - [1] The impact of the proposed change on its historic and architectural character.
 - [2] The proposed use of any structure involved.
 - [3] The extent to which the proposed action would adversely affect the public's view of the landmark or a structure which is a part thereof from a public street.
 - [4] The impact the proposed change would have on the character and ambience of other historic landmarks situated in the vicinity thereof.
 - (d) Additional matters considered. In regard to all applications involving an historic landmark, additional pertinent matters may be considered, except that interior arrangement shall not be a factor.
- B. Payment of taxes. Every application for site plan approval shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such application; or, if it is shown that taxes or assessments are delinquent on such property, any approval or other relief granted shall be conditioned upon either the prompt payment of such taxes or assessments or the making of adequate provision for the payment thereof in such a manner that the municipality will be adequately protected.
 - C. Planning Board approval. The Planning Board shall, within 45 days after receipt of the material, approve or disapprove the proposed development or construction. In the event of disapproval, the reason shall be stated clearly to the Zoning Officer, in writing. The Zoning Officer shall deny a zoning permit for the proposed use until the conditions, as the disapproval is based upon, have been corrected and written approval of the Planning Board is obtained.
 - D. Site plan approval and conditional uses. Where both site plan approval and a conditional use are required, a joint application may be submitted, provided that all conditions for both site plan approval and the conditional use are met and the total fees required for both procedures are paid.

E. Temporary use and conditional use permits.

- (1) All applications for temporary use permits and conditional use permits shall be submitted on official forms made part of this chapter. Twelve copies shall be submitted to the administrative officer at least 20 days prior to but no more than 28 days prior to the Planning Board meeting at which consideration is desired. One copy of all materials so submitted shall be forwarded to the Zoning Officer and two copies to the City Engineer by the administrative officer. The administrative officer shall immediately notify the Secretary of the Planning Board.
- (2) The Planning Board shall conduct a public hearing in accordance with the procedures and requirements established by law. In approving an application, the Board may impose any modifications or conditions it deems necessary to carry out the intent of this chapter or to protect the health, safety or general welfare of the public.
 - (a) If an application is approved, the Zoning Officer shall be furnished with a copy of the approving resolution of the Board, and he shall issue the permit applied for in accordance with the conditions imposed.
 - (b) If any application is disapproved, the reasons for denial shall be set forth in the disapproving Board's resolution, and a copy of the resolution shall be submitted to the Zoning Officer.
 - (c) The Zoning Officer shall transmit one copy of all approved applications to the Tax Assessor.
 - (d) Upon obtaining a temporary or conditional use permit, the applicant may then apply to the Building Inspector for a building permit and certificate of occupancy, in the manner prescribed in the Building Code.

F. Application details. The materials to be submitted with each application for a zoning permit, temporary use permit or conditional use permit shall clearly show the conditions on the site at the time of the application, the features of the site which are to be incorporated into the proposed use or building and the appearance and function of the proposed use or building. As a minimum, the application shall include the following information and plans for both before and after conditions:

- (1) The location, use, design and dimensions and height of each use and building.
- (2) The location and arrangement of vehicular accessways and the location, size and capacity of all areas used for off-street parking, loading and unloading. All driveways shall have a minimum width of at least 14 feet.
- (3) The location and dimensions of sidewalks, walkways and other areas established for pedestrian use.
- (4) The design and treatment of open areas, buffer areas and screening devices maintained, including dimensions of all areas devoted to lawns, trees and other landscaping devices.
- (5) Provisions for water supply, sewage disposal and storm drainage.

- (6) Sufficient data to indicate the traffic and congestion likely to be produced by the proposed use.
 - (7) Other data and plans as the Zoning Officer or the Board before which such application is heard may require to properly take action on the application.
- G. Duties after completion of construction. Upon completion of the erection or alteration of any building or structure thereof authorized by any permit and prior to occupancy or use of the same, the holder of such permit shall notify the Zoning Officer of such completion. Permit holders completing new construction shall submit an as-built survey of the property. In all cases, the holder of the permit shall be responsible for cleaning and removal of any debris caused by the construction in question and the final grading of the property. No permit shall be considered complete or permanently effective until the Zoning Officer has certified that the requirements of this subsection have been met and that the work has been inspected and approved as being in conformity with the provisions of all applicable laws and ordinances and has issued a zoning certificate of compliance. A fee as provided in Chapter 185, Article III, Fees for City Services, for the issuance of said certificate of compliance shall be charged, provided that the Zoning Officer finds that all requirements of this subsection have been met on his first visit to the site following the application for said certificate. If, by virtue of the failure of the applicant to meet the requirements of this subsection, subsequent visits on the part of the Zoning Officer are required, a fee for each said subsequent visit shall be charged and shall be paid before said certificate of compliance shall be issued.
- H. Informal review process. At the request of the developer, the Planning Board shall grant an informal review of a concept plan for a development for which the developer intends to prepare and submit an application for development. The amount of any fees for such an informal review shall be a credit toward fees for review of the application for development. The developer shall not be bound by any concept plan for which review is requested, and the Planning Board shall not be bound by any such review. Any applicants requesting an informal review must comply with the following procedure:
- (1) Submit 18 copies of the informal review application;
 - (2) Submit 18 copies of all plans and drawings, which plans and drawing must include the requirements as shown below.
 - (3) Fees for review must be submitted at the time of application (see Ch. 185, Fees, Art. III, Fees for City Services).
 - (4) Applications and supporting material must be separated into 18 sets, with each set containing copies of all submittals;
 - (5) Application packages must be submitted at least 20 days prior to public hearing.
 - (6) Any plan/drawing submitted for informal review shall be true and accurate and clearly and legibly drawn or reproduced at a scale of not smaller than one inch equals 100 feet on a sheet of paper not less than 8.5 inches by 11 inches. The plans and drawings shall, at a minimum, contain the following information:

- (a) Each block and lot involved numbered in conformity with the municipal Tax Map;
- (b) The location of existing and proposed property lines with dimensions in feet;
- (c) The zoning district in which the parcel is located, indicating all setbacks, lot coverage, height, floor area ratio and density, both as to required and proposed. The foregoing shall be indicated both as text and graphically;
- (d) The number of lots resulting from a subdivision, including areas of each in acres if over one acre and in square feet if under one acre;
- (e) All natural and artificial watercourses, streams, shorelines and water boundaries and encroachment lines;
- (f) All areas to be disturbed by grading or construction;
- (g) The location of existing structures and their setbacks from existing and proposed property lines;
- (h) The location of existing easements or rights-of-way, including power lines;
- (i) The location of existing railroads, bridges, culverts, drainpipes, water and sewer mains and other man-made installations affecting the tract;
- (j) The location of existing wells and septic systems;
- (k) The plans and profiles of proposed utility layouts, such as sewers, storm drains, water, gas, communications and electric, showing feasible connection to existing and proposed utility systems;
- (l) The location, names and widths of all existing and proposed streets on the property and within 200 feet of the tract.⁴⁰

§ 380-74. Appeals. [Amended by Ord. No. 78-13; Ord. No. 85-4; Ord. No. 86-10; 11-5-1997 by Ord. No. 97-6]

Appeals to the Planning Board may be taken in accordance with the provisions of the Municipal Land Use Law, Chapter 291 of the Laws of 1975, N.J.S.A. 40:55D-1 et seq., including any supplements or amendments heretofore or hereafter made thereto, in the manner set forth under such statute.

- A. Payment of taxes. Every application for variances, appeals or conditional use permits shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject matter of such application; or, if it is shown that the taxes or assessments are delinquent on the property, any approvals or other relief granted by the Planning Board shall be conditioned upon either the prompt payment of such taxes or assessments or the making of adequate provision for the payment thereof in such manner that the City will be adequately protected.

