

Part I, Administrative Legislation

Chapter 1

GENERAL PROVISIONS

ARTICLE I

**Adoption of Code by Mayor and Council
[Adopted 10-3-2005 by Ord. No. 19-2005]****§ 1-1. Adoption of Code.**

Pursuant to N.J.S.A. 40:49-4, the ordinances of the Borough of Tuckerton of a general and permanent nature adopted by the Mayor and Council of the Borough of Tuckerton, as revised, codified and consolidated into chapters and sections by General Code Publishers Corp., and consisting of Chapters 1 through 255, together with an Appendix, are hereby approved, adopted, ordained and enacted as the "Code of the Borough of Tuckerton," hereinafter known and referred to as the "Code."

§ 1-2. Code supersedes prior ordinances.

This ordinance and the Code shall supersede all other general and permanent ordinances enacted prior to the enactment of this Code, including the Code published in 1974, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

§ 1-3. When effective.

This ordinance shall take effect immediately upon passage and publication according to law.

§ 1-4. Copy of Code on file.

A copy of the Code in loose-leaf form has been filed in the office of the Borough Clerk and shall remain there for use and examination by the public until final action is taken on this ordinance; and, if this ordinance shall be adopted, such copy shall be certified to by the Clerk of the Borough of Tuckerton by impressing thereon the Seal of the Borough, as provided by law, and such certified copy shall remain on file in the office of the Clerk of the Borough, to be made available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-5. Amendments to Code.

Any and all additions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intent of the governing body to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Borough of Tuckerton" shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto.

§ 1-6. Publication; filing.

The Clerk of the Borough of Tuckerton, pursuant to law, shall cause this Adopting Ordinance to be published, in the manner required, in a newspaper of general circulation in the Borough. Sufficient copies of the Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this Adopting Ordinance, coupled with availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Code book to be kept up-to-date.

It shall be the duty of the Clerk or someone authorized and directed by the Clerk to keep up-to-date the certified copy of the book containing the Code required to be filed in his or her office for the use of the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-8. Sale of Code book.

Copies of the Code, or any chapter or portion of it, may be purchased from the Clerk, or an authorized agent of the Clerk, upon the payment of a fee to be set by the Mayor and Council. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

§ 1-9. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Borough of Tuckerton to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to one or more of the following: a fine of not more than \$1,250, imprisonment for not more than 90 days or a period of community service not exceeding 90 days, in the discretion of the Judge imposing the same.

§ 1-10. Severability of Code provisions.

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-11. Severability of ordinance provisions.

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-12. Inconsistent ordinances repealed.

All ordinances or parts of ordinances inconsistent with the provisions contained in the Code adopted by this ordinance are hereby repealed; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Borough of Tuckerton which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.

§ 1-13. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-12 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to 4-15-2004.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered, prior to the effective date of this ordinance, brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing of grade, changing of name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance or resolution appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the Borough's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract, agreement or obligation.
- I. The levy or imposition of taxes, assessments or charges or the approval of the municipal budget.
- J. The dedication of property or approval of preliminary or final subdivision plats.
- K. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees.
- L. Any ordinance adopting or amending the Zoning Map.
- M. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees.

§ 1-14. Changes in previously adopted ordinances.

- A. In compiling and preparing the ordinances for adoption and revision as part of the Code pursuant to N.J.S.A. 40:49-4, certain grammatical changes and other minor changes were made in one or more of said ordinances. It is the intention of the Mayor and Council that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.

- B. In addition, the changes, amendments or revisions as set forth in Schedule A¹ attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)
- C. Schedule B² attached hereto and made a part hereof is a listing of ordinances adopted subsequent to the printing of the code.

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1. **Editor's Note:** In accordance with § 1-14B, the chapters, parts and sections which were added, amended, adopted or deleted by this ordinance are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article I. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, deleted) 10-3-2005 by Ord. No. 19-2005." Schedule A, which contains a complete description of all changes, is on file in the Borough offices.
 2. **Editor's Note:** See the Disposition List near the back of this volume for information on ordinances adopted subsequent to the printing of the Code.

Chapter 6**ADMINISTRATION OF GOVERNMENT****GENERAL REFERENCES**

Officers and employees — See Ch 60.

§ 6-1. Rules of Council. [Amended 8-2-2010 by Ord. No. 18-2010]

- A. Presiding officer. The Mayor shall preside at all meetings of the Borough Council; and in the absence of the Mayor, the Council President shall preside. Should both be absent, the senior member of the Borough Council shall preside. The Mayor shall:
- (1) Appoint, with the advice and consent of the Borough Council, special and standing committees of the Borough Council.
 - (2) Preside at all meetings of the Borough Council.
 - (3) State the question and announce the result of all matters upon which the Borough Council votes.
 - (4) With the assistance of the Borough Attorney, rule on all questions of order, subject to appeal to the Borough Council as a whole.
 - (5) Have such other functions, powers and duties as may from time to time be prescribed by general law, ordinance or resolution.
- B. Borough Clerk. The Borough Clerk shall serve as Clerk of the Borough Council in accordance with this chapter.
- C. Agenda. An agenda for each regular meeting of the Borough Council shall be prepared by the Borough Clerk, at the discretion of the Mayor or any member of the Borough Council.
- D. Quorum call. At the opening of each meeting of the Borough Council, the Borough Clerk shall call the roll, and the names of those present shall be recorded in the minutes.
- E. Order of business. The order of business at the meetings shall be as follows:
- (1) Call meeting to order.
 - (2) Sunshine statement.
 - (3) Salute to flag.
 - (4) Roll call.
 - (5) Approval of minutes.
 - (6) Reports of officers and committees.
 - (7) Presentation of public comments and questions.

- (8) Adjournment.
- F. Roll call vote; signing of minutes. The vote upon every resolution or ordinance shall be taken by roll call, and the yeas and nays shall be entered on the minutes. The minutes of each meeting shall be signed by the presiding officer and by the Borough Clerk.
- G. Addressing the Borough Council.
 - (1) Any person may petition the presiding officer for permission to address the Borough Council, which shall be granted only after a showing to the satisfaction of the presiding officer that the subject matter of the address deserves the time and attention of the Borough Council.
 - (2) Each person addressing the Borough Council shall give his name and address in an audible tone of voice. All remarks shall be addressed to the Borough Council as a body and not to any member thereof. No person, other than members of the Borough Council and the person having the floor, shall be permitted to enter any discussion, either directly or through a member of the Borough Council, without the permission of the presiding officer.

§ 6-2. Departments. [Amended 5-3-2010 by Ord. No. 10-2010]

- A. The Mayor may, with the advice and consent of the Borough Council, appoint a committee of the Borough Council and a chair thereof for each department of the Borough.
- B. Departments.
 - (1) Departments shall include the following:
 - (a) Department of Finance.
 - (b) Department of Public Works.
 - (c) Department of Law and Public Safety.
 - (d) Department of Administration and Regulation.
 - (e) Department of Legislation.
 - (f) Department of Public Buildings and Grounds and Community Affairs.
 - (g) Department of Water and Sewer Service.
 - (2) The chair of the department, subject to the Code and the approval or direction of the Mayor and Borough Council, shall:
 - (a) Prescribe the internal organization of the work of his department.
 - (b) Direct and supervise the subordinate officers and employees of the department and make, alter and enforce individual work assignments.
 - (c) Preliminarily approve or disapprove of payrolls, bills and claims chargeable to the departmental appropriations.

- (d) Maintain such records of work performance and unit costs thereof as may be approved or required by the Mayor and Borough Council.
- (e) Provide such information and reports on the work of the department as may from time to time be required by the Mayor and Borough Council.
- (f) Exercise such other or different powers of administrative supervision and direction as the Mayor and Borough Council may delegate to him.

§ 6-3. Council meeting schedule.

The Borough Council shall meet during the first seven days of January. Thereafter, the Borough Council shall meet regularly within the Borough at such times and places as provided by the rules of Borough Council.

§ 6-4. Adoption of ordinances and resolutions.

- A. Borough ordinances shall be prepared by the Borough Attorney and submitted, in writing, at a meeting of the Borough Council and passed at a subsequent meeting. No ordinance may be passed without a majority vote of the Borough Council. The Mayor is to have no vote except in the event of a tie.
- B. Resolutions may be passed only by the vote of a majority of the Borough Council. The Mayor is to have no vote except in the event of a tie.

§ 6-5. President of Council.

The Borough Council, at its annual meeting, shall, by a vote of majority, elect from its number a President of Council, who shall preside at all its meetings when the Mayor does not preside. He shall hold office for one year. He shall have the right to debate and vote on all questions before the Borough Council. If the Borough Council at its annual meeting fails to elect a President, the Mayor shall appoint a President from the Borough Council and in that case no confirmation from the Borough Council shall be necessary.

§ 6-6. Powers and duties of Mayor.

- A. The Mayor shall preside over all meetings of the Borough Council but shall not vote except to give the deciding vote in the event of a tie.
- B. The Mayor shall nominate, with the advice and consent of the Borough Council, all appointed officials in the Borough.
- C. The Mayor shall have all the powers granted by the state and the ordinances of the Borough.
- D. The Mayor shall see that the laws of the state and the ordinances of the Borough are faithfully executed and shall recommend to the Borough Council such measures as he may deem necessary for the welfare of the Borough.

§ 6-7. Borough Clerk.

- A. The Borough Clerk shall serve as the Clerk of the Council. He/she shall attend all Borough Council meetings and keep minutes of the proceedings. The minutes of each meeting shall be signed by the presiding officer and by the Borough Clerk.
- B. The Borough Clerk shall record all ordinances and resolutions of a permanent character in books to be provided for that purpose. After each ordinance, he/she shall also record and certify the proof of publication. Each ordinance so recorded shall be signed by the Mayor.
- C. The Borough Clerk shall have custody of and keep all records, books and documents of the Borough, except those committed by resolution to any other office or transferred thereto by the Borough Council.
 - (1) He/she shall, upon request and the payment of fees prescribed by resolution of the Borough Council for the use of the Borough, furnish a certified copy of any such paper in his/her custody under the Corporate Seal of the Borough.
 - (2) The Borough Clerk shall cause the Corporate Seal of the Borough to be affixed to instruments and writings when authorized by ordinance or resolution of the Borough Council or when necessary to exemplify any document on record in his/her office or to certify any act or record or paper which from the records in his/her office appears to have been a public act of the Borough or a public document. He/she shall not affix the Seal or cause or permit it to be affixed to any other instrument or writing or other paper unless required by law, ordinance or resolution of the Borough Council.
- D. The Borough Clerk, subject to the supervision of the Mayor and Council, shall:
 - (1) Be the depository and custodian of all official surety bonds furnished by or on account of any officer or employee, except his/her own bond, which shall be placed in the custody of the Treasurer of all insurance policies upon or with respect to risks insured for the benefit of the Borough or to protect it against any claim, demand or liability whatsoever, and all formal contracts for work, labor, services, supplies, equipment and materials to which the Borough may be a party.
 - (2) Be the depository for and have custody of all performance bonds running to the Borough as obligee or any other form of security given by any contractor, developer or other person on account of work done or to be done in or for the Borough.
 - (3) Have custody of all deeds, easements, rights-of-way, leases, etc., owned by or leased to the Borough.
 - (4) Report to the Borough Council 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.

§ 6-8. Filing of rules and regulations.

No rule made by any department, officer, agency or authority of the Borough, except such as relates to the internal management of the Borough or a part thereof, shall take effect until it is filed with the Borough Clerk. The Borough Clerk shall maintain a current compilation of all such rules and regulations which shall be available for public inspection in his/her office during business hours.

§ 6-9. Additional powers and duties of Clerk.

In addition to such other functions, powers and duties as may be prescribed by ordinance and subject to the supervision and direction of the Borough Council, the Borough Clerk may:

- A. Perform all the functions of municipal clerks required by the general election law and any other law and ordinance.
- B. Administer the provisions of Borough 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.
- C. Have such other additional and different functions, powers and duties as may be prescribed by law or ordinance or delegated to him/her by the Mayor and Borough Council.

§ 6-10. Deputy Clerk. [Amended 5-3-2010 by Ord. No. 5-2010]

There may be a Deputy Clerk, appointed by the Mayor, with the advice and consent of the Borough Council, who shall have, exercise and perform the functions, powers and duties of the Borough Clerk in the absence or upon the direction of the Borough Clerk.