⁴⁰ Editor's Note: Original Sec. 10-11.5, Powers of Board of Adjustment, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

- B. List of owners for notice. The Tax Assessor shall, within seven days after receipt of a request therefor and upon receipt of the payment of the fee provided in Chapter 185, Article III, Fees for City Services, make and certify a list from the current tax duplicate of the names and addresses of owners to whom the applicant is required to give notice.⁴¹ **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- C. An application for a zoning variance shall not be deemed complete unless submitted on the official forms entitled "notice of filing" and the official forms entitled "application for zoning variance," which forms must be fully completed.

§ 380-75. Duration of zoning variances, conditional use permits and site plan approval; renewal. [Amended by Ord. No. 78-13; Ord. No. 84-6; Ord. No. 96-2]

- A. If, after a zoning variance, conditional use permit or site plan approval has been authorized by the Planning Board, the appropriate permit is not lifted and executed by the applicant within a period of one year from the date of the authorization and if construction under the permit does not proceed diligently and is not completed within that time, then such authorization shall be null and void; provided, however, that the holder of such a permit shall be entitled to renew the same for one additional year upon application to the Zoning Officer and payment of a renewal fee in such amount as provided in Chapter 185, Article III, Fees for City Services. At the expiration of the renewal permit, under which the work or use authorized thereunder has not been completed, the applicant must reapply for a new zoning variance, conditional use permit or site plan approval under then existing law before proceeding further. **[Amended 11-5-1997 by Ord. No. 97-6; at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**
- B. At the time of application, the applicant may request a period of time in excess of one year to construct the proposed structure. The Planning Board after considering the nature of the structure may include such longer period of time as it deems necessary and reasonable in the permit. If not so included, the applicant shall have a period of one year to complete construction. **[Amended 11-5-1997 by Ord. No. 97-6]**
- C. A variance or a conditional use permit shall be deemed to be abandoned when the tenant or owner displays intent of cessation through inactivity or the display of an unspecified "for sale" or "for rent" sign or a combination of any of these for a period of more than two years.

§ 380-76. Exercise by Planning Board of powers of Board of Adjustment. [Amended by Ord. No. 78-12; Ord. No. 93-9; 11-5-1997 by Ord. No. 97-6]

Effective as of January 1, 1998, the City of Estell Manor exercises the option provided by N.J.S.A. 40:55D-25c, and, accordingly, the Zoning Board of Adjustment is terminated; provided, however, that in accordance with N.J.S.A. 40:55D-72.1, any application for development submitted to the Zoning Board of Adjustment pursuant to lawful authority

⁴¹ Editor's Note: Former Subsection 10-11.6c of the 1974 Revised General Ordinances, Fees, which previously followed this subsection, was repealed 10-1-1986 by Ord. No. 86-10.

before the effective date of this ordinance⁴² may be continued at the option of the applicant, and the Board of Adjustment shall have every power which it possessed before the effective date of this ordinance in regard to the application.

§ 380-77. Pinelands Area procedures. [Amended by Ord. No. 83-4; Ord. No. 83-10; Ord. No. 89-4; Ord. No. 89-11; Ord. No. 97-3]

A. Applicability of procedures.

- (1) No person shall carry out any development within the Pinelands Area without obtaining development approval in accordance with the procedures set forth in this section.
- (2) Except as provided in Subsection A(3) below, the following shall not be subject to the procedures set forth in this section:
 - (a) The improvement, expansion or reconstruction within five years of destruction or demolition of any single-family dwelling unit or appurtenances thereto;
 - (b) The improvement, expansion, construction or reconstruction of any structure accessory to a single-family dwelling;
 - (c) The improvement, expansion, construction or reconstruction of any structure used exclusively for agricultural or horticultural purposes;
 - (d) The construction, repair or removal of any sign, except for the construction or replacement of any off-site commercial advertising sign;
 - (e) The repair of existing utility distribution lines;
 - (f) The clearing of less than 1,500 square feet of land;
 - (g) The demolition of any structure that is less than 50 years old;
 - (h) The installation of utility distribution lines, except for sewage lines, to serve areas which are effectively developed or development which has received all necessary approvals and permits;
 - (i) The repair or replacement of any existing on-site wastewater disposal system;
 - (j) The repaving of existing paved roads and other paved surfaces, provided no increase in the paved width or area of said roads and surfaces will occur; **[Amended 11-14-2018 by Ord. No. 04-2018]**
 - (k) The clearing of land solely for agricultural or horticultural purposes; **[Amended 11-14-2018 by Ord. No. 04-2018]**
 - (l) Fences, provided that no more than 1,500 square feet of land is to be cleared;

42. Editor's Note: "This ordinance" refers to Ord. No. 97-6, adopted 11-5-1997.

- (m) Aboveground telephone equipment cabinets;
- (n) Tree pruning;
- (o) The following forestry activities:
 - [1] Normal and customary forestry practices on residentially improved parcels of land that are five acres or less in size.
 - [2] Tree harvesting, provided that no more than one cord of wood per five acres of land is harvested in any one year and that no more than five cords of wood are harvested from the entire parcel in any one year.
 - [3] Tree planting, provided that the area to be planted does not exceed five acres in any one year, no soil disturbance occurs other than that caused by the planting activity and no trees other than those authorized by N.J.A.C. 7:50-6.25 are to be planted.
 - [4] Forest stand improvement designed to selectively thin trees and brush, provided that no clearing or soil disturbance occurs and that the total land area on the parcel in which the activity occurs does not exceed five acres in any one year.
- (p) Prescribed burning and the clearing and maintaining of fire breaks.
- (q) Normal and customary landscape plantings, unless a landscaping plan is required pursuant to § 380-42A.
- (r) The construction of any addition or accessory structure for any nonresidential use or any multifamily residential structure provided that: **[Added 11-14-2018 by Ord. No. 04-2018]**
 - [1] If the addition or structure will be located on or below an existing impervious surface, either the existing use is served by public sewers or the addition or structure will generate no wastewater flows, and said addition or structure will cover an area of no more than 4,999 square feet; and
 - [2] If the addition or structure will not be located on or below an impervious surface, said addition or structure will generate no wastewater flows and will cover an area of no more than 1,000 square feet.
- (s) The installation of an accessory solar energy facility on any existing structure or impervious surface. **[Added 11-14-2018 by Ord. No. 04-2018]**
- (t) The installation of a local communications facilities antenna on an existing communications or other suitable structure, provided such antenna is not inconsistent with any Comprehensive Plan for local communications facilities approved by the Pinelands Commission pursuant to N.J.A.C. 7:50-5.4(c)6. **[Added 11-14-2018 by Ord. No. 04-2018]**

- (u) The establishment of a home occupation within an existing dwelling unit or structure accessory thereto, provided that no additional development is proposed. **[Added 11-14-2018 by Ord. No. 04-2018]**
 - (v) The change of one nonresidential use to another nonresidential use, provided that the existing and proposed uses are or will be served by public sewers and no additional development is proposed. **[Added 11-14-2018 by Ord. No. 04-2018]**
 - (3) The exceptions contained in Subsection A(2) above shall not apply to any historic resources designated by the Pinelands Commission pursuant to N.J.A.C. 7:50-6.154 or to any landmark designated in accordance with § 380-20 hereof.
 - (4) Nothing herein shall preclude any local or state agency from reviewing, in accordance with the provisions of any applicable ordinance or regulation, any proposed development which does not require an application to the Pinelands Commission pursuant to this section.
- B. Application requirements for minor development.
- (1) Any application for approval of minor development shall be on the official forms prescribed in § 340-4 of the Code of the City of Estell Manor. To the extent that the following information is not contained on the official forms, the same shall be included by way of addendum or supplement.
 - (a) The applicant's name and address and his interest in the subject property;
 - (b) The owner's name and address, if different from the applicant's, and the owner's signed consent to the filing of the application;
 - (c) A description of all existing uses of the subject property;
 - (d) A brief written statement generally describing the proposed development;
 - (e) A United States Geological Survey Quadrangle Map, or copy thereof, and a copy of the Municipal Tax Map sheet on which the boundaries of the subject property and the Pinelands management area designation and the zoning designation are shown;
 - (f) A plat or plan showing the location of all boundaries of the subject property, the location of all proposed development and existing or proposed facilities to provide water for the use and consumption of occupants of all buildings and sanitary facilities which will serve the proposed development. The following information shall be included with respect to existing or proposed sanitary facilities:
 - [1] On-site treatment facilities: location, size, type and capacity of any proposed on-site wastewater treatment facilities; and
 - [2] In the case of new structures, soil borings and percolation tests; if on-site sewage disposal is proposed, results of soil borings and percolation tests in accordance with N.J.S.A. 58:11-23 et seq., and the regulations adopted pursuant thereto, shall be submitted at suitable

location with a tract map showing location, logs, elevations of all test holes indicating where groundwater was encountered, estimating the seasonal high water table and demonstrating that such facility is adequate to meet the water quality standards contained in § 380-42F.

- (g) A location map, including the area extending at least 300 feet beyond each boundary of the subject property, showing ownership boundary lines, the boundary of the proposed development, owners of holdings adjoining and adjacent to the subject property, existing facilities, buildings and structures on the site, all proposed development, wetlands, streams (including intermittent streams), rivers, lakes and other water bodies and existing roads;
 - (h) A soils map, including a county soils survey which conforms to the guidelines of the United States Department of Agriculture Soil Conservation Service, showing the location of all proposed development;
 - (i) A map showing existing vegetation, identifying predominant vegetation types in the area and showing proposed landscaping of the subject property, including the location of the tree line before and after development and all areas to be disturbed as a result of the proposed development;
 - (j) A certificate of filing from the Pinelands Commission issued pursuant to N.J.A.C. 7:50-4.34 or, until January 14, 1991, evidence of prior approval from the Pinelands Development Review Board or the Pinelands Commission pursuant to the interim rules and regulations; and
 - (k) When prior approval for the development has been granted by the approval agency, evidence of Pinelands Commission review pursuant to Subsection E below.
 - (l) In lieu of Subsection B(2)(a) through (k) above, the application requirements of § 380-77B(2) shall apply to applications for development of a single-family dwelling on an existing lot of record. **[Added by 7-20-1999 by Ord. No. 0-6-99]**
- (2) Procedures for applications for the development of a single-family dwelling. **[Added by 7-20-1999 by Ord. No. 0-6-99]**
- (a) The Zoning Officer is hereby authorized and directed to issue preliminary zoning permits as a prerequisite to the issuance of a construction permit or other permits or approvals which are needed to develop a single-family dwelling on an existing lot of record within the City of Estell Manor.
 - (b) Applications for a preliminary zoning permit.
 - [1] An application for a preliminary zoning permit shall be submitted to the Zoning Officer and shall include the following:
 - [a] The applicant's name and address and his interest in the subject property.

- [b] The applicant's signed certification that he is duly authorized to submit the application, that the materials and information are accurate and that duly authorized representatives of the City of Estell Manor and Pinelands Commission are authorized to inspect the property.
 - [c] The owner's name and address, if different from the applicant's, and the owner's signed consent to the filing of the application.
 - [d] The street address, if any, the Tax Map sheet and block and lot number of the property.
 - [e] Proof that taxes for the property have been paid.
 - [f] Acreage of the property in square feet.
 - [g] A dated plot plan, with the scale noted, showing:
 - [i] The zoning district in which the property is located.
 - [ii] The location and dimensions of all property lines, easements affecting the property and streets abutting the property.
 - [iii] The location of all yards and setbacks required pursuant to this chapter.
 - [iv] The location and use of all existing structures and improvements on the property and their intended disposition.
 - [v] A building envelope within which the single-family dwelling is to be located.
 - [vi] The location and dimensions of the proposed driveway.
 - [vii] The location and dimensions of any proposed accessory structures or improvements.
 - [viii] The location and dimensions of the area in which any sewage disposal system, including the disposal field, is proposed to be located.
 - [ix] The location of any proposed water supply well.
 - [h] If proposed, certification that central sewer and/or water service are available.
 - [i] If development of the property is proposed in accordance with the density transfer program of § 380-33E, the street address, if any, the Tax Map sheet, block and lot number and acreage in square feet of the noncontiguous property.
- [2] The Zoning Officer is authorized to require such additional information as may be necessary to determine compliance with this

chapter. Such may include, but is not limited to, a soil boring in the area of any proposed septage system disposal field, a wetland and wetland buffer map and information to determine compliance with any permitted use requirement of this chapter.

- [3] The Zoning Officer is authorized to waive any of the aforementioned application requirements if the information is not necessary to determine compliance with this chapter.
 - [4] Within 14 days of receipt of an application, the Zoning Officer shall determine whether the application is complete and, if necessary, notify the applicant of any additional information which is necessary to complete the application.
- (c) Permit decisions. Within 14 days of determining an application to be complete, the Zoning Officer shall issue either a preliminary zoning permit or a refusal to issue a preliminary zoning permit.
- (d) Preliminary zoning permit.
- [1] A preliminary zoning permit shall be issued if:
 - [a] The application is consistent with the requirements of this chapter or any necessary variance from those requirements has been obtained; and
 - [b] No waiver of strict compliance from the requirements of the Pinelands Comprehensive Management Plan is necessary or any such waiver has been approved by the Pinelands Commission; and
 - [c] A duly authorized representative of the Pinelands Commission approves the Zoning Officer's determination and so signifies by signing the preliminary zoning permit.
 - [2] A preliminary zoning permit shall expressly incorporate the plot plan being approved, shall specify any conditions which the Zoning Officer determines are necessary to ensure compliance with this chapter and shall specify the expiration date of the permit.
 - [3] The Zoning Officer shall provide copies of the application and the preliminary zoning permit to the Pinelands Commission within five days of the issuance of the permit.
- (e) Effect of preliminary zoning permit.
- [1] A preliminary zoning permit represents a determination that the application meets the requirements of Chapter 380, Zoning, of the Code of the City of Estell Manor and the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq.
 - [2] A preliminary zoning permit shall be valid for two years and shall, during that period, confer the following rights and privileges:

- [a] The approved application shall not be subject to any substantive revisions of Chapter 380, Zoning, of the Code of the City of Estell Manor or the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq.
 - [b] Any subsequent approvals necessary for the development of the single-family dwelling on the property may be sought without the need for a certificate of filing from the Pinelands Commission.
 - [3] Any subsequent approvals to be sought, including, but not limited to, construction permits, shall be subject to the notice, review and decision requirements of § 380-77D through G.
- (f) Refusal to issue preliminary zoning permit.
- [1] The Zoning Officer shall issue a refusal to issue a preliminary zoning permit if any of the following are found to apply:
 - [a] A variance from Chapter 380, Zoning, of the Code of the City of Estell Manor is required;
 - [b] A variance from Chapter 380, Zoning, of the Code of the City of Estell Manor is not required, but the Zoning Officer determines that the application does not meet any requirement of this chapter that reflects a provision of the Pinelands Comprehensive Management Plan;
 - [c] A waiver of strict compliance from the Pinelands Comprehensive Management Plan is required; or
 - [d] The duly authorized representative of the Pinelands Commission has not attested to the consistency of the application with the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq.
 - [2] A refusal to issue a preliminary zoning permit shall expressly reference the reasons why the refusal was issued. If the refusal is predicated solely upon the need to obtain a variance from this chapter, the refusal shall also indicate that upon the applicant's submission of evidence of Planning Board approval of the necessary variance, the Zoning Officer shall determine whether a preliminary zoning permit may be issued pursuant to Subsection B(2)(d) above.
 - [3] When a refusal to issue a preliminary zoning permit is predicated solely upon the need to obtain a variance from this chapter, the Zoning Officer shall provide copies of the application and the refusal to the Pinelands Commission within five days of the issuance.
 - [4] When a refusal to issue a preliminary zoning permit is predicated wholly or in part upon Subsection B(2)(f)[1][b], [c] or [d] above, the Zoning Officer shall provide the original application and a copy of the refusal to the Pinelands Commission within five days of the

issuance. The Pinelands Commission shall thereafter process the application pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq. and §§ 380-77B(1) and 380-77D through G of Chapter 380, Zoning, of the Code of the City of Estell Manor. In lieu of a preliminary zoning permit, a certificate of filing from the Pinelands Commission shall thereafter be required as a prerequisite to the issuance of a construction or other permit.