Chapter 11**CLAIMS APPROVAL****§ 11-1. Bills of demand.**

Any person claiming payment from the municipality shall present a detailed bill of demand (N.J.S.A. 40A:5-16) to the Municipal Clerk, duly certified or, in the alternative, supported by an affidavit of the claimant.

§ 11-2. Signature of receiving officer required.

It shall be the duty of the Clerk to see that the signature of the officer or employee, who has been duly designated by the local unit to certify that the materials have been received by or the services rendered to the local unit, appears on every claim (N.J.S.A. 40A:5-16).

§ 11-3. Approval of committee chairman.

Claims shall then be presented to the chairman of the committee responsible for the placing of the order who, if satisfied the claims are proper, shall approve the same. After such approval is given, the chairman shall file the claims with the Municipal Clerk, who shall then present these claims to the governing body for formal approval at a regular meeting.

§ 11-4. Approval of Mayor.

Where the Mayor does not approve claims prior to the time they are presented to the governing body for approval, it shall be his duty to incorporate in the official minutes, by signing the approving resolution or by approving the schedule of claims approved by the governing body, that he has examined the same and has officially approved the same for payment.

§ 11-5. Disapproved claims.

Claims shall be considered by the governing body which shall approve the same, except that said governing body may reject any claim presented to it stating the reason for such rejection. Any disapproved claim shall be referred back to the Municipal Clerk with such instructions as the governing body may give at the time of disapproval.

§ 11-6. Record of all claims.

It shall be the duty of the Municipal Clerk to record all claims in the official minutes indicating that the governing body has by formal action approved the same with appropriate record as to any claims disapproved or rejected.

§ 11-7. Notation of approval.

It shall be the duty of the Municipal Clerk, or such other officer designated by resolution of the governing body, to indicate on said claims that they have been approved for payment, with the date of approval thereof noted on the claim.

§ 11-8. Preparation of checks for payment.

After the Clerk has certified that the claims have been approved, he shall turn the same over to the Treasurer or other chief financial officer, who shall forthwith prepare the necessary checks for the payment thereof, which said checks shall be signed by the Mayor or President of Council and the Municipal Clerk and thereafter countersigned by the Treasurer or other chief financial officer. After preparing checks for the payment of claims, he shall record them in proper books of account and thereafter mail or otherwise distribute the checks to the claimants.

§ 11-9. Payrolls.

In the case of payrolls, the appropriate department heads, or such officer or employee as may be designated by resolution of the governing body, shall prepare the necessary payrolls for all employees, which payrolls shall be duly certified by the person authorized to certify that the services have been rendered and the amount specified is in fact due and owing to the employee or employees. Said payroll shall then be approved by the department head responsible therefor and presented to the governing body for approval and, after approval, shall be paid in due course.

§ 11-10. Traveling expenses.

In the case of reimbursement for actual and necessary traveling expenses, itemized claims, supported by receipts where available, should be presented in order to obtain reimbursement for expenses incurred by local officials where authorized to travel by the municipality.

Chapter 15**COURT****GENERAL REFERENCES**

Defense and indemnification — See Ch. 18.

Salaries and compensation — See Ch. 71.

Municipal Attorney — See Ch. 60, Art. I.

§ 15-1. Establishment.

A municipal court for the Borough of Tuckerton in the County of Ocean is established as of August 15, 1959, pursuant to the provisions of Chapter 264 of the Laws of 1948, as amended and supplemented.³

§ 15-2. Name of court.

The name of the municipal court shall be the "Municipal Court of the Borough of Tuckerton."

§ 15-3. Seal.

The Municipal Court shall have a seal which shall bear the impress of the name of the court.

§ 15-4. Office of Municipal Judge; term.

There shall be a Municipal Judge of said Municipal Court who shall be appointed by the Mayor and Borough Council and who shall serve for a term of three years from the date of his appointment and until his successor is appointed and qualified.

§ 15-5. Salary of Municipal Judge. [Amended 10-3-2005 by Ord. No. 19-2005]

The Municipal Judge shall receive an annual salary as shall be fixed and determined by the annual Salary Ordinance,⁴ the said salary to be paid in the same manner as the salaries of other municipal officers are paid and which shall be in lieu of all fees, costs and any other allowances whatsoever.

§ 15-6. Municipal Court Administrator; salary. [Amended 3-21-1994 by Ord. No. 5-1994]

There shall be an Administrator of the Municipal Court who shall be appointed by the Mayor and Borough Council to serve for a term of three years from the date of appointment and until a successor is appointed and qualified. The Administrator of the Municipal Court shall receive an annual salary as shall be fixed and determined by the annual Salary Ordinance,⁵ said salary to be paid in the same manner as the salaries of other municipal officers are paid and which shall be in lieu of all fees, costs and any other allowances whatsoever.

3. Editor's Note: Chapter 264 of the Laws of 1948 was repealed by Chapter 293 of the Laws of 1993. See now N.J.S.A. 2B:12-1 et seq.

4. Editor's Note: See Ch. 71, Salaries and Compensation.

5. Editor's Note: See Ch. 71, Salaries and Compensation.

§ 15-7. Municipal Prosecutor. [Added 10-3-2005 by Ord. No. 19-2005; amended 5-3-2010 by Ord. No. 6-2010]

The Mayor, with the advice and consent of the Borough Council, may designate any licensed member of the Bar of the State of New Jersey as Municipal Prosecutor, whose duties shall be to appear before the Municipal Court in all cases, where requested, and to present to and prosecute said cases before the Court and to assist the general public and the Police Department in the preparation of complaints, when requested by the Chief of Police or such person acting on his behalf. The Borough Council may provide for the compensation of the Municipal Prosecutor.

§ 15-8. Municipal Violations Clerk. [Added 10-3-2005 by Ord. No. 19-2005; amended 5-3-2010 by Ord. No. 7-2010]

The Mayor, with the advice and consent of the Borough Council, shall appoint a Violations Clerk, who shall perform such duties as may be required of him by statute or by direction of the Court. The Violations Clerk shall receive an annual salary, which shall be paid in the same manner as the salaries of other municipal officers are paid.

§ 15-9. Location of court.

The Municipal Court shall be held in the Tuckerton Fire House, Tuckerton, New Jersey, or any other place as determined by resolution by the Mayor and Borough Council.

§ 15-10. Duty of Municipal Judge.

The Municipal Judge shall sit at such times as the business of the court may require, subject to the rules applicable to municipal courts.

§ 15-11. Public Defender. [Added 5-21-1990 by Ord. No. 10-1990]

- A. Position created. There is hereby created the position of Public Defender.
- B. Qualifications. The Public Defender shall be an attorney at law of the State of New Jersey.
- C. Appointment and term of office. The Public Defender shall be appointed by the Mayor with the advice and consent of the Borough Council. He shall serve for a term of one year commencing on January 1 and thereafter until his successor has been appointed and qualified. In the event that more than one Public Defender is appointed, the Mayor shall designate, with the advice and consent of the Borough Council, a Chief Municipal Public Defender who shall have authority over the other public defenders serving the Municipal Court with respect to the performance of their duties. **[Amended 3-2-1998 by Ord. No. 4-1998]**
- D. Duties. The Public Defender shall defend indigent persons in the Municipal Court of the Borough of Tuckerton upon being requested to do so by the Municipal Judge and shall perform such other duties as may be required by the Rules of Court or state statute.
- E. Compensation. The Public Defender shall be paid in accordance with contracts entered into with the Borough of Tuckerton in accordance with the requirements of the Local Public Contracts Law.⁶

6. Editor's Note: See N.J.S.A. 40A:11-1 et seq.

- F. Any person applying for representation by the Public Defender shall pay an application fee of not more than \$200, but only in an amount necessary to pay the costs of Public Defender services. In accordance with the guidelines promulgated by the Supreme Court, the Municipal Court may waive any required application fee, in whole or in part, if the court determines, in its discretion, that the application fee represents an unreasonable burden on the person seeking representation. The Municipal Court may permit a person to pay the application fee over a specific period of time not to exceed four months. [Added 3-21-1994 by Ord. No. 5-1994; amended 3-2-1998 by Ord. No. 4-1998]
- G. Lien for costs of Public Defender services. In addition to the required Public Defender application fee, whenever the Municipal Court assigns a case to the Public Defender or other assigned counsel for the defense of an indigent person, the Municipal Court Administrator shall notify the Borough Solicitor who shall file a lien notice with the Clerk of the New Jersey Superior Court for the purpose of creating a lien on all property of the defendant for the reimbursement of the Borough's expenses therefor. The amount of the liens generally shall be determined by resolution of the Mayor and Borough Council. [Added 3-21-1994 by Ord. No. 5-1994]

Chapter 18

DEFENSE AND INDEMNIFICATION

GENERAL REFERENCES

Court — See Ch. 15.

Officers and employees — See Ch. 60.

§ 18-1. Defense in civil actions.

Subject to the limitations set forth in the subsequent sections of this chapter, whenever any civil action has been or shall be brought against any person (hereinafter referred to as "employee") holding or formerly holding any office, position or employment with the Borough of Tuckerton for any action or omission arising out of or in the course of the performance of the duties of such office, position or employment, the Borough shall defray all costs of defending such action, including reasonable counsel fees and expenses, together with costs of appeal, if any, and shall save harmless and protect such persons from any financial loss resulting from the litigation. The Borough Solicitor, or another attorney selected by the Mayor, with the advice and consent of the Borough Council, shall represent the Borough official or employee.

§ 18-2. Criminal actions.

The Borough shall not defray the costs of defending any criminal action against any municipal employee, except as may be authorized by state statute or other municipal ordinance or resolution of the Borough of Tuckerton, and, in those circumstances, the responsibility for defraying the costs of defending such employee shall be applicable only when such criminal proceedings shall have been dismissed or result in a final disposition in favor of the employee. However, should the Borough determine that there is good cause to dismiss the employee rising out of the incident or related incidents of the criminal prosecution, the Borough will not reimburse the employee or official for legal defense and costs of defending the suit, even though criminal proceedings against the employee may be dismissed or the employee found not guilty.

§ 18-3. Exceptions.

- A. The obligation of the Borough of Tuckerton to defend and indemnify its employees for acts or omissions arising out of or in the course of the performance of the duties of that person shall be limited to those circumstances under which the Borough itself would be liable for the acts of its employees under the doctrine of respondent superior, except that the Borough shall defend any such officer or employee sued under the Federal Civil Rights Act, provided that the Mayor and/or Council shall not have concluded that such act or omission was outside the scope of the responsibilities of said officer or employee.
- B. Furthermore, the Borough shall not defend and save harmless any employee committing an intentional or willful act or willful omission arising out of or in the course of the performance of the duties of such office, position or employment
- C. Also specifically excluded from the provisions of this chapter is any municipal employee or official providing any form of professional medical services, such as a doctor and nurse, insofar as said civil action arises out of or concerns those professional medical services.
- D. The Borough shall not be responsible for the defense or indemnification of any official or employee of the Borough when the Borough Council has determined that:
 - (1) The act or omission was not within the scope of employment.
 - (2) The act or failure to act was because of actual fraud, willful misconduct or actual malice.
 - (3) The defense of the action or proceeding would create a conflict of interest between the Borough and the public employee.
 - (4) The defense of the action or proceeding is provided for by an insurance policy or policies, whether obtained by the Borough or by any other person.
 - (5) The public employee failed to deliver to the Borough Clerk, within 10 calendar days after the time he is served with any summons, complaint, process, notice, demand or pleading, the original or a copy of the same.
 - (6) The public employee has failed to cooperate fully with the defense.

§ 18-4. Borough control over litigation.

Whenever the Borough provides any defense required of it under this chapter, the Borough, through counsel, may assume exclusive control over the representation of the public employee, and such employee shall cooperate fully with the defense.

§ 18-5. Indemnification.

- A. In any case where the Borough is required to provide a defense under this chapter, the Borough shall pay or shall reimburse the public employee for:
 - (1) Any bona fide settlement agreements entered into by the employee.
 - (2) Any judgments entered against the employee.

- (3) If the Borough has failed to provide such required defense, all costs of defending the action, including reasonable counsel fees and expenses, together with costs of any appeal.
- B. In addition, in any case where the Borough would be required to provide a defense under this chapter, except for the fact that such defense is provided for by insurance, the Borough shall provide indemnification as aforesaid, but only to the extent not covered by insurance.