- (g) Zoning Officer vacancy. Should the position of Zoning Officer become vacant for any reason, the application procedures set forth in § 380-77B(2) shall be of no force or effect and the procedures of § 380-77B(1) shall apply until the position has been filled.

C. Application requirements for other development.

- (1) All applications for major development, other than forestry and resource extraction operations, to the extent not set forth in the official forms required under § 340-4 of the Code of the City of Estell Manor, shall be accompanied by the information required in N.J.A.C. 7:50-4.2(b)5, as well as the following:
 - (a) A certificate of filing from the Pinelands Commission issued pursuant to N.J.A.C. 7:50-4.34 or, until January 14, 1991, evidence of prior approval from the Pinelands Development Review Board or the Pinelands Commission pursuant to the interim rules and regulations; and
 - (b) When prior approval for the development has been granted by the approval agency, evidence of Pinelands Commission review pursuant to Subsection E below.
- (2) An application for approval of forestry operations shall be subject to the application requirements set forth in Chapter 357, Trees, Article II, Tree Cutting and Forestry, of the Code of the City of Estell Manor.
- (3) An application for approval of resource extraction operations shall be subject to the application requirements set forth in § 380-60A of this chapter and Chapter 315, Soil Removal, of the Code of the City of Estell Manor.

D. Notices to the Pinelands Commission. [**Amended 11-14-2018 by Ord. No. 04-2018**]

- (1) Application submission and modifications. Written notification shall be given by the Administrative Officer, by e-mail or regular mail, to the Pinelands Commission within seven days after determination is made by the approval agency that an application for development in the Pinelands Area is complete or if a determination is made by the approval agency that the application has been modified. Said notice shall include:
 - (a) A copy of the resolution of the approval agency.
 - (b) To the extent that the same is not included in the resolution:
 - [1] The name and address of the applicant;

- [2] The legal description and street address, if any, of the parcel that the applicant proposes to develop;
 - [3] A brief description of the proposed development, including uses and intensity of uses proposed;
 - [4] The application number of the Certificate of Filing issued by the Pinelands Commission and the date on which it was issued;
 - [5] The date on which the application or any change thereto was filed and any application number or other identifying number assigned to the application by the approval agency;
 - [6] The approval agency with which the application or change thereto was filed;
 - [7] The content of any change made to the application since it was filed with the Commission, including a copy of any revised plans or reports;
 - [8] The nature of the municipal approval or approvals being sought; and
 - [9] The date of adoption of the resolution referred to in Subsection D(1)(a).
- (c) This provision shall not prevent the approval agency from determining the application on its merits at the time the application is deemed complete, provided that the provisions of Subsection D(2) hereunder have been carried out by the applicant.
- (2) Meetings and hearings. Where a meeting, hearing or other formal proceeding on an application for development approval in the Pinelands Area is required, the applicant shall provide notice to the Pinelands Commission by e-mail, regular mail or delivery of the same to the principal office of the Commission at least five days prior to such meeting, hearing or other formal proceeding. Such notice shall contain at least the following information:
- (a) The name and address of the applicant;
 - (b) The application number of the Certificate of Filing issued by the Pinelands Commission and the date on which it was issued;
 - (c) The date, time and location of the meeting, hearing or other formal proceeding;
 - (d) The name of the approval agency or representative thereof that will be conducting the meeting, hearing or other formal proceeding;
 - (e) Any written reports or comments received by the approval agency on the application for development that have not been previously submitted to the Commission;
 - (f) The purpose for which the meeting, hearing or other formal proceeding is to be held;

- (g) A copy of the notice to the Pinelands Commission and proof of service thereon shall be filed with the Solicitor of the approval agency at least one week prior to the meeting date.
- (3) Notice of approvals and denials. The Pinelands Commission shall be notified of all approvals and denials of development in the Pinelands Area, whether the approval occurs by action or inaction of any approval agency or an appeal of any agency's decision. The applicant shall, within five days of the receipt of formal written notice of the approval or denial, give notice by e-mail or regular mail to the Pinelands Commission. Such notice shall contain the following information:
- (a) The name and address of the applicant;
 - (b) The legal description and street address, if any, of the parcel that the applicant proposes to develop;
 - (c) The application number of the Certificate of Filing issued by the Pinelands Commission and the date on which it was issued;
 - (d) The date on which the approval or denial was issued by the approval agency;
 - (e) Any written reports or comments received by the approval agency on the application for development that have not been previously submitted to the Commission;
 - (f) Any revisions to the application not previously submitted to the Commission;
 - (g) A copy of the resolution, permit or other documentation of the approval or denial. If the application was approved, a copy of any preliminary or final plan, plot or similar document that was approved shall also be submitted; and
 - (h) A copy of said notice, together with proof of service thereof, shall be filed with the approval agency within two weeks of the notification of same.
- (4) Except as provided in § 380-77B(2), the requirements of § 380-77D shall not apply to the issuance of a preliminary zoning permit or a refusal to issue a preliminary zoning permit for the development of a single-family dwelling on an existing lot of record.

E. Review by Pinelands Commission.

- (1) Upon receipt by the Pinelands Commission of a notice of approval pursuant to Subsection D(3) above, the application for development approval shall be reviewed in accordance with the provisions in N.J.A.C. 7:50-4.37 through N.J.A.C. 7:50-4.42. The approval of the City shall not be effective and no development shall be carried out prior to a determination of whether the development approval will be reviewed by the Commission. If the applicant is notified that the Commission will review the application for development, no development shall be carried out until such review has been completed.

- (2) Until January 14, 1991, approvals issued by the Pinelands Development Review Board or the Pinelands Commission under the interim rules and regulations shall serve as the basis for Pinelands Commission review of the local approval under this section.
 - (3) Although the Pinelands Commission shall be notified of all denials, no such denial actions are subject to further review and action by the Pinelands Commission.
 - (4) Except as provided in § 380-77B(2), the requirements of § 380-77E shall not apply to the issuance of a preliminary zoning permit or a refusal to issue a preliminary zoning permit for the development of a single-family dwelling on an existing lot of record. **[Added by 7-20-1999 by Ord. No. 0-6-99]**
- F. Condition on prior approvals of the City.
- (1) Where a prior approval has been granted by the City, no subsequent approval of an application for development approval shall be obtained until one of the following is satisfied:
 - (a) Notification is received from the Pinelands Commission that review of the City's approval is not required; or
 - (b) Review of the City's approval has been completed pursuant to N.J.A.C. 7:50-4.37 through 7:50-4.42 and a final order regarding the approval is received by the City from the Pinelands Commission.
 - (c) Proof that any adverse determination of the Pinelands Commission has been reversed by an administrative or judicial body having power to do the same and that no further appeal is pending and that all time limitations for said appeal have expired.
 - (2) The above provisions shall not, however, prevent the approval agency from modifying the prior approval, provided that there shall be no subsequent approval of an application for development until the above conditions are met.
 - (3) Except as provided in § 380-77B(2), the requirements of § 380-77F shall not apply to the issuance of a preliminary zoning permit or a refusal to issue a preliminary zoning permit for the development of a single-family dwelling on an existing lot of record. **[Added by 7-20-1999 by Ord. No. 0-6-99]**
- G. Effect of Pinelands Commission decision on City approval. All approvals of applications for variances, site plan approvals or conditional use permits shall be conditioned upon the Pinelands Commission not disapproving the application for the same. No such approval shall be final until notification is received by the Commission that it approves the same or until the provisions of the New Jersey Administrative Code shall have been met, whichever shall later occur. The Commission shall also grant preliminary approval subject to one or more conditions. In such case, the approval agency may, within 60 days, modify its prior approval to include some or all of the conditions imposed by the Commission. If the approval agency does not accept all of the conditions so imposed, the application shall be considered to have been rejected.