§ 18-6. Limitations.

Nothing in this chapter shall authorize the Borough to pay for punitive or exemplary damages or damages resulting from the commission of a crime.

Chapter 21

ECONOMIC DEVELOPMENT COMMITTEE

§ 21-1. Establishment; composition. [Amended 8-18-2003 by Ord. No. 10-2003; 7-7-2004 by Ord. No. 15-2004]

There is hereby established an Economic Development Committee for the Borough of Tuckerton, which Committee shall consist of five members and two alternates to be appointed by the Mayor, with the advice and consent of the Borough Council.

§ 21-2. Terms; vacancies; organization.

- A. The Mayor, with the advice and consent of the Borough Council, shall appoint two members for a one-year term, two members for a two-year term and one member for a three-year term. Terms shall begin January 1 of the year of appointment. Upon the expiration of the initial terms of appointment, all reappointments shall be for a term of three years. Any vacancy which occurs prior to the expiration of the term for that member shall be filled for the unexpired term only. The two alternate members shall be designated at the time of appointment as Alternate No. 1 and Alternate No. 2. The terms of the alternate members shall be for two years, except that the terms of the alternate members first appointed shall be two years for Alternate No. 1 and one year for Alternate No. 2, so that the term of not more than one alternate member shall expire in any one year. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only. **[Amended 8-18-2003 by Ord. No. 10-2003; 7-7-2004 by Ord. No. 15-2004]**
- B. At the first meeting of the Economic Development Committee, a Chairperson and Secretary shall be elected by a majority vote of the Committee members to serve for terms of one year.

§ 21-3. Functions and powers.

The Economic Development Committee shall be strictly an advisory council and shall perform the functions and exercise the powers hereinafter enumerated:

- A. It will develop ways and means of attracting commercial enterprise to the Borough of Tuckerton.

- B. It will make recommendations to attract commercial enterprise toward the same to the Mayor and Borough Council for consideration.
- C. It shall not exercise any power of condemnation or eminent domain and shall not be authorized to pledge the credit of the Borough of Tuckerton or to create any debt against or in any manner act as the agent of the Borough.
- D. It shall classify vacant lands according to their adaptability for the settlement thereon of various types of commercial enterprises.
- E. It shall make a study of the tax structure with a view towards reducing the tax burden on the residents of Tuckerton Borough.
- F. The Chairperson of the Economic Development Committee shall make an annual report to the Mayor and Borough Council setting forth, in detail, its operations and transactions for the preceding 12 months. The Secretary of the Economic Development Committee shall keep complete and accurate records of its meetings.
- G. It may utilize the services of the Borough Attorney and Borough Engineer upon approval of the Mayor and Borough Council.⁷

Chapter 24

EMERGENCY MANAGEMENT

GENERAL REFERENCES

Fire Department — See Ch. 29.

Police Department — See Ch. 64.

Mutual aid agreements — See Ch. 55.

§ 24-1. Establishment.

There is hereby established in the Borough of Tuckerton an Office of Emergency Management, to be directed by the Emergency Management Coordinator in accordance with the provisions of this chapter.

§ 24-2. Emergency Management Coordinator.

- A. The Mayor shall appoint an Emergency Management Coordinator from among the residents of the municipality. The Emergency Management Coordinator shall serve, subject to fulfilling the requirements of this section, for a term of three years.
- B. As a condition of his appointment and his right to continue for the full term of his appointment, the Emergency Management Coordinator shall have successfully completed, at the time of his appointment or within one year immediately following his appointment, the current approved civil defense director-coordinator course. The failure of any Emergency Management Coordinator to fulfill such requirements within the period

7. Editor's Note: See Ch. 60, Officers and Employees, Art. I, Municipal Attorney, and Art. II, Municipal Engineer.

prescribed shall disqualify the Coordinator from continuing in the office of Coordinator, and thereupon a vacancy in said office shall be deemed to have been created.

§ 24-3. Duties of Coordinator.

- A. The Emergency Management Coordinator shall be responsible for the planning, activating, coordinating and the conduct of disaster control operations within the Borough.
- B. Whenever, in his opinion, a disaster has occurred or is imminent in any municipality, the Emergency Management Coordinator of the municipality shall proclaim a state of local disaster emergency within the Borough. The Emergency Management Coordinator, in accordance with the regulations promulgated by the State Civilian Defense Director, shall be empowered to issue and enforce such orders as may be necessary to implement and carry out disaster control operations and to protect the health, safety and resources of the residents of the Borough.

§ 24-4. Deputy Coordinator.

The Emergency Management Coordinator shall appoint an Emergency Management Deputy Coordinator, with the approval of the Mayor. Wherever possible, such Deputy shall be appointed from among the salaried officers or employees of the municipality.

§ 24-5. Operations Officer.

The Emergency Management Coordinator shall appoint an Operations Officer with the approval of the Mayor. The Operations Officer shall be under the authority of the Emergency Management Coordinator and the Emergency Management Deputy Coordinator. The Operations Officer shall be responsible for implementing the directions of the Emergency Management Coordinator and the Deputy Coordinator during any emergency or test drill.

§ 24-6. Emergency Management Service Council [Added 11-16-1987 by Ord. No. 15-1987]

There is hereby created an Emergency Management Service Council, to be composed of not more than 15 members, who shall be appointed by the Mayor and 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 the Emergency Management Service Council.

§ 24-7. Duties of Council. [Added 11-16-1987 by Ord. No. 15-1987]

- A. The Emergency Management Service Council shall assist the municipality in establishing the various local volunteer agencies needed to meet the requirements of all local civil defense and disaster control activities in accordance with the rules and regulations established by the Governor of the State of New Jersey.
- B. The Emergency Management Service Council is authorized, within the limits of appropriations, to establish an adequate organization to assist in supervising and coordinating the civil defense and disaster control activities of the local municipality.

Chapter 26

ENVIRONMENTAL COMMISSION**GENERAL REFERENCES**

Flood hazards — See Ch. 166.

Water and sewers — See Ch. 249.

Solid waste — See Ch. 223.

§ 26-1. Establishment.

There is hereby established an Environmental Commission in accordance with the provisions of N.J.S.A. 40:56A-1. The Environmental Commission shall be responsible for the protection, development and use of natural resources, including water resources, located within the Borough of Tuckerton.

§ 26-2. Membership; Chairman. [Amended 5-2-2005 by Ord. No. 6-2005; 2-6-2006 by Ord. No. 1-2006]

- A. The Environmental Commission shall consist of seven regular members and two alternate members, designated as "Alternate No. 1" and "Alternate No. 2," appointed by the Mayor of the Borough of Tuckerton. The Mayor shall designate one of the members of the Environmental Commission to serve as Chairman and presiding officer.
- B. The Mayor shall have the right to appoint not more than three Citizen Advisory Committee (CAC) members to support the Environmental Commission. The CAC member(s) shall not be considered members of the Environmental Commission, but rather an advisory board to the Environmental Commission. The CAC member(s) shall, as directed by the Chairman of the Environmental Commission, assist the Environmental Commission in its work and perform such other functions as directed and authorized by the Environmental Commission Chairman. The CAC member(s) will also advise the Environmental Commission on relevant topics and local concerns. Terms shall be at the discretion of the Mayor, based upon the recommendation of the Chairman.
- C. The Chairman may appoint nonresidents and residents as "associate members" of the CAC to assist with specific projects.

§ 26-3. Terms of office; vacancies. [Amended 5-2-2005 by Ord. No. 6-2005; 2-6-2006 by Ord. No. 1-2006]

- A. The initial term of office for the first five members of the Commission shall be as follows: two members for one year; two members for two years; and one member for three years. Two positions shall be added effective January 1, 2006; one shall be for one year ending December 31, 2006, and a second for two years ending December 31, 2007. As the term of each member on the Commission expires, his successor shall be appointed for a term of three years. All terms shall commence on January 1 of the year of appointment. A vacancy on the Commission occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as the original appointment.
- B. The terms of office for the alternate members of the Commission shall be two years, except that the terms of the alternate members first appointed shall be two years for Alternate

No. 1 and one year for Alternate No. 2, so that the term of not more than one alternate member shall expire in any one year. All terms shall commence on January 1 of the year of appointment. A vacancy occurring otherwise than by expiration of term shall be filled by the Mayor for the unexpired term only.

§ 26-4. Removal of members.

The Mayor and governing body of the Borough may remove any member of the Environmental Commission for cause on written charges served upon a member. The member shall be entitled to a hearing and shall be entitled to be represented by counsel.

§ 26-5. Powers and duties.

The Environmental Commission shall:

- A. Formulate such recommendations to the Borough Council concerning open space preservation, water resources management, air pollution control, solid waste management, noise control, soil and landscaping protection, environmental appearance, marine resources and the protection of flora and fauna.
- B. Initiate studies concerning open space preservation, water resources management, air pollution control, solid waste management, noise control, soil and landscaping protection, environmental appearance, marine resources and the protection of flora and fauna.
- C. Keep an index of all open areas, publicly or privately owned, including open marshlands, swamps and other wetlands, in order to obtain information on the proper use of such areas and make recommendations to the Planning Board and the governing body concerning the same.
- D. Keep records of its meetings and activities and make an annual report to the governing body.
- E. Coordinate the activities of unofficial bodies organized for similar purposes and advertise, prepare, print and distribute books, maps, charts, plans and pamphlets and promote public education programs which support recycling and the preservation of our environment.
- F. Subject to the approval of the governing body, acquire property, both real and personal, in the name of the municipality, by gift, purchase, grant, bequest, lease or otherwise, for any of its purposes and shall administer the same for such purposes subject to terms of the conveyance or gift.
- G. Appoint such clerks and other employees and incur such expenses as it may from time to time require, provided that the same shall be within the limit of funds appropriated to it by the governing body or otherwise available to it.

Chapter 29

FIRE DEPARTMENT

GENERAL REFERENCES

Mutual aid agreements — See Ch. 55.

Fire prevention — See Ch. 163.

ARTICLE I
Membership and Duties
[Adopted 10-15-1934 by Ord. No. 75]

§ 29-1. Membership requirements. [Amended 4-21-1969 by Ord. No. 2-1969; 2-19-1973 by Ord. No. 1-73; 9-8-1999 by Ord. No. 11-1999]

No person shall hereafter become an active member of the Tuckerton Fire Company No. 1 or any unit thereof unless he is 18 years of age or above on the date of application and not over the age of 45 years, except that the maximum age herein may be waived by proper action of said Borough, and unless such person is a citizen of the United States and a resident of Ocean County, New Jersey. He shall be physically fit to perform the duties of a fireman, to be evidenced by a certificate to that effect signed by a practicing physician of the State of New Jersey, after a physical examination had for that purpose.

§ 29-2. Percentage of duty.

Every active member of Tuckerton Fire Company No. 1 shall, in each and every year, be required to perform at least 60% of duty to be composed of actual attendance and duty at fires and drills.

§ 29-3. Record of attendance and duty.

An accurate record shall be kept by the Secretary of said Fire Company and reported in writing to the Mayor and Council of this Borough on or before January 15, 1935, and on or before January 15 of each and every succeeding year, of the attendance and duty at fires and drills of each of the members of said Company.

§ 29-4. Applications. [Amended 9-8-1999 by Ord. No. 11-1999]

Every person seeking to join Tuckerton Fire Company No. 1 shall make application in writing to the Company or unit which he desires to join, stating his age, residence and physical condition. Said application to be considered must be accompanied by a certificate of a practicing physician as above required.

§ 29-5. Election and approval of members. [Amended 9-8-1999 by Ord. No. 11-1999]

An applicant may be elected to membership in said Company, or any unit thereof, by a majority vote of the members present and voting at any meeting at which a quorum shall be present; provided, however, such membership shall not become effective until the name of the person so elected shall have been reported to the Borough Council by the Chief of said Company, with his approval, and until such election shall be confirmed and approved by the Borough Council.

§ 29-6. Member identification. [Amended 9-8-1999 by Ord. No. 11-1999]

The Company will provide proper and necessary identification for all active members of the Fire Company.

§ 29-7. Removal.

Any member of said Company may be removed for cause and upon notice by a majority vote of the members in good standing of said Company, or, for cause and upon notice by a majority of the members of Council of this Borough. Violation by any member of any of the requirements of this article shall constitute good cause for removal.

§ 29-8. Exemption certificates. [Amended 9-8-1999 by Ord. No. 11-1999]

Exemption certificates shall be issued to qualified members of Tuckerton Fire Company No. 1, or any unit thereof, who meet the requirements of N.J.S.A. 40A:14-56. Said certificates shall, upon the face thereof, indicate the percentage of duty performed each year and shall be signed by the Mayor and Clerk of the Borough.

ARTICLE II
Junior Firemen's Auxiliary
[Adopted 11-17-1997 by Ord. No. 8-1997]

§ 29-9. Eligibility for membership.

No person shall be eligible for membership in the Junior Firemen's Auxiliary who is less than 16 or more than 17 years of age. All persons shall be required to obtain permission to join the Junior Firemen's Auxiliary from their parents or guardian. Such permission shall be in writing and acknowledged or proved in the manner required by law for deeds to real estate to be recorded. All persons shall be physically fit to perform the duties of a fireman, to be evidenced by a certificate to that effect signed by a practicing physician of the State of New Jersey, after a physical examination had for that purpose.

§ 29-10. Applications.

Every person seeking membership in the Junior Firemen's Auxiliary shall make application, in writing, to the Tuckerton Fire Company No. 1, stating his age, residence and physical condition. Said application to be considered must be accompanied by permission to join the Junior Firemen's Auxiliary from a parent or guardian and a certificate of a practicing physician as required in § 29-1.

§ 29-11. Election and approval of members.

An applicant may be elected to membership in the Junior Firemen's Auxiliary by a majority vote of the members of the Tuckerton Fire Company No. 1 present and voting at any meeting at which a quorum shall be present; provided, however, that such membership shall not become effective until the name of the person so elected shall have been reported to the Borough Council by the Chief of said Company, with his approval, and until such election shall be confirmed and approved by resolution of the Borough Council.

§ 29-12. Rules and regulations governing Junior Firemen's Auxiliary.

The activities and training of the Junior Firemen's Auxiliary shall be governed by the rules and regulations for junior fire fighters adopted by the Borough Council.⁸

8. Editor's Note: The rules and regulations for junior fire fighters are on file in the office of the Borough Clerk.

Chapter 33

HEALTH, BOARD OF

§ 33-1. Establishment.

There shall be a local Board of Health established in the Borough of Tuckerton which shall be composed of five members and which shall be vested with the powers and shall perform the duties prescribed in the act of the legislature of this state entitled "An Act to Establish in this State Boards of Health and a Bureau of Vital Statistics, and to Define their Respective Powers and Duties," approved March 31, 1887, and amendments and supplements thereto.⁹

§ 33-2. Nominations, confirmations and terms of office.

The Mayor shall, at the next regular meeting after the adoption and approval of this chapter, send to the Council, as his nominations for confirmation, the names of five persons as members of said Board of Health to hold office as follows: two for one year, two for two years and one for three years; provided, however, that if any person nominated by the Mayor should not be confirmed by Council, the Mayor shall, at the next meeting of Council and at every succeeding meeting, nominate a person until confirmation is made by the Council. Any vacancy shall be filled by the nomination of the Mayor and the approval of the Council for the unexpired term only; provided, also, that at the expiration of the terms above mentioned the person who shall then be appointed shall hold his office for a period of three years.

§ 33-3. Members subject to removal by Council.

The members of the said local Board shall take and hold their offices subject to removal for cause by Council, in the same manner as other Borough officers may be removed.

§ 33-4. Compensation of Registrar of Vital Statistics.¹⁰

In lieu of salary, the Registrar of Vital Statistics is hereby authorized to receive and accept, as compensation for the discharge of his or her duties, all fees collected by the Registrar for the issuance of such permits and licenses as are legally issued by the Registrar, and all fees collected for the preparation and execution of certified copies of any such permits and licenses.

Chapter 37

HOSPITALIZATION PLAN

§ 37-1. Hospitalization plan enrollment.

As they become eligible, new employees will be advised by the Borough Clerk that they are permitted to enroll in the current health benefit plan. It is the employee's option to accept or waive coverage. Any change in the employee's dependent status must be reported immediately to the Borough Clerk or designated responsible employee.

9. Editor's Note: See N.J.S.A. 26:3-1 et seq..

10. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 37-2. Waiver of benefits. [Amended 6-16-2003 by Ord. No. 6-2003]

- A. Any employee eligible for the Borough's health benefits plan who is also eligible for other health care coverage may waive coverage under the Borough's plan. The waiver shall be made on a form provided by and filed with the Borough Clerk.
- B. Any employee waiving health benefits pursuant to § 37-2A above will annually be paid by the Borough a sum equal to 50% of the amount saved by the Borough because of the employee's waiver of coverage.
- C. Any employee who waives health benefits pursuant to § 37-2A above shall be permitted to resume coverage under the same terms and conditions as applied to initial coverage. Any employee resuming coverage shall repay to the Borough on a pro rata basis any amount received in advance for a period of time during which coverage has been resumed.
- D. Any employee who wishes to resume coverage shall file with the Borough Clerk a declaration on a form provided by the Borough Clerk.

Chapter 45**LAND USE PROCEDURES****GENERAL REFERENCES**

Landmarks preservation — See Ch. 187.

Subdivision of land — See Ch. 231.

Site plan review — See Ch. 220.

Zoning — See Ch. 255.

ARTICLE I
Planning Board
[Adopted 7-19-1976 by Ord. No. 3-1976¹¹]

§ 45-1. Establishment; composition. [Amended 4-20-1981 by Ord. No. 3-1981; 4-7-2003 by Ord. No. 2-2003; 12-7-2009 by Ord. No. 13-2009]

A. There is hereby established, pursuant to P.L. 1975, c. 291,¹² in the Borough of Tuckerton a Planning Board of nine members, consisting of the following four classes:

- (1) Class I: the Mayor.
- (2) Class II: one of the officials of the municipality, other than a member of the governing body, to be appointed by the Mayor.
- (3) Class III: a member of the governing body, to be appointed by it.
- (4) Class IV: six other citizens of the municipality, to be appointed by the Mayor. The members of Class IV shall hold no other municipal office.

B. Alternate members.

- (1) In addition, there shall be two alternate members to the Planning Board. Said alternates shall be appointed by the appointing authority for Class IV members. Alternate members shall be designated at the time of appointment by the Mayor as "Alternate No. 1" and "Alternate No. 2." The terms of the alternate members shall be for two years, except that the terms of the alternate members shall be such that the term of not more than one alternate member shall expire in any one year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed two years. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.
- (2) No alternate member shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest. An alternate member may, after public hearing if he requests one, be removed by the governing body for cause.
- (3) 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 is to vote, Alternate No. 1 shall vote.

§ 45-2. Terms of office.

A. The term of the member composing Class I shall correspond with his official tenure. The terms of the members composing Class II and Class III shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first.

11. Editor's Note: This ordinance stated that it would take effect on 8-1-1976.

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

- B. The terms of all Class IV members first appointed pursuant to this article shall be so determined that, to the greatest practicable extent, the expiration of such terms shall be distributed evenly over the first four years after their appointment, as determined by resolution of the governing body; provided, however, that no term of any member shall exceed four years and further provided that nothing herein shall affect the term of any present member of the Planning Board, all of whom shall continue in office until the completion of the terms for which they were appointed. Thereafter, all Class IV members shall be appointed for terms of four years, except as otherwise hereinabove provided.
- C. All terms shall run from January 1 of the year in which the appointment is made.

§ 45-3. Vacancies.

If a vacancy in any class shall occur otherwise than by expiration of term, it shall be filled by appointment as provided above for the unexpired term.

§ 45-4. Organization.

The Planning Board shall elect a Chairman and Vice Chairman from the members of Class IV and select a Secretary, who may be either a member of the Planning Board or a municipal employee designated by it.

§ 45-5. Planning Board Attorney.

There is hereby created the office of Planning Board Attorney. The Planning Board may annually appoint, fix the compensation of or agree upon the rate of compensation of the Planning Board Attorney, who shall be an attorney other than the Municipal Attorney.

§ 45-6. Experts and staff.

The Planning Board may also employ or contract for the services of experts and other staff and services as it may deem necessary. The Board shall not, however, exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

§ 45-7. Powers and duties.

The Planning Board is authorized to adopt bylaws governing its procedural operation. It shall also have the powers and duties to:

- A. Make and adopt and from time to time amend a Master Plan for the physical development of the Borough of Tuckerton, including any areas outside its boundaries, which, in the Board's judgment, bear an essential relation to the planning of the Borough of Tuckerton in accordance with the provisions of N.J.S.A. 40:55D-28.
- B. Administer the provisions of the Land Subdivision Ordinance and Site Plan Review Ordinance¹³ of the Borough of Tuckerton in accordance with the provisions of said ordinances and the Municipal Land Use Law of 1975, N.J.S.A. 40:55D-1 et seq.
- C. Participate in the preparation and review of programs or plans required by state or federal law or regulations.

13. Editor's Note: See Ch. 231, Subdivision of Land, and Ch. 220, Site Plan Review, respectively.

- D. Assemble data on a continuing basis as part of a continuous planning process.
- E. Consider and make reports to the governing body within 35 days after referral as to any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D-26a and also pass upon other matters specifically referred to the Planning Board by the governing body of the Borough of Tuckerton, pursuant to the provisions of N.J.S.A. 40:55D-26b.
- F. When reviewing applications for approval of subdivision plats, site plans or conditional uses, grant the following to the same extent and subject to the same restrictions as the Zoning Board of Adjustment. Whenever relief is requested pursuant to this subsection, notice of a hearing on the application for development shall include reference to the request for a variance or direction for issuance of a permit, as the case may be.
 - (1) Variances, pursuant to Subsection 57c of P.L. 1975, c. 291,¹⁴ from lot area, lot dimensional setback and yard requirements, provided that such relief from lot area requirements shall not be granted for more than one lot.
 - (2) Direction, pursuant to Section 25 of said Act,¹⁵ for issuance of a permit for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved pursuant to Section 23 of said Act.¹⁶
 - (3) Direction, pursuant to Section 27 of said Act,¹⁷ for issuance of a permit for a building or structure not related to a street.
- G. Perform such other advisory duties as are assigned to it by ordinance of the governing body for the aid and assistance of the governing body or other agencies or office.

§ 45-8. Time limit for approvals; complete application; administrative officer.

- A. Minor subdivisions. Minor subdivision approvals shall be granted or denied within 45 days of the date of submission of a complete application to the Planning Board or within such further time as may be consented to by the applicant. Approval of a minor subdivision shall expire 190 days from the date of Planning Board approval unless within such period a plat in conformity with such approval and the provisions of the Map Filing Law¹⁸ or a deed clearly describing the approved minor subdivision is filed by the developer with the county recording officer, the Municipal Engineer and the Municipal Tax Assessor. Any such plat or deed must be signed by the Chairman and Secretary of the Planning Board before it will be accepted for filing by the county recording officer.
- B. Preliminary approval of major subdivisions. Upon submission of a complete application for a subdivision of 10 or fewer 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 submission of a complete 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

14. Editor's Note: See N.J.S.A. 40:55D-70c.

15. Editor's Note: See N.J.S.A. 40:55D-34.

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

17. Editor's Note: See N.J.S.A. 40:55D-36.

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

be consented to by the developer. Otherwise, the Planning Board shall be deemed to have granted preliminary approval for the subdivision.