- H. Participation of Pinelands Commission in public hearings. The Pinelands Commission may participate in a hearing held in the City involving the development of land in the Pinelands Area pursuant to N.J.A.C. 7:50-4.36.
- I. Environmental Commission review. All applications for major development, forestry and resource extraction shall be referred to the Environmental Commission for review and comment, if the same be established.
- J. Public development. All development proposed by the City or any agency thereof will comply with all the requirements for public development in N.J.A.C. 7:50-4.51 et seq. and, unless a variance be obtained, all the standards set forth in this chapter.
- K. Amendments. In amending this chapter, or any other chapter of the Code of the City of Estell Manor, the City shall comply with all of the requirements of N.J.A.C. 7:50-3.45.

§ 380-78. Fees for applications. [Amended by Ord. No. 86-10]

All applications for a variance, conditional use permit or site plan approval shall be accompanied by the fee and deposit required in § 340-14 of the Code of the City of Estell Manor.

ARTICLE XI

Violations and Penalties

§ 380-79. Zoning Officer. [Amended by Ord. No. 82-6]

This chapter shall be enforced by the Zoning Officer as provided by law. Where financial security is involved, the Zoning Officer shall be furnished with written proof that the required and proper clearance has been authorized. The owner or agent of a building or premises where a violation of the provisions of the regulations shall have been committed or shall exist or the lessee or tenant of any part of the building or premises in which the violation shall have been committed or shall exist or the agent, architect, building contractor or any other workman or person who shall commit, take part or assist in any violation or who shall maintain any building or premises in which any violation of this chapter shall exist, the provisions of Chapter 1, Article II, General Penalty, shall apply.

§ 380-80. Aiding in violations.

Not only the owner or owners of the land in question shall be guilty of a violation of this chapter if they suffer or permit any of the acts herein prohibited to be done to or upon their lands, but any officers, agents, employees or independent contractors of any landowners who, directly or indirectly, aid or abet such acts or who authorize or direct or supervise such acts or bring in or upon the land or use or operate any truck, bulldozer, shovel or other equipment in performing any of the acts prohibited hereunder shall also be guilty of a violation of this chapter and, upon conviction, shall be subject to the penalties provided herein.

§ 380-81. Violations and penalties. [Amended by Ord. No. 93-6; at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

Any violations of this chapter shall be subject to the general penalty provision of Chapter 1, Article II, General Penalty, of the Code of the City of Estell Manor.

ARTICLE XII
Miscellaneous Provisions

§ 380-82. Interpretation and conflict with other laws.

- A. All standards set up in this chapter are to be interpreted as minimum standards required. Nothing herein contained shall be construed to prohibit or prevent the use of higher standards.
- B. Whenever any provisions set forth in this chapter are to be found in conflict with mandatory state or federal laws, the mandatory state or federal laws shall govern and this chapter shall be construed accordingly so that conflict shall not affect the validity of this chapter.⁴³

§ 380-83. Pending applications. [Amended by Ord. No. 78-13]

All applications for development filed prior to February 28, 1978, may be continued, but any appeals arising out of decisions made on such application shall be governed by the provisions of the Municipal Land Use Law, Chapter 291 of the Laws of 1975, N.J.S.A. 40:55D-1 et seq.

ARTICLE XIII
Contribution Disclosure Statements in Major Zoning Variance Applications
[Added 7-5-2000 by Ord. No. 0-5-00]

§ 380-84. Short title.

This article shall be known as the "Contribution Disclosure Ordinance."

§ 380-85. Purpose.

Whereas, municipal Master Plans include well thought out, long-term decisions about the development capacity of community; and whereas, municipal Master Plans are implemented through the enactment of local land use ordinances; and whereas, deviations from these local ordinances by way of variances pursuant to N.J.S.A. 40:55D-70d provide opportunities for significant private gain; and whereas, openness in government and a fair and impartial variance application process are crucial to assuring the continuing integrity of the municipal Master Plan, its implementing ordinances and the integrity of the variance application process; and whereas, disclosure of political contributions by property owners, developers

⁴³ Editor's Note: Original Sec. 10-14, Ancillary powers, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

and professionals will enhance the City's existing commitment to openness in government and provide further guaranties for a fair and impartial variance application process; and whereas, disclosure of political contributions by property owners, developers and professionals will effectuate the purposes of the Municipal Land Use Law to promote morals and the general welfare; therefore, it is accordingly found and determined that the paramount public interest in enhancing the City's commitment to openness in government, in providing further guaranties for a fair and impartial variance application process and in promoting morals and the general welfare through the integrity of the municipal planning process requires the supplementation of the municipal application checklist to mandate the listing of specified political contributions made by property owners, developers and the professionals whose services they use in applications for major zoning variances.

§ 380-86. Definitions.

As used in this article, the following terms shall have the meanings indicated:

APPLICATION CHECKLIST — The list of submission requirements adopted by ordinance and provided by the municipal agency to a developer pursuant to N.J.S.A. 40:55D-10.3.

CONTRIBUTION — Every loan, gift, subscription, advance or transfer of money or other thing of value, including any item of real property or personal property, tangible or intangible (but not including services provided without compensation by individuals volunteering a part or all of their time on behalf of a candidate, committee or organization), made to or on behalf of any candidate, candidate committee, joint candidates committee, political committee, continuing political committee or political party committee and any pledge, promise or other commitment or assumption of liability to make such transfer. For purposes of reports required under the provisions of the section, any such commitment or assumption shall be deemed to have been a contribution upon the date when such commitment is made or liability assumed.

CONTRIBUTION DISCLOSURE STATEMENT — A list specifying the amount, date and the recipient of any and all contributions made to or on behalf of any candidate, candidate committee, joint candidates committee, political committee, continuing political committee or political party committee, of or pertaining to, this municipality, made up to one year prior to filing the variance application and/or during the pendency of the application process, and required to be reported pursuant to N.J.S.A. 19:44A-1 et seq.

DEVELOPER — A developer as defined by N.J.S.A. 40:55D-4, i.e., 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.

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

§ 380-87. Disclosure requirements.

- A. Any applicant for a variance pursuant to N.J.S.A. 40:55D-70d shall include in the application contribution disclosure statements for all developers; all associates of said developers who would be subject to disclosure pursuant to N.J.S.A. 40:55D-48.1 or 40:55D-48.2; and all professionals who apply for or provide testimony, plans or reports in support of said variance and who have an enforceable proprietary interest in the property or development which is the subject of the application or whose fee in whole or part is contingent upon the outcome of the application. Regardless of whether the owner of the property which is the subject of the variance application falls in any of the categories established in the preceding sentence, the applicant shall include in the application a contribution disclosure statement for said owner.
- B. During the pendency of the application process until final site plan approval is granted, any applicant for a variance pursuant to N.J.S.A. 40:55D-70d shall amend its contribution disclosure statements to include continuing disclosure of all contributions within the scope of disclosure requirement of the above subsection.

§ 380-88. Contribution disclosure statements included in application checklist.

- A. An Application Checklist Ordinance is hereby adopted pursuant to N.J.S.A. 40:55D-10.3 to require that the contribution disclosure statements specified in § 380-87 of this article be submitted by the applicant for a variance pursuant to N.J.S.A. 40:55D-70d.
- B. The Municipal Planning Board shall amend its Application Checklist for variances pursuant to N.J.S.A. 40:55D-70d to include the contribution disclosure statements specified in § 380-87 of this article.
- C. An application shall not be deemed complete by the administrative official or accepted for public hearing by the municipal agency until the required contribution disclosure statements are submitted.

§ 380-89. Availability of the disclosure statement.