- C. Ancillary powers. Whenever the Planning Board is called upon to exercise its ancillary powers before the granting of a variance as set forth in § 45-7F of this article, the Planning Board shall grant or deny approval of the application within 95 days after submission by the developer of a complete application or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute approval of the application, and a certificate from the Secretary of the Planning Board as to the failure of the Planning Board to act shall be issued on request of the applicant.
- D. Final approval. Application for final subdivision approval shall be granted or denied within 45 days of submission of a complete application or within such further time as may be consented to by the applicant. Final approval of a major subdivision shall expire 95 days from the date of signing of the plat unless within such period the plat shall have been duly filed by the developer with the county recording officer. The Planning Board may, for good cause shown, extend the period for recording for an additional period not to exceed 190 days from the date of signing of the plat.
- E. Complete application. "Complete application" within the meaning of this chapter means an application form completed as specified by the ordinances of the municipality and the rules and regulations of the respective municipal agency, be it the Planning Board or Zoning Board of the Borough of Tuckerton, and all accompanying documents required by ordinance for approval of the application for development, including or applicable but not limited to a site plan or subdivision plat; provided, however, that the municipal agency involved may require such additional information not specified in said ordinance or any revisions in the accompanying documents as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the subject municipal agency. An application shall be certified in the ordinances of this Borough as well as in the rules and regulations of the subject municipal agency and shall be deemed complete as of the day it is so certified by the administrative officer for purposes of the commencement of the time period for action by the subject municipal agency. **[Added 4-21-1980 by Ord. No. 3-1980]**
- F. The administrative officer, for the purpose of determining whether an application is complete, shall be the Borough Engineer for the Borough of Tuckerton. **[Added 4-21-1980 by Ord. No. 3-1980]**

§ 45-9. Procedure for filing applications.

- A. Applications for development within the jurisdiction of the Planning Board pursuant to the provisions of P.L. 1975, c. 291,¹⁹ shall be filed with the Secretary of the Planning Board. Applicants shall file, at least 14 days before the date of the monthly meeting of the Board, nine copies of a sketch plat, nine copies of an application for minor subdivision approval, nine copies of an application for major subdivision approval or nine copies of an application for site plan review or conditional use approval.

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

- B. At the time of filing the application but in no event less than 10 days prior to the date set for hearing, the applicant shall also file all plat plans, maps or other papers required by virtue of any provision of this article or any rule of the Planning Board.
- C. The applicant shall obtain all necessary forms from the Secretary of the Planning Board. The Secretary of the Board shall inform the applicant of the steps to be taken to initiate applications and of the regular meeting dates of the Board.

§ 45-10. Citizens' Advisory Committee.

The Mayor may appoint one or more persons as a Citizens' Advisory Committee to assist or collaborate with the Planning Board in its duties, but such person or persons shall have no power to vote or take other action required of the Board. Such person or persons shall serve at the pleasure of the Mayor.

§ 45-11. Rules and regulations.

The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this article. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A-1 et seq.) shall apply.

§ 45-12. Conflicts of interest.

No member of the Planning Board shall act on any matter in which he has either directly or indirectly any personal or financial interest. Whenever any such member shall disqualify himself from acting on a particular matter, he shall not continue to sit with the Board on the hearing of such matter nor participate in any discussion or decision relating thereto.

§ 45-13. Meetings.

- A. Meetings of the Planning Board shall be scheduled no less often than once a month, and any meeting so scheduled shall be held as scheduled unless canceled for lack of applications for development to process.
- B. Special meetings may be provided for at the call of the Chairman or on the request of any two Board members, which meetings shall be held on notice to Board members and the public in accordance with all applicable legal requirements.
- C. No action shall be taken at any meeting without a quorum being present.
- D. All actions shall be taken by a majority vote of a quorum except as otherwise required by any provision of P.L. 1975, c. 291.²⁰
- E. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meetings Law, P.L. 1975, c. 231.²¹ An executive session for the purpose of discussing and studying any matters to come before either Board shall not be deemed a regular or special meeting in accordance with the provisions of N.J.S.A. 40:55D-9.

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

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

§ 45-14. Minutes.

Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the Board and of the persons appearing by attorney, the action taken by the Board, the finding, if any, made by it and the reasons therefor. The minutes thereafter shall be made available for public inspection during normal business hours at the office of the Municipal Clerk. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceedings concerning the subject matter of such minutes. Such interested party may be charged a fee for reproduction of the minutes for his use as provided for in the rules of the Board.

§ 45-15. Application fees. [Amended 4-21-1980 by Ord. No. 3-1980; 10-19-1987 by Ord. No. 13-1987; 8-1-1988 by Ord. No. 9-1988; 11-18-1996 by Ord. No. 8-1996; 10-16-2000 by Ord. No. 13-2000]

The applicant shall, at the time of filing an application, pay the following nonrefundable fees to the Borough of Tuckerton. Proposals involving more than one use shall pay a fee equaling the sum of the fees for the component elements of the proposal. Proposals requiring a combination of approvals such as subdivision, site plan and/or variance shall pay a fee equal to the sum of the fee for each element.

A. Site plan.**(1) Residential.**

- (a) Preliminary: \$25 per unit from one to 50 units, plus \$20 per unit from 51 to 150 units, plus \$15 per unit from 151 units on. Minimum fee shall be \$200.
- (b) Final: 50% of preliminary fee.

(2) Other than residential.**(a) Preliminary:****[1] The greater of:**

- [a] One hundred dollars per acre for each acre being developed.
- [b] Fifteen dollars for each parking space up to 500 and \$10 for each space above 500.
- [c] Three cents per square foot of building area up to 5,000 square feet, plus \$0.02 per square foot from 5,001 to 25,000 square feet, plus \$0.01 per square foot above 25,000 square feet.

[2] The minimum fee shall be \$200.**(b) Final: 50% of preliminary fee.**

- (3) Extensions of site plan approval: pursuant to N.J.S.A. 40:55D-49 and 40:55D-52, shall be 50% of the original application fee for the stage of application (preliminary or final).

B. Subdivisions.

- (1) Minor subdivisions: \$50 per lot, not less than \$100.
 - (2) Major subdivisions.
 - (a) Preliminary: \$200, plus \$25 per lot for one through 25 lots, plus \$20 per lot for 26 through 100 lots, plus \$15 per lot for 100 through 200 lots, plus \$10 per lot for 201 lots on.
 - (b) Final: \$200, plus \$10 per lot.
 - (3) Extension of subdivision of approval: 50% of the original application fee.
- C. Conditional use applications: \$300.
- D. Variances.
- (1) Appeals.
 - (a) Single- or two-family uses: \$300.
 - (b) Multifamily uses: \$300.
 - (2) Interpretation of Zoning Map or Ordinance: \$175.²²
 - (3) Hardship or bulk variance.
 - (a) Single- or two-family uses: \$20 per variance with a minimum of \$50.
 - (b) Other: \$50 per variance with a minimum of \$100.
 - (4) Use variance.
 - (a) Single- or two-family uses: \$50.
 - (b) Other residential: \$50 per unit with a minimum of \$200.
 - (c) Other than residential: \$250 per acre with a minimum of \$250.
 - (5) Building permit in conflict with Official Map or building permit for lot not related to a street: \$100.
 - (6) Exception to design and performance standards: \$250.
- E. Special meetings of Boards.
- (1) Upon request of the applicant, the Planning Board or Zoning Board of Adjustment may call for a special meeting to conduct a public hearing or otherwise consider an application for development, provided that, in such event, the applicant shall pay a fee of \$1,000 to the Borough of Tuckerton to defray the costs associated with attendance of the Planning Board or Zoning Board of Adjustment staff.
 - (2) The applicant may request special meetings with the staff of the reviewing agency to review an application, subject however, to the availability of staff and scheduling of

22. Editor's Note: See Ch. 255, Zoning.

such meetings through the office of the Board Secretary, provided that the applicant shall pay a fee of \$250 to defray the cost of the consultants and staff.

- F. Geographic Information System (GIS) Services. In addition to the application fees as set forth hereinbefore, Geographic Information System (GIS) service fees in the amounts specified herein shall be required relative to the following applications: **[Added 5-2-2005 by Ord. No. 2-2005]**
- (1) Site plan: \$50.
 - (2) Subdivision: \$50.
 - (3) Hardship or bulk variance: \$10.
 - (4) Use variance: \$10.
- G. Appeals from decision of Zoning Officer or his/her designee: \$100. **[Added 8-21-2006 by Ord. No. 18-2006]**

§ 45-16. Escrow funds. [Added 10-16-2000 by Ord. No. 13-2000]

A. General.

- (1) In addition to the submission of application filing fees (which are charged to cover general Borough administrative costs) as set forth hereinbefore, development applications which meet the criteria established herein shall be accompanied by a deposit of escrow funds in accordance with the provisions of this section.
 - (2) Said escrow funds shall be utilized to cover the municipal costs of professional services incurred during the development review process. Professional fees and salaries incurred in connection with review of plans, consultation, site inspections, written report and resolution preparation, meeting attendance, general preparation, research, testimony and other work performed by the Board Planner, Board Attorney, Municipal Engineer or other professional consulting services as may be required due to the nature of the application shall be paid from escrow funds. Escrow fees established pursuant to this section shall not be utilized to pay inspection costs required during the construction process.
 - (3) Escrow fund agreement. As part of the required application submission, the applicant shall also be required to submit an escrow fund agreement in the form approved by the Planning Board, for the purpose of securing assurance that all professional fees of the Planning Board incurred in connection with an application are to be paid by the applicant. Said escrow fund agreement shall provide that, in addition to any other remedy, any and all outstanding fees shall be a collectible as a lien upon the real estate to which the application applies. **[Added 12-19-2011 by Ord. No. 16-2011]**
- B. Escrow amounts. Escrow funds in the amounts specified herein shall be required relative to the following applications: **[Amended 8-21-2006 by Ord. No. 18-2006]**
- (1) Sketch plat for major subdivision, minor subdivision, preliminary major subdivision approval and preliminary site approval for residential use.

| Lots or Units | Escrow Funds |
|----------------------|---------------------|
| 1 to 3 | \$2,000 |
| 4 to 10 | \$3,000 |
| 11 to 25 | \$4,000 |
| 26 to 50 | \$7,500 |
| 51 to 100 | \$10,000 |
| In excess of 100 | \$20,000 |

- (2) Final major subdivision approval and final site plan approval for residential use.

| Lots or Units | Escrow Funds |
|----------------------|---------------------|
| 1 to 3 | \$1,000 |
| 4 to 10 | \$1,500 |
| 11 to 25 | \$2,000 |
| 26 to 50 | \$3,000 |
| 51 to 100 | \$5,000 |
| In excess of 100 | \$10,000 |

- (3) Nonresidential preliminary site plan approval inclusive of minor site plan.

| Square Feet of Building Area | Escrow Funds |
|-------------------------------------|---------------------|
| Less than 10,000 | \$5,000 |
| 10,001 to 50,000 | \$15,000 |
| 50,001 to 100,000 | \$20,000 |
| In excess of 100,000 | \$25,000 |

- (4) Nonresidential final site plan approval: 1/3 of the original escrow fee paid at the time of preliminary plan applications.

- (5) Other.

- (a) Appeals from decision of Zoning Officer or his/her designee: \$300.
- (b) Conditional use: \$1,000.
- (c) Interpretation of Zoning Code Map: \$500.
- (d) Hardship variance: \$750.
- (e) Exception to design standards and performance standards: \$1,000.

- (6) Any application involving more than one of the above categories shall deposit cumulative amounts.

- (7) Use variance and density variance: \$2,500.

- (8) Bulk variance(s): \$750.

- (9) Informal review of conceptual plans (if application made within one year, this fee applied as a credit to escrow fees): \$500.
- (10) Requests for administrative approval of changes: \$250.
- (11) Requests for extensions of time to commence development, or file subdivision maps: \$500.

C. Procedural requirements.

- (1) All escrow funds provided herein shall be deposited with the Borough by the applicant prior to appearing before the Planning Board or Zoning Board of Adjustment. No meeting or hearing with the applicant shall be held by said Boards or Committees until all escrow funds and required fees have been deposited in accordance with this chapter. All sums must be in the form of personal or business check, certified check or money order. All deposits of escrow funds shall be made by the Chief Financial Officer of the Borough.
- (2) The above fees are promulgated on the basis of the applicant submitting completed applications and plans in conformance with the applicable ordinances. These fees are based upon an initial review by the professional, together with one subsequent review, to verify the applicant's response to various items listed in the professional's reports. Any further submissions required on behalf of the applicant shall be deemed resubmissions, and the applicant will be required to sign a consent form agreeing to pay any additional costs involved with the review of this application over and above the fees previously submitted with the original application. The Board may require the posting of additional escrow deposits for this purpose.
- (3) Additional escrow funds may be required when the escrow has been depleted to 20% of the original escrow amount. The Borough shall notify the appropriate Board when escrow funds have been so depleted. Professionals being paid from escrow funds shall notify the Board or other review committee as to additional costs anticipated or incurred. The Board or other review committee shall not take any further action on the application until adequate additional fees have been deposited by the applicant with the Borough. Adequate additional fees shall be an amount estimated to be required to complete all remaining professional review, but shall not be in excess of the amounts set forth to be originally deposited.
- (4) Escrow deposits shall be placed in an interest-bearing account, and the same shall be administered in accordance with the requirements of N.J.S.A. 40:55D-53.1 and N.J.S.A. 40:55D-53.2.
- (5) The Chief Financial Officer of the municipality shall make all of the payments to professionals for services rendered to the municipality or approving authority for review of applications for development, review and preparation of documents, or other purposes under the provisions of N.J.S.A. 40:55D-1 et seq.
- (6) Each payment charged to the deposit for review of applications, review and preparation of documents and inspection of improvements shall be pursuant to a voucher from the professional, which voucher shall identify the personnel performing the service and each date the services were performed, the hours spent to one-quarter hour increments, the hourly rate and the expenses incurred. All professionals shall

submit vouchers to the Chief Financial Officer of the municipality on a monthly basis in accordance with the schedules and procedures established by the Chief Financial Officer. The professional shall send an informational copy of all vouchers or statements submitted to the Chief Financial Officer of the municipality simultaneously to the applicant, and the municipal agency for whom said services were performed.

- (7) The Chief Financial Officer shall prepare and send to the applicant a statement which shall include an accounting of funds listing all deposits, interest earnings, disbursements and the cumulative balance of the escrow account. This information shall be provided on a quarterly basis, if monthly charges are \$1,000 or less, or on a monthly basis, if monthly charges exceed \$1,000. If an escrow account or deposit contains insufficient funds to enable the municipality or approving authority to perform required application reviews or improvement inspections, the Chief Financial Officer shall provide the applicant with a notice of the insufficient escrow or deposit balance. In order for work to continue on the development or the application, the applicant shall, within a reasonable time period, post a deposit to the account in an amount to be agreed by the municipality or approving authority and the applicant. In the interim, any required health and safety inspections shall be made and charged back against the replenishment of funds.
- (8) No plat or site plan shall be signed nor shall any zoning permits, building permits, certificates of occupancy or any other types of permits be issued with respect to any approved application for development until all bills for reimbursable services have been received by the municipality from professional personnel rendering services in connection with such application and payment has been approved by the governing body, unless the applicant shall have deposited with the Chief Financial Officer an amount agreed upon by the applicant and the municipal agency which is likely to be sufficient to cover all reimbursable items; and upon posting said deposit with the Chief Financial Officer, the appropriate maps or permits may be signed and released or issued to the applicant. If the amount of the deposit exceeds the actual cost as approved for payment by the governing body, the applicant shall be entitled to a return of the excess deposit, together with such interest as allowed by the Municipal Land Use Law²³; but if the charges submitted and approved by the governing body exceed the amount of the deposit, the applicant shall be liable for payment of such deficiency.
- (9) The Borough shall provide the applicant with an accounting of escrow funds within 90 days after the appropriate Board has taken action on the application.
- (10) All sums not actually expended shall be refunded to the applicant within 90 days after the appropriate Board has taken action on the application and the applicant has complied with all conditions of their approval.
- (11) No resolution approving any development application which is subject hereto shall be passed by either the Planning Board or Zoning Board of Adjustment until all fees and escrow sums required hereunder have been paid in full.

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

§ 45-16.1. Penalties for failing to maintain sufficient escrow funds. [Added 9-6-2011 by Ord. No. 12-2011]

- A. Failure to maintain sufficient escrow account. Any applicant for development before the Tuckerton Land Use Board who is required to establish and/or maintain an escrow account, and who fails to provide sufficient funds in said account after being notified to do so, shall be considered to have violated the terms and conditions of Borough Code § 45-16. A certification from the Borough Chief Financial Officer or other Borough or Board official that an applicant or its representative was provided notice by way of regular mail and certified mail, return receipt requested, that the escrow account was deficient, and 30 days have elapsed since said notice was sent, and the escrow account has not been replenished during that time period, shall constitute prima facie evidence that the applicant has violated the terms of Borough Code § 45-16.
- B. Liability. The applicant for development, the property owner and the property itself shall all be jointly and severally liable to the Borough, the Board and its professionals for the payment of all professional fees associated with the application, and any unpaid professional fees shall constitute a lien upon the subject property until paid in full.
- C. Penalties. Any person or entity who violated the terms and conditions of Borough Code § 45-16 regarding fees, escrows and professional fees shall be subject to a fine of not less than \$250 and not more than \$1,000 for each such violation. Each separate day that a violation continues, meaning each separate day that the escrow account remains deficient and/or the Land Use Board professionals remain unpaid, shall constitute a separate and distinct violation.

§ 45-17. Hearings.

- A. Rules. The Planning Board may make rules governing the conduct of hearings before said body, which rules shall not be inconsistent with the provisions of N.J.S.A. 40:55D-1 et seq. or of this article.
- B. Oaths. The officer presiding at the hearing or such person as he may designate shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law, P.L. 1953, c. 38 (N.J.S.A. 2A:67A-1 et seq.), shall apply.
- C. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented.
- D. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.
- E. Records. Each Board shall provide for the verbatim recording of the proceedings by either stenographic, mechanical or electronic means. The Board shall furnish a transcript or duplicate recording in lieu thereof, on request, to any interested party at his expense.

§ 45-18. Notice requirements for hearings.

Whenever a hearing is required on an application for development pursuant to N.J.S.A. 40:55D-1 et seq., the applicant shall give notice thereof as follows:

- A. Public notice shall be given by publication in the official newspaper of the municipality at least 10 days prior to the date of the hearing.
- B. Notice shall be given to the owners of all real property as shown on the current tax duplicate or duplicates located within 200 feet in all directions of the property which is the subject of such hearing and whether located within or without the municipality in which the applicant's land is located. Such notice shall be given by serving a copy thereof on the owner as shown on the current tax duplicate or on his agent in charge of the property or by mailing a copy thereof by certified mail to the property owner at his address as shown on the current tax duplicate. A return receipt is not required. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.
- C. Notice of all hearings on applications for development located within 200 feet of an adjoining municipality shall be given by personal service or certified mail to the Clerk of such municipality, which notice shall be in addition to the notice required to be given pursuant to Subsection B of this section to the owners of land in such adjoining municipalities which are located within 200 feet of the subject premises.
- D. Notice shall be given by personal service or certified mail to the County Planning Board of a hearing on an application for development of property adjacent to an existing county road or proposed road, as shown on the official County Map or on the County Master Plan, adjoining other county land or situate within 200 feet of a municipal boundary.
- E. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a state highway.
- F. Notice shall be given by personal service or certified mail to the Director of the Division of State and Regional Planning in the Department of Community Affairs of a hearing on an application for development on property which exceeds 150 acres or 500 dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the Municipal Clerk pursuant to Section 6b of P.L. 1975, c. 291.²⁴
- G. All notices hereinabove specified in this section shall be given at least 10 days prior to the day set for hearing, and the applicant shall file an affidavit of proof of service with the Board holding the hearing on the application for development.
- H. Any notice made by certified mail as hereinabove required shall be deemed to be complete upon mailing in accordance with the provisions of N.J.S.A. 40:55D-14.
- I. Form of notice. All notices to be given pursuant to the terms of this article shall state the date, time and place of the hearing, the nature of the matters to be considered and identification of the property proposed for development, by street address, if any, or by

24. Editor's Note: See N.J.S.A. 40:55D-10b.

reference to lot and block numbers as shown on the current tax duplicate in the Municipal Tax Assessor's office and the location and times at which any maps and documents for which approval is sought are available as required by law.

- J. Provided, however, that in accordance with the provisions of N.J.S.A. 40:55D-12a, no notice is required for a hearing on an application for conventional site plan review, minor subdivisions or final approval of site plans and major subdivisions. **[Added 5-4-1981 by Ord. No. 6-1981]**

§ 45-19. List of property owners.

Pursuant to the provisions of N.J.S.A. 40:55D-12c, the Tax Assessor of the Borough of Tuckerton shall, within seven days after receipt of a request therefor and upon receipt of a payment of a fee of \$10, make and certify a list from the current tax duplicate of names and addresses of owners to whom the applicant is required to give notice pursuant to § 45-18B of this article.

§ 45-20. Decisions.

- A. Each decision on any application for development shall be reduced to writing as provided in this subsection and shall include findings of facts and conclusions based thereon. Failure of a motion to approve an application for development to receive the number of votes required for approval shall be deemed an action denying the application. The municipal agency may provide such written decision and findings and conclusions either on the date of the meeting at which the municipal agency takes to grant or deny approval or, if the meeting at which such action is taken occurs within the final 45 days of the applicable time period for rendering a decision on the application for development, within 45 days of such meeting by the adoption of a resolution of memorialization setting forth the decision and findings and conclusions of the municipal agency thereon. An action resulting from the failure of a motion to approve an application shall be memorialized by resolution as provided above, notwithstanding the time at which such action occurs within the applicable time period for rendering a decision on the application. The adoption of a resolution of memorialization pursuant to this subsection shall be construed to alter the applicable time period for rendering a decision on the application for development. Such resolution shall be adopted by a vote of a majority of the members of the municipal agency who voted for the action previously taken, and no other member shall vote thereon. The vote on such resolution shall be deemed to be a memorialization of an action of the municipal agency and not to be an action of the municipal agency, except that failure to adopt such a resolution within the forty-five-day period shall result in the approval of the application for development, notwithstanding any prior action taken thereon. Whenever a resolution of memorialization is adopted in accordance with this subsection, the date of such adoption shall constitute the date of the decision for purposes of the mailings, findings and publications required by Subsection B and § 45-21 of this chapter. **[Amended 4-21-1980 by Ord. No. 3-1980]**
- B. A copy of the decision shall be mailed by the Board within 10 days of the date of decision to the applicant or, if represented, then to his attorney, without separate charge. A copy of the decision shall also be mailed to all persons who have requested it and who have paid the fee prescribed by the Board for such service. A copy of the decision shall also be filed in the office of the Municipal Clerk, who shall make a copy of such filed decision available to any

interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the municipality.

§ 45-21. Publication of decisions. [Amended 4-21-1980 by Ord. No. 3-1980; 6-15-2015 by Ord. No. 8-2015]

A brief notice of every final decision shall be published in the official newspaper of the municipality. Such publication shall be arranged by the applicant and at the applicant's cost. Said notice shall be sent to the official newspaper for publication within 10 days of the date of any such decision, and proof of publication shall be provided by the applicant to the Secretary of the Land Use Board within 14 days of publication.

§ 45-22. Payment of taxes.

Pursuant to the provisions of N.J.S.A. 40:55D-39 and N.J.S.A. 40:55D-65, every application for development submitted to the Planning Board 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 the taxes or assessments are delinquent on said property, any approvals or other relief granted by said 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 municipality will be adequately protected.

§ 45-23. Appeals from Planning Board to governing body.

An appeal from any final decision of the Planning Board may be taken to the governing body, provided that such appeal shall be made within 10 days of the date of publication of such final decision of the Planning Board. Such appeal shall be made in accordance with the provisions of N.J.S.A. 40:55D-17.

§ 45-24. Word usage.

Whenever a term is used in this article which is defined in P.L. 1975, c.291,²⁵ such term is intended to have the meaning set forth in the definition of such term found in said statute, unless a contrary intention is clearly expressed from the context of this article.

§ 45-25. Repealer.

All sections of the Land Subdivision Ordinance (Ord. No. 8-1973) and of the Zoning Ordinance (Ord. No. 4-1973)²⁶, which includes site plan review, and the ordinance creating a Planning Board in the Borough of Tuckerton, adopted on April 18, 1960, and any and all amendments to said ordinances or any other ordinance of the Borough of Tuckerton which contain provisions contrary to the provisions of this article shall be and are hereby repealed to the extent of such inconsistency.

§ 45-26. Ordinances continued.

Pursuant to the provisions of Section 81 of P.L. 1975, c.291, the substantive provisions of the existing Land Subdivision Ordinance, Zoning Ordinance and site plan review provisions of the

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

26. Editor's Note: See Ch. 231, Subdivision of Land, and Ch. 255, Zoning, respectively.

Borough of Tuckerton and the development regulations set forth therein shall continue in full force and effect for a period of six months from the effective date of said Act or until the governing body of the Borough of Tuckerton exercises the authority delegated by said Act to regulate development, whichever occurs first.