All contribution disclosure statements shall be available in the office of the administrative officer for review by any member of the public.

§ 380-90. Intent of disclosure statement.

It is the intent of this article that the disclosure statement shall serve to inform the public and not serve as evidence relevant to the decision criteria for variance applications pursuant to N.J.S.A. 40:55D-70d.

ZONING

380 Attachment I

City of Estell Manor

Revised Schedule of Yard, Area and Bulk Requirements
(Part 1)

[Amended 11-14-2018 by Ord. No. 04-2018]

Zone	Use	Minimum Lot Area (acres)	Minimum Lot Frontage (feet)	Minimum Lot Depth (feet)	Maximum Building Coverage as Percent of Lot Area
R-25 Residence	One-family dwellings	25	250	500	10%
	Farms and farm dwellings	25	250	500	10%
	Municipal buildings, etc.	25	250	500	10%
	Private recreation areas	25	250	500	10%
	Residential developments using wetlands density cluster	10	250	500	10%
	Cluster development in accordance with § 380-42N				
R-10 Residence	One-family dwellings	10	250	500	10%
	Farms and farm dwellings	10	250	500	10%
	Municipal buildings, etc.	10	250	500	10%
	Private recreation areas	10	250	500	10%
	Residential developments using wetlands density cluster	5	250	500	10%
	Cluster development in accordance with § 380-42N				
RV Village Residence	One-family dwellings	5	240	500	10%
	Municipal buildings, etc.	5	240	500	10%
	Farm lots	5	240	500	10%
	Neighborhood business (on conditional use permit)	3.2	200	300	15%
	Residential developments using wetlands density cluster	3.2	200	300	10%
	Cluster development in accordance with § 380-42N				
R-5 Residence	One-family dwellings	5	240	500	10%
	Municipal buildings, etc.	5	240	500	10%
	Farm lots	5	240	500	10%
	Private recreation areas	5	240	500	10%
	Residential developments using wetlands density cluster	3.2	200	300	10%
	Cluster development in accordance with § 380-42N				

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Zone	Use	Minimum Lot Area (acres)	Minimum Lot Frontage (feet)	Minimum Lot Depth (feet)	Maximum Building Coverage as Percent of Lot Area
SD Special District	One-family dwellings permitted by § 380-14A(2) and (3) All other permitted uses Cluster development in accordance with § 380-42N	1 3.2	120 200	150 300	10% 10%
HC Highway Commercial	All permitted uses	5	50	300	25%
AP Agricultural Production	All permitted uses	10 ¹	250	500	10%

NOTES:

¹ Except as otherwise provided under § 380-18A and C for residential dwelling units.

ZONING

380 Attachment 2

City of Estell Manor

Revised Schedule of Yard, Area and Bulk Requirements
(Part 2)

Zone	Use	Minimum Yards (feet)				Maximum Height (feet)	Minimum Habitable Floor Area (square feet)
		Front ¹	Side		Rear		
			One	Both			
R-25 Residence	All permitted uses	200	50	125	50	35	750
R-10 Residence	All permitted uses	200	50	125	50	35	750
RV Village Residence	One-family dwellings, municipal buildings, etc. Neighborhood business (conditional use permitted) Residential developments using wetlands density cluster	200 75 200	50 35 35	125 100 100	50 40 40	35 35 35	750 NA 750
R-5 Residence	One-family dwellings, municipal buildings, etc. Residential developments using wetlands density cluster	200 200	50 35	125 100	50 40	35 35	750 750
SD Special District	One-family dwellings permitted by § 380-14A(2) and (3) All other permitted uses	50 200	20 35	50 100	25 40	35 35	750 750
HC Highway Commercial	All permitted uses, other than special industrial developments Special industrial developments	200 ² 200 ²	35 50	100 125	40 50	35 35	— —
AP Agricultural Production	All permitted uses	200	50	125	50	35	750

NOTES:

- 1 As measured from the center line of the road.
- 2 In Pinelands Area. One hundred feet in CAFRA area.

APPENDIX

**DERIVATION
TABLE**

Chapter DT

DERIVATION TABLE

**§ DT-1. Derivation Table of 1974
Revised General Ordinances to
2021 Code.**

In order to assist Code users in the transition to the new Code's organization, the Derivation Table indicates where chapters and sections of the 1974 Revised General Ordinances of the City of Estell Manor have been included in the 2021 Code, or the reason for exclusion.

§ DT-1. Derivation Table of 1974 Revised General Ordinances to 2021 Code.

- NCM = Not Code material (legislation is not general or permanent in nature).
 REP = Repealed effective with adoption of Code; see Ch. 1, Art. III.
 NLP = New legislation is pending.
 N/A = Not applicable or legislation was previously repealed.

Chapter/Title From 1974 Revised General Ordinances	Location in 2021 Code
Ch. I, General	
1-1 and 1-4, Short Title; Severability	NLP; see Ch. 1, Art. III
1-2 and 1-3, Definitions; Construction	Ch. 1, Art. I
Ch. II, Administration	
2-1, Chapter Title	REP
2-2, Clerk	Ch. 70, Art. II
2-2A, Clerk Typist	Ch. 70, Art. X
2-3, City Attorney	Ch. 70, Art. III
2-4, City Engineer	Ch. 70, Art. IV
2-5, Chief Financial Officer	Ch. 70, Art. XI
2-6, Payment of Claims	Ch. 14
2-7, Municipal Tax Assessor (Board of Assessors)	REP
2-7A, Tax Collector	Ch. 70, Art. V
2-8, Department of Public Safety	REP
2-9, Construction Code Enforcement	Ch. 70, Art. VII
2-10, Zoning Officer	Ch. 70, Art. I

Chapter/Title From 1974 Revised General Ordinances	Location in 2021 Code
2-10A, Code Enforcement Officer	Ch. 70, Art. VIII
2-11, Municipal Court	Superseded by Ord. No. 05-2016
2-12, Municipal Public Defender	Superseded by Ord. No. 05-2016
2-13, Planning Board	Ch. 8, Art. I
2-14, Registrar of Vital Statistics	REP; see now Ch. 27, Art. II
2-15, Office of Emergency Management	Ch. 39
2-16 (Reserved)	N/A
2-17, Interlocal Services Agreement (Central Dispatch System)	NCM; expired
2-18, Senior Citizens Advisory Board	REP
2-19, Maintenance Foreman; Laborer	Ch. 70, Art. VI
2-20, Conduct of Municipal Offices and Personnel Policies	Ch. 77, Art. I
2-21, Returned Checks	See Ch. 185, Art. III
2-22, Fees	REP
2-22A, Fees for Copies of Government Records	
1 through 3	Ch. 185, Art. I
4 and 5	See Ch. 185, Art. III
2-22B, Municipal Court Discovery Fees	Ch. 185, Art. II
2-23, Partial Forgiveness of City Grants	REP
2-24, 911 Coordinator and Deputy 911	Ch. 70, Art. IX
2-25, Award of Bids for Construction Projects	Ch. 22, Art. I
2-26, Defense and Indemnification	Ch. 31
2-27, Political Fund-Raising	Ch. 77, Art. II
2-28, Veterans Advisory Board	REP
2-29, Defined Contribution Retirement Program	Ch. 77, Art. III
2-30, Competitive Negotiation for Professional Service Contracts	Ch. 22, Art. II
Ch. III, General Police Regulations	
3-1, Litter	Ch. 249