§ 45-27. Pending applications.

All applications for development filed prior to the effective date of this article may be continued, but any appeals arising out of decisions made on any such application shall be governed by the provisions of § 45-23 of this article.

§ 45-28. Single board. [Amended 4-7-2003 by Ord. No. 2-2003; 12-7-2009 by Ord. No. 13-2009]

In addition to its Planning Board powers, the Planning Board shall exercise to the same extent and subject to the same restrictions all the powers of the Board of Adjustment pursuant to N.J.S.A. 40:55D-70 et seq., but the Class I and Class III members shall not participate in the consideration of applications for development which involve relief pursuant to N.J.S.A. 40:55D-70(d). The Planning Board, its members, officers and employees, may also be referred to with the term "Land Use Board."

§ 45-29. Filing of copies.

Immediately upon adoption of this article, the Municipal Clerk shall file a copy of this article with the County Planning Board as required by law. The Clerk shall also file with said County Planning Board copies of all other ordinances of the municipality relating to land use, such as the Subdivision, Zoning and Site Plan Review Ordinances.²⁷

27. Editor's Note: The former article which immediately followed this article, regarding the Zoning Board of Adjustment, adopted 1-27-1977 by Ord. No. 1-1977, was repealed 4-7-2003 by Ord. No. 2-2003.

ARTICLE II
Landmarks Preservation²⁸
[Adopted 11-2-2015 by Ord. No. 15-2015]

§ 45-30. Interpretive statement.

It is the intention of the municipal governing body to promote and encourage the preservation and protection of historical structures within the Borough of Tuckerton historic district.

§ 45-31. Standards of consideration.

If an application before the Land Use Board proposes the demolition of a historical landmark or of any improvement within any historic district, relocation of any historical landmark or any improvement within any historic district, change in the exterior appearance of any existing landmark or of any improvement within any historic district by addition, alteration or replacement, any new construction of a principal or accessory structure, the Land Use Board shall consider the following as appropriate:

- A. Demolitions. In regard to an application to demolish an historic landmark or any improvement within an historic district, the following matters shall be considered:
- (1) Its historic architectural and aesthetic significance.
 - (2) Its use.
 - (3) Its importance to the municipality and the extent to which its historical or architectural value is such that its removal would be detrimental to the public interest.
 - (4) 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.
 - (5) The extent to which its retention 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.
 - (6) If it is within an historic district, the probable impact of its removal upon the ambience of the historic district.
- B. Removal out of the municipality. In regard to an application to remove an historic landmark within an historic district to a location outside the municipality, the following matters shall be considered:
- (1) The historic loss to the site of original location.
 - (2) The compelling reasons for not retaining the landmark or structure at its present site.

28. Editor's Note: See also Ch. 187, Landmarks Preservation.

- (3) The proximity of the proposed new location to the municipality, including the accessibility to the residents of the municipality and other citizens.
 - (4) The probability of significant damage to the landmark or structure itself.
 - (5) The applicable matters listed in Subsection A above.
- C. Removals within the municipality. In regard to an application to move an historic landmark or any structure in an historic district to a new location within the municipality, the following matters shall be considered in addition to the matters listed in Subsection B above.
- (1) The compatibility, nature and character of the current and of the proposed surrounding areas as they relate to the intent and purposes of this chapter.
 - (2) If the proposed new location is within an historic district, the visual compatibility factors as set forth in Subsection G hereof.
- D. Visual compatibility considered for additions or removals. In regard to an application to move a landmark or structure into, or to construct a new structure or add to or alter an existing structure within, an historic district, or a landmark, the visual compatibility of the proposed structure with the structures and surroundings to which it would be visually related shall be considered in terms of the visual compatibility factors as set forth in Subsection G hereof.
- E. Considerations on other actions. In regard to an application for other approval of any proposed action as set forth in § 187-4A hereof, the following matters shall be considered:
- (1) If an historic landmark or a structure in an historic district is involved:
 - (a) The impact of the proposed change on its historic architectural character.
 - (b) Its importance to the municipality and the extent to which its historic or architectural interest would be adversely affected to the detriment of the public interest.
 - (c) The extent to which there would be involvement of textures and materials that would not be reproduced or could be reproduced only with great difficulty.
 - (2) The use of any structure involved.
 - (3) The extent to which the proposed action would adversely affect the public's view of a landmark or structure within an historic district from a public street.
 - (4) If the application deals with a structure within an historic district, the impact the proposed change would have on the character and ambience of the historic district and the structure's visual compatibility with the buildings, places the structures to which it would be visually related in terms of the visual compatibility factors set forth in Subsection G hereof.
- F. Additional matters considered. In regard to all applications, additional pertinent matters may be considered.

- G. Visual compatibility factors. The following factors shall be used in determining the visual compatibility of a building, structure or appurtenance thereof with the buildings and places to which they are visually related and shall be known as "visual compatibility factors:"
- (1) Height. The height of the proposed building shall be visually compatible with adjacent buildings.
 - (2) Proportion of building's front facade. The relationship of the width of the building to the height of the front elevation shall be visually compatible with buildings and places to which it is visually related.
 - (3) Proportion of openings within the facility. The relationship of the width of windows to the height of windows in a building shall be visually compatible with the buildings and places to which it is visually related.
 - (4) Rhythm of solids to voids on front facades. The relationship of solids to voids in the front facade of a building shall be visually compatible with the buildings and places to which it is visually related.
 - (5) Rhythm of spacing of buildings on street. The relationship of the building to the open space between the adjoining building shall be visually compatible with the buildings and places to which it is visually related.
 - (6) Rhythm of entrance and/or porch projections. The relationship of entrance and porch projections to the street shall be visually compatible with the buildings and places to which it is visually related.
 - (7) Relationship of materials, texture and color. The relationship of materials, texture and color of the facade and roof of a building shall be visually compatible with the predominate materials used in the buildings to which it is visually related.
 - (8) Roof shapes. The roof shape of a building shall be visually compatible with buildings to which it is visually related.
 - (9) Walls and continuity. Appurtenances of a building such as walls, open-type fencing, evergreen landscape masses, shall form cohesive walls of enclosure along a street, to the extent necessary to maintain visual compatibility of the building with the buildings and places to which it is visually related.
 - (10) Scale of building. The size of a building, the mass of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with the buildings and places to which it is visually related.
 - (11) Directional expression of front elevation. A building shall be visually compatible with buildings and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or nondirectional character.
 - (12) The color chart incorporated by reference as Schedule A in § 255-63.2 of the Borough Code (Freestanding signs) is hereby deemed to be part of the visual compatibility factors herein, and said colors shall be considered to be acceptable.

Chapter 49**LOCAL ASSISTANCE BOARD****§ 49-1. Establishment; composition; compensation.**

There is hereby created a Local Assistance Board in the Borough of Tuckerton pursuant to the General Public Assistance Law (P.L. 1947, c. 156²⁹). Said Local Assistance Board shall be composed of three persons, and at least one of them shall be a woman. They shall be appointed by the Mayor of the Borough upon the approval of the Borough Council and shall serve without compensation but shall be allowed their necessary and actual expenses.

§ 49-2. Terms of office.

The term of one member of the Local Assistance Board shall be for one year, and such member only may be appointed from among the members of the Borough Council of the Borough of Tuckerton. The terms of the other members thereof shall be as follows:

- A. The terms of the other members shall be for two years each, except that the terms of the initial members shall be one year for one member and two years for one other member, in order that their terms may expire in alternate years. Thereafter, the term of each member shall be for two years.
- B. The term of each member of the Local Assistance Board shall begin on the first day of January, and each member shall continue in office until his successor shall be appointed and shall qualify.

§ 49-3. Organization; appointment of Director of Welfare.

The Local Assistance Board shall organize and select a Chairman and Secretary and appoint a Director of Welfare who shall be the first executive and administrative officer of the Board. The Director of Welfare shall hold office for a term of five years from the date of his or her appointment and shall be paid such salary as may be fixed by such Board, subject to the approval of the Borough Council. If a vacancy occurs in the office of the Director of Welfare, a temporary or acting director may be appointed to serve for not more than 90 days.

§ 49-4. Duties of Director of Welfare.

The Director of Welfare shall have the following duties. The Director shall:

- A. Supervise, by periodic investigation, every person receiving public assistance, such investigation to be made by visitation at least once a month.
- B. Reconsider from month to month the amount and nature of public assistance given and alter, amend or suspend the same when the circumstances so require.
- C. Devise ways and means for bringing persons unable to maintain themselves to self-support or to the support of any other person or agency able and willing so to do.

29. Editor's Note: See N.J.S.A. 44:8-107 et seq.

- D. Keep full and complete records of such investigation, supervision, assistance and rehabilitation and of all certifications of persons for employment or benefits and cancellations thereof in such manner and form as required by the Commissioner of the Department of Human Services.
- E. Bring about appropriate action for commitment to any state or county institution when the best interests of the needy persons would be so deserved.

§ 49-5. Powers and duties of Board.

The Local Assistance Board shall have the powers and perform the duties prescribed by general law and ordinance and shall appoint a Director of Welfare pursuant to the state law.

Chapter 53

MUNICIPAL ALLIANCE COMMITTEE

GENERAL REFERENCES

Alcoholic beverages — See Ch. 89.

Drug-free zones — See Ch. 147.

§ 53-1. Establishment.

There is hereby established a Municipal Alliance Committee for the Borough of Tuckerton.

§ 53-2. Membership; designation of Chairman.

- A. The Municipal Alliance Committee shall consist of 15 members appointed by the Mayor with the advice and consent of the Borough Council.
- B. The members of the Municipal Alliance Committee shall designate one of its members as Chairman of the Committee.

§ 53-3. Term; vacancies.

- A. The terms of office of the members appointed to the Committee shall be for one year.
- B. A vacancy on the Committee occurring otherwise than by expiration of a term shall be filled for the remainder of the unexpired term.

§ 53-4. Functions and duties.

The Municipal Alliance Committee shall:

- A. Organize and coordinate efforts involving schools, law enforcement, business groups and other community organizations for the purpose of reducing alcoholism and drug abuse.
- B. In cooperation with the local school districts, develop comprehensive and effective alcoholism and drug abuse education programs in grades kindergarten through twelfth.

- C. In cooperation with local school districts, develop procedures for the intervention, treatment and discipline of students abusing alcohol or drugs.
- D. Develop comprehensive alcoholism and drug abuse education and support an outreach effort for parents in the community.
- E. Develop comprehensive alcoholism and drug abuse community awareness programs.
- F. Make such individual studies and reports and initiate alcoholism and drug abuse programs as may be requested by the Mayor and Borough Council.

Chapter 55

MUTUAL AID AGREEMENTS

GENERAL REFERENCES

Office of Emergency Management — See Ch. 24.

Police Department — See Ch. 64.

Fire Department — See Ch. 29.

ARTICLE I
Mutual Police Aid Agreement

§ 55-1. Preamble.

- A. N.J.S.A. 40A:14-156, 40A:14-156.1, 40A:14-156.2, 40A:14-156.3 and 40:8A-1 et seq. authorize municipalities to enter into mutual aid and assistance agreements for police services in case of emergencies.
- B. The County of Ocean consists of 33 municipalities, 32 of which have Municipal Police or Fire Departments operating for or within the Township of Barnegat, Borough of Barnegat Light, Borough of Bay Head, Borough of Beach Haven, Borough of Beachwood, Township of Berkeley, Township of Brick, Township of Dover, Township of Eagleswood, Borough of Harvey Cedars, Borough of Island Heights, Township of Jackson, Township of Lacey, Borough of Lakehurst, Township of Lakewood, Borough of Lavallette, Township of Little Egg Harbor, Township of Long Beach, Township of Manchester, Borough of Mantoloking, Borough of Ocean Gate, Township of Ocean, Borough of Pine Beach, Township of Plumsted, Borough of Point Pleasant, Borough of Point Pleasant Beach, Borough of Seaside Heights, Borough of Seaside Park, Borough of Ship Bottom, Borough of South Toms River, Township of Stafford, Borough of Surf City and Borough of Tuckerton, which regularly interact and provide assistance to each other in police-related emergencies.
- C. Each of the aforementioned municipalities in the County of Ocean wishes to formalize and refine existing practice by entering into mutual aid agreements.

§ 55-2. Mutual aid agreements established.

Pursuant to N.J.S.A. 40A:14-156, 40A:14-156.1 and 40:8A-1 et seq., there are hereby established mutual aid agreements among and between the Borough of Tuckerton and each of the aforementioned municipalities in the County of Ocean, New Jersey, which shall become effective upon the adoption by one or more of the aforementioned municipalities (hereinafter referred to as "participating municipalities") of reciprocal ordinances to provide mutual aid in police services in case of emergency. This agreement shall apply whenever this municipality shall have an emergency within its boundaries requiring additional police assistance to protect life and property and whenever any of the aforementioned municipalities may experience a similar emergency.

§ 55-3. Emergency; SOP.

For purposes of this article, the term "emergency" shall be defined to include situations in which the number of available police officers in a participating municipality is insufficient to meet the public need in a particular situation, and situations where police aid involving special expertise or training is required in order to protect life and property or to assist in suppressing a riot or disorder or as defined by interlocal agreement. No formal declaration of emergency is required to implement the provisions of the mutual aid or interlocal services agreement.

§ 55-4. Requests for assistance.

The Chief or acting head of the Police Department or Mayor, or chief executive officer of a participating municipality, is hereby authorized to request assistance from the Chief or other

head of the Police Department of any other participating municipality to provide aid in accordance with N.J.S.A. 40A:14-156 and 40:8A-1, et seq.

§ 55-5. Provision of assistance.

A participating municipality shall provide police assistance, when a valid request in accordance with this agreement to supply personnel is made, to the extent possible without endangering persons or property within the confines of the providing municipality.

§ 55-6. Powers; rights; immunities.

The members of the providing municipality's Police Department supplying aid shall have the same powers, authority, rights and immunities as the members of the police force of the requesting municipality when aid is being rendered therein. Said members shall also have, while so acting, such rights and immunities as they may otherwise enjoy in the performance of their normal duties in the municipality rendering such assistance.

§ 55-7. County Critical Incident Management Plan.

These mutual aid agreements established herein by and between the aforementioned municipalities in the County of Ocean shall further authorize mutual police aid and assistance under the County Critical Incident Management Plan as established by the Ocean County Prosecutor, as the chief law enforcement official in the county. The plan provides for a response by specially trained regional Emergency Response/Special Weapons and Tactics Team in the event of certain hostage, barricade, sniper, high risk armed apprehensions, terrorist or similar situations occurring within a municipality within the County of Ocean.

§ 55-8. Benefits; injury; death.

Members of the police force of the providing municipality suffering injury, or their legal representatives if death results while rendering assistance in the requesting municipality, shall be entitled to all such salary, pension rights, workers' compensation or other benefits as they would have accrued if such injury or death had occurred in the performance of duties in their own municipality, with such benefits to be the responsibility of the providing municipality.

§ 55-9. Reimbursement.

- A. A municipality receiving public assistance hereunder pursuant to the terms of the County Critical Incident Management Plan shall not be required to directly reimburse the regional team for services so provided. The member municipalities shall, however, otherwise support the function of the respective regional response teams by providing the necessary manpower, equipment and supplies on an ongoing annual basis pursuant to the terms of the County Critical Incident Management Plan.
- B. Where emergency police aid is otherwise provided under circumstances outside of the County Critical Incident Management Plan, the reimbursement shall be pursuant to N.J.S.A. 40A:14-156 and N.J.S.A. 40:8A-1 et seq. or such other terms and conditions for reimbursement specifically agreed to between specific municipalities.

§ 55-10. When effective.

This article shall take effect upon final passage and publication according to law. It shall become effective with respect to this municipality's activities with another participating municipality when such other participating municipality has adopted an ordinance reciprocal to this one, and such ordinance has become effective in that municipality.

ARTICLE II

Emergency Hazardous Material Response Agreement**§ 55-11. Preamble.**

- A. N.J.S.A. 40A:14-156, 40A:14-156.1, 40A:14-156.2, 40A:14-156.3 and 40:8A-1 et seq. authorize municipalities to enter into mutual aid and assistance agreements for various emergency cases.
- B. The County of Ocean consists of 33 municipalities, 32 of which have Municipal Police, Fire Departments, or emergency management offices operating for or within the Township of Barnegat, Borough of Barnegat Light, Borough of Bay Head, Borough of Beach Haven, Borough of Beachwood, Township of Berkeley, Township of Brick, Township of Dover, Township of Eagleswood, Borough of Harvey Cedars, Borough of Island Heights, Township of Jackson, Township of Lacey, Borough of Lakehurst, Township of Lakewood, Borough of Lavallette, Township of Little Egg Harbor, Township of Long Beach, Township of Manchester, Borough of Mantoloking, Borough of Ocean Gate, Township of Ocean, Borough of Pine Beach, Township of Plumsted, Borough of Point Pleasant, Borough of Point Pleasant Beach, Borough of Seaside Heights, Borough of Seaside Park, Borough of Ship Bottom, Borough of South Toms River, Township of Stafford, Borough of Surf City and Borough of Tuckerton, which regularly interact and provide various types of assistance to each other in emergency matters.
- C. The Township of Berkeley has the Berkeley Emergency Response Team, one of only two hazardous material response teams within the County of Ocean, and each of the aforementioned municipalities in the County of Ocean wish to formalize and refine a practice of hazardous material incident response by entering into a mutual aid (interlocal) agreement.

§ 55-12. Mutual aid agreements established.

Pursuant to N.J.S.A. 40A:14-156, 40A:14-156.1 and 40:8A-1, there are hereby established mutual aid (interlocal) agreements among and between Township of Berkeley (providing agency) and each of the aforementioned municipalities in the County of Ocean, New Jersey, which shall become effective upon the adoption by one or more of the aforementioned municipalities (hereinafter referred to as "participating municipalities"). This agreement shall apply whenever this municipality may have an emergency within its boundaries requiring additional assistance for protection of life and property regarding the release or potential release of a hazardous material.

§ 55-13. Emergency; SOP.

For purposes of this article, the term "emergency" shall be defined to include, but not be limited to, situations in which a participating municipality has insufficient resources to control the release or potential release of a hazardous material. Where special expertise or training is required in order to protect life or property, no formal declaration of emergency is required to implement the provisions of the mutual aid (interlocal) agreement.

§ 55-14. Requests for assistance.

The Chief or acting head of any emergency service with the participating municipality, including, but not limited to, the Police Department, Fire Department, Office of Emergency Management, Mayor, or chief executive officer is hereby authorized to request assistance.

§ 55-15. Provision of assistance.

A participating municipality shall provide qualified manpower assistance in nonspecial expertise areas when a valid request in accordance with this agreement is made. It is understood the providing agency will supply assistance to an extent that will not endanger persons or property within the confines of their municipality. In the event multiple requests for assistance by multiple participating municipalities arises, the providing agency will respond on a first-call, first-response basis.

§ 55-16. Powers; rights; immunities.

The members of the providing agency supplying aid shall have the same powers, authority, rights and immunities as the members of any of the emergency services of the requesting municipality when aid is being rendered therein. Said members shall also have, while so acting, such rights and immunities as they may otherwise enjoy in the performance of their normal duties in the municipality rendering such assistance.

§ 55-17. Benefits; injury; death.

Members of the providing agency suffering injury, or their legal representatives if death results while rendering assistance in the requesting municipality, shall be entitled to all such salary, pension rights, workers' compensation or other benefits as they would have accrued if such injury or death had occurred in the performance of duties in their own municipality, with such benefits to be the responsibility of the providing municipality.

§ 55-18. Reimbursement.

A municipality receiving hazardous material emergency response assistance hereunder pursuant to the agreement shall not be required to directly reimburse the Berkeley Emergency Response Team. The member municipalities shall, however, otherwise support the function of the team by providing necessary equipment, supplies and reimbursement of fuels consumed on an ongoing annual basis to the Township of Berkeley. The terms and conditions for reimbursement shall be specifically agreed to between the participating municipalities. The member municipality shall provide reimbursement to Berkeley Township for salaries of all participating Berkeley Emergency Response Team members employed by the Township, Berkeley Township Municipal Utilities Authority or Berkeley Township Sewerage Authority while responding to an emergency.

§ 55-19. Indemnification.

A municipality receiving hazardous material emergency response assistance hereunder from the Berkeley Emergency Response Team agrees to specifically indemnify and defend the Berkeley Emergency Response Team, the Township of Berkeley and any agents, employees or members of the Berkeley Emergency Response Team from any and all claims made whatsoever. It is specifically understood that the Berkeley Emergency Response Team cannot respond to a call

to a participating municipality that has not agreed to such indemnification. Whenever a member of the Berkeley Emergency Response Team is a defendant in any action or legal proceeding arising out of, or directly related to, the lawful exercise of his or her duties in the furtherance of hazardous emergency response assistance, the governing body of the requesting participating municipality shall provide such member with the necessary means for the defense of such action or proceeding as if such member were an employee of the participating requesting municipality. Such municipalities shall provide payment of any settlement or judgment entered into as a result of such action filed against any member of the Berkeley Emergency Response Team or the Berkeley Emergency Response Team itself.

§ 55-20. When effective.

This article shall take effect upon final passage and publication according to law. It shall become effective with respect to this municipality's activities with another participating municipality when such other participating municipality has adopted an ordinance reciprocal to this one, and such ordinance has become effective in that municipality.

Chapter 60

OFFICERS AND EMPLOYEES

GENERAL REFERENCES

Administration of government — See Ch. 6

Salaries and compensation — See Ch. 71.

Court — See Ch. 15.

Building Construction Official — See Ch. 107.

Defense and indemnification — See Ch. 18.

ARTICLE I

Municipal Attorney**[Adopted 6-16-1975 by Ord. No. 4-1975]****§ 60-1. Creation of office.**

Pursuant to the provisions of Chapter 200 of the laws of 1971,³⁰ there is hereby created the office of Municipal Attorney, who shall be designated as the "Municipal Attorney."

§ 60-2. Appointment.

The Municipal Attorney shall be appointed by the Mayor with the advice and consent of the Borough Council.

§ 60-3. Term of office.

The term of the Municipal Attorney shall be one year from the date of such appointment and advice and consent of the Borough Council.

§ 60-4. Duties.

The Municipal Attorney shall perform such duties as are assigned from time to time by the Mayor or Council.

§ 60-5. Compensation.

The retainer of the Municipal Attorney shall be fixed by the annual Salary Ordinance³¹ of the Borough of Tuckerton, additional fees to be approved by the Council.

30. Editor's Note: See N.J.S.A. 40A:9, especially N.J.S.A. 40A:9-139.

31. Editor's Note: See Ch. 71, Salaries and Compensation.

ARTICLE II

Municipal Engineer

[Adopted 6-16-1975 by Ord. No. 5-1975; amended in its entirety 12-15-2008 by Ord. No. 16-2008]

§ 60-6. Creation of office.

There is hereby created the Office of Municipal Engineer.

§ 60-7. Appointment.

The Municipal Engineer shall be appointed by the Mayor, with the advice and consent of the Borough Council. Additional municipal engineers may be appointed on a project-by-project basis or on any other basis determined to be in the best interest of the Borough.

§ 60-8. Term of office.

The term of each Municipal Engineer shall be one year from January 1 of the year of such appointment.

§ 60-9. Duties.

The Municipal Engineer, and any and all specially appointed municipal engineers, shall perform such duties as are assigned from time to time by the Mayor or Council.

§ 60-10. Compensation.

The Municipal Engineer shall be compensated as fixed by contract.

ARTICLE III

Municipal Tax Collector; Deputy Tax Collector

[Adopted 6-16-1975 by Ord. No. 6-1975; amended in its entirety 12-15-2008 by Ord. No. 17-2008]

§ 60-11. Municipal Tax Collector.

- A. Creation of position. Pursuant to the provisions of N.J.S.A. 40A:9-141 et seq., there is hereby created the position of Municipal Tax Collector.
- B. Appointment. The Municipal Tax Collector shall be appointed by the Mayor, with the advice and consent of the Borough Council.
- C. Term of office. The term of the Municipal Tax Collector shall be four years from the first day of January next following appointment. Vacancies other than due to expiration of term shall be filled by appointment for the unexpired term.
- D. Duties. The Municipal Tax Collector shall perform all of the duties of the Office of Tax Collector, as provided by law.
- E. Salary