Chapter/Title From 1974 Revised General Ordinances	Location in 2021 Code
3-2, Nuisances	REP
3-3, Turkey Farms Prohibited	REP
3-4, Disposal of Trash, Paper and Garbage (Sanitary Landfill)	REP
3-5, Cutting or Removal of Trees Prohibited	Ch. 357, Art. I
3-6, Deer Driving	Ch. 119, Art. II
3-7, Penalty	Ch. 1, Art. II
3-8, Police, Fire and Emergency Alarms	Ch. 110, Art. I
3-9, Trespassing	Ch. 361
3-10, Discourteous and/or Inconvenient, Annoying and/or Alarming Conduct from Operation and/or Use of Motor Vehicles	REP
Ch. IV, Licensing - General	
4-1, General Provisions	REP
4-2, Peddlers, Hawkers, Canvassers and Vendors	Ch. 285, Art. I
4-3 (Reserved)	N/A
4-4, Cutting and Harvesting of Trees	Ch. 357, Art. II
4-5, Construction Trailers, Mobile Homes and Mobile Home Parks	REP; see now Ch. 380, Zoning
4-6, Garage Sales	Ch. 212
4-7, Limitation on Numbers of Campground Licenses and Campsites	Ch. 142, Art. II
4-8 (Reserved)	N/A
4-9, Games of Chance	Ch. 207, Art. I
Ch. V, Alcohol Beverage Control	
5-1 through 5-5, Licensing and Regulations	Ch. 114, Art. I
5-6, Possession or Consumption by Minors on Private Property	Ch. 114, Art. II
Ch. VI, Dogs	Ch. 119, Art. I
Ch. VII, Buildings and Housing	
7-1, Uniform Construction Code	Ch. 155, Art. I
7-2, Housing Code	Ch. 234, Art. I

Chapter/Title From 1974 Revised General Ordinances	Location in 2021 Code
7-3, Numbering of Property	Ch. 268
7-4, Waiving of Construction Permit and Enforcing Agency Fees for Work Done to Promote Accessibility by Disabled Persons	Ch. 155, Art. II
7-5, Exemption for the Payment of any Fee Charged in Connection with any Application for Development which Promotes Accessibility by a Disabled Person to their own Living Unit	Ch. 155, Art. III
7-6, Temporary Housing	Ch. 234, Art. II
Ch. VIII, Streets and Soil Removal	
8-1, Excavations in Public Streets	Ch. 336, Art. I
8-2, Construction and Paving of Public Rights-of-Way	Ch. 336, Art. II
8-3, Soil Removal	Ch. 315
8-4, Obstruction of Rights-of-Way	Ch. 336, Art. III
Ch. IX, Land Subdivision	Ch. 340
Ch. X, Zoning	Ch. 380
Ch. XI, Fire Department	
11-1 through 11-6, Volunteer Fire Company	Repealed by Ord. No. 05-2015; see now Ch. 48, Art. I
11-7, Length of Service Awards Program	Ch. 48, Art. II
Ch. XII, Fire Prevention	Ch. 194
Ch. XIII, Flood Damage Prevention	Superseded by Ord. No. 02-2014 see now Ch. 200
Ch. XIV, Genetically Engineered Microorganisms	REP
Ch. XV, Drug-Free School Zones	Ch. 171, Art. I
Ch. XVI, Solid Waste	
16-1, Recycling	Ch. 321, Art. I
16-2, Collection	Ch. 321, Art. II
Ch. XVII, Solicitations in Roadways by Charitable Organizations	Ch. 285, Art. II
Ch. XVIII, Stormwater Management	
Part 1, Locations Within Pinelands Management Areas	Ch. 330, Part 1
Part 2, Locations Outside Pinelands Management Areas	Ch. 330, Part 2

Chapter/Title From 1974 Revised General Ordinances	Location in 2021 Code
Ch. BH-I, General	REP
Ch. BH-II, Public Health Nuisance Code	REP
Ch. BH-III, Private Campgrounds	Ch. 142, Art. I

**DISPOSITION
LIST**

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

The following is a chronological listing of legislation of the City of Estell Manor reviewed for codification, indicating for each its inclusion in the Code or the reason for exclusion. (Enabling legislation which is not general and permanent in nature is considered to be non-Code material [NCM].) Information regarding legislation which is not included in the Code nor on this list is available from the office of the City Clerk. The last legislation reviewed for the 2021 publication of the Code was Ord. No. 02-2019, adopted June 10, 2019.

§ DL-1. Disposition of legislation.

Ord. No.	Adoption Date	Subject	Disposition
0-7-98		Capital Expenditure	NCM
0-8-98		Capital Expenditure	NCM
0-9-98		Salaries	NCM
0-1-99		1999 Cap Ordinance	NCM
0-2-99	4-21-1999	Construction Code: Waiver of Construction Permit Fees to Promote Accessibility	Ch. 155, Art. II
0-3-99	4-21-1999	Construction Code: Exemption From Development Fees to Promote Accessibility	Ch. 155, Art. III
0-4-99		Salaries	NCM
0-5-99	7-20-1999	Officers and Employees: Registrar of Vital Statistics; Board of Health Abolished	Ch. 70, Art. IX; repealer only
0-6-99	7-20-1999	Zoning Amendment	Ch. 380
0-7-99	7-20-1999	Zoning Amendment	Ch. 380
0-8-99	7-20-1999	Court, Municipal: Municipal Public Defender Amendment	Repealed by Ord. No. 05-2016
0-9-99		Cooperative Pricing Agreement	NCM
0-10-99	8-31-1999	Fire Department: Length of Service Awards Program	Ch. 48, Art. II

Ord. No.	Adoption Date	Subject	Disposition
0-11-99	9-21-1999	Emergency Management	Ch. 39
0-12-99	9-21-1999	Officers and Employees: 911 Coordinator and Deputy 911 Coordinator	Ch. 70, Art. X
0-13-99	12-2-1999	Zoning Amendment	Ch. 380
0-1-00		2000 Cap Ordinance	NCM
0-2-00	6-7-2000	Officers and Employees: Clerk Typist	Ch. 70, Art. XI
0-3-00	6-7-2000	Officers and Employees: Maintenance Foreman; Laborer	Ch. 70, Art. VI
0-4-00		Salaries	NCM
0-5-00	7-5-2000	Zoning Amendment	Ch. 380
0-6-00		Appropriation	NCM
03-01	5-2-2001	Vehicles and Traffic: Speed Limits	Ch. 377, Art. I
05-01	7-11-2001	Zoning Amendment	Ch. 380
06-01	7-11-2001	Boards, Committees and Commissions: Planning Board Amendment	Ch. 8, Art. I
07-01	7-11-2001	Repeal of Ord. No. 93-8	NCM
08-01	7-11-2001	Officers and Employees: Chief Financial Officer	Ch. 70, Art. XII
09-01	8-1-2001	Contracts: Award of Bids for Construction Projects	Ch. 22, Art. I
11-01	9-5-2001	Street Vacation	NCM
13-01	10-3-2001	Trespassing	Ch. 361
14-01	10-3-2001	Street Vacation	NCM
16-01		Street Vacation	NCM
	4-10-2002	Subdivision of Land: Land Use Fees Amendment	Ch. 340
05-02	7-10-2002	SMOKING	Repealed by Ord. No. 04-2015
07-02	11-6-2002	Zoning Amendment	Ch. 380

Ord. No.	Adoption Date	Subject	Disposition
03-03	4-2-2003	Zoning Amendment	Ch. 380
04-03		Municipal Court Discovery Fees	Superseded by Ord. No. 13-04
05-03	5-7-2003	Streets and Sidewalks: Street Construction and Paving Amendment	Ch. 336, Art. II
06-03	7-2-2003	Flood Damage Prevention Amendment	Superseded by Ord. No. 02-2014
07-03	12-17-2003	Zoning Amendment	Ch. 380
03-04	6-2-2004	Fee: Records	Ch. 185, Art. II
07-04	8-8-2004	Ballot Question on Election of Mayor	NCM
08-04	10-6-2004	Fire Department: Volunteer Fire Company Amendment	Repealed by Ord. No. 05-2015
09-04	8-4-2004	Defense and Indemnification	Ch. 31
10-04	11-3-2004	Subdivision of Land: Land Use Fees Amendment	Ch. 340
11-04	12-15-2004	Zoning Amendment	Ch. 380
13-04	12-15-2004	Fees: Municipal Court Discovery Fees	Ch. 185, Art. III
04-2005		Salaries	NCM
05-2005		Sale of Property	NCM
06-2005	9-7-2005	Street Vacation	NCM
07-2005		Sale of Property	NCM
08-2005		Sale of Property	NCM
09-2005		Accept Deed of Property	NCM
10-2005	11-2-2005	Street Vacation	NCM
02-2006	2-1-2006	Personnel Policies: Political Fund-Raising	Ch. 77, Art. II
07-2006	8-2-2006	Zoning Amendment	Ch. 380
08-2006	10-4-2006	General Provisions: General Penalty Amendment	Ch. 1, Art. II

Ord. No.	Adoption Date	Subject	Disposition
09-2006	10-4-2006	Boards, Committees and Commissions: Senior Citizens Advisory Board	Ch. 8, Art. II
10-2006	10-4-2006	Boards, Committees and Commissions: Veterans Advisory Board	Ch. 8, Art. III
11-2006		Exceed Budget Cap	NCM
13-2006		Sale of Property	NCM
14-2006		Appropriation	NCM
15-2006	12-6-2006	Industrial Advisory Committee Repealer	Repealer only
16-2006	12-13-2006	Contracts: Competitive Negotiation for Professional Contracts	Ch. 22, Art. II
17-2006	12-13-2006	Applications for Appointed Municipal Positions	Repealed by Ord. No. 4-2009
01-2007	2-7-2007	Stormwater Management: Locations Within Pinelands Management Areas	Ch. 18, Part 1
03-2007	2-7-2007	Stormwater Management: Locations Outside Pinelands Management Areas	Ch. 18, Part 2
04-2007	3-13-2007	Zoning Amendment	Ch. 380
05-2007	3-13-2007	Subdivision of Land: Land Use Fees Amendment	Ch. 340
06-2007		Exceed Budget Cap	NCM
07-2007		Salaries	NCM
08-2007		Acceptance of Property	NCM
09-2007	5-2-2007	Fees: Records Amendment	Ch. 185, Art. II
10-2007	6-6-2007	Games of Chance: Raffles	Ch. 207, Art. I
11-2007	6-6-2007	Zoning Amendment	Ch. 380
12-2007		Acceptance of Property Amendment	NCM
14-2007		Salaries	NCM

Ord. No.	Adoption Date	Subject	Disposition
15-2007	11-7-2007	Payment of Taxes Prior to Issuance of License or Permit	Repealed by Ord. No. 10-2008
01-2008	3-5-2008	Officers and Employees: Clerk Amendment	Ch. 70, Art. II
02-2008	4-16-2008	Exceed Budget Cap	NCM
03-2008	6-4-2008	Campgrounds: Limitation on Campground Licenses and Campsites Amendment; Zoning Amendment	Superseded by Ord. No. 09-2008
04-2008	8-6-2008	Appropriation	NCM
05-2008	8-6-2008	Personnel Policies: Defined Contribution Retirement program	Ch. 77, Art. III
06-2008	9-3-2008	Salaries	NCM
07-2008	9-3-2008	Nuisances: Nuisances Caused by Vehicles	Ch. 263, Art. III
08-2008	10-15-2008	Appropriation	NCM
09-2008	11-5-2008	Campgrounds: Limitation on Campground Licenses and Campsites Amendment; Zoning Amendment	Ch. 142, Art. II; Ch. 380
10-2008	12-3-2008	Repeal of Ord. No. 15-2007, Payment of Taxes Prior to Issuance of License or Permit	Repealer only
01-2009	4-1-2009	Municipal Court	Repealed by Ord. No. 05-2016
02-2009	5-6-2009	Exceed Budget Cap	NCM
03-2009	5-6-2009	Salaries	NCM
04-2009	6-3-2009	Open Applications Repealer (Repeals Ord. No. 17-2006)	Repealer only
05-2009	10-7-2009	Games of Chance: Raffles Amendment	Ch. 207, Art. I
06-2009			Not adopted
07-2009			Not adopted
08-2009	12-2-2009	Housing: Temporary Housing	Ch. 234, Art. II

Ord. No.	Adoption Date	Subject	Disposition
09-2009	12-2-2009	Streets and Sidewalks: Obstruction of Rights-of-Way	Ch. 336, Art. III
01-2010	4-7-2010	Salaries	NCM
02-2010	5-5-2010	Exceed Budget Cap	NCM
03-2010	11-3-2010	Alcoholic Beverages: Possession and Consumption by Minors on Private Property	Ch. 114, Art. II
04-2010	12-1-2010	Sale of Certain City Property	NCM
05-2010	12-1-2010	Personnel Policies: Department of Public Safety Standard Operating Procedures	Repealed by Ord. No. 11- 2014
01-2011	4-6-2011	Exceed Budget and Establish Cap Bank	NCM
02-2011	9-7-2011	Salaries Amendment	NCM
03-2011	11-2-2011	Sale of Property	NCM
01-2012	3-7-2012	Exceed Budget and Establish Cap Bank	NCM
02-2012	6-6-2012	Subdivision of Land Amendment	Ch. 340
03-2012	6-6-2012	Exceed Budget and Establish Cap Bank	NCM
04-2012	11-14-2012	Appropriation	NCM
01-2013	3-13-2013	Exceed Budget and Establish Cap Bank	NCM
02-2013	8-14-2013	Sale of Property	NCM
01-2014	3-12-2014	Fees: Fees for City Services	Ch. 185, Art. IV
02-2014	6-11-2014	Flood Damage Prevention	Ch. 200
03-2014	4-9-2014	Property Maintenance	Ch. 292
04-2014	4-9-2014	Exceed Budget and Establish Cap Bank	NCM
05-2014	4-9-2014	Appropriation	NCM
06-2014	5-14-2014	Salaries Amendment	NCM
07-2014	6-11-2014	Emergency Appropriation for Codification	NCM

Ord. No.	Adoption Date	Subject	Disposition
08-2014	6-11-2014	Appropriation	NCM
09-2014	8-13-2014	Franchise Agreement: South Jersey Gas Company	NCM
10-2014	8-13-2014	Parks, Playgrounds and Recreation Areas	Ch. 280
11-2014	8-13-2014	Personnel Policies: Standard Operating Procedures Manual for Safety	Ch. 77, Art. IV
01-2015	2-11-2015	Exceed Budget and Establish Cap Bank	NCM
02-2015	3-11-2015	Conveyance of Land	NCM
03-2015	3-11-2015	Boards, Committees and Commissions: Senior Citizen Advisory Board Amendment	Ch. 8, Art. II
04-2015	3-11-2015	Smoking and Tobacco Products: Smoke-Free City-Owned Property	Ch. 310, Art. I
05-2015	5-13-2015	Fire Department: Volunteer Fire Company	Ch. 48, Art. I
01-2016	2-10-2016	Exceed Budget and Establish Cap Bank	NCM
02-2016	2-10-2016	Property, Abandoned and Vacant: Abandoned Property List; Maintenance Requirements	Ch. 289, Art. I
03-2016	5-11-2016	Appropriations	NCM
04-2016	5-11-2016	Acquisition of Real Property	NCM
05-2016	11-22-2016	Regional Municipal Court	Ch. 27
01-2017	3-8-2017	Exceed Budget and Establish Cap Bank	NCM
02-2017	3-8-2017	Salaries Amendment	NCM
03-2017	3-8-2017	Authorizing Sale of Property	NCM
04-2017	3-8-2017	Authorizing Sale of Property	NCM
01-2018	3-14-2018	Exceed Budget and Establish Cap Bank	NCM

Ord. No.	Adoption Date	Subject	Disposition
02-2018			Not adopted
03-2018	10-10-2018	Salaries Amendment	NCM
04-2018	11-14-2018	Subdivision of Land Amendment; Zoning Amendment	Ch. 340; Ch. 380
01-2019	4-10-2019	Exceed Budget and Establish Cap Bank	NCM
02-2019	6-10-2019	Sale of Property	NCM

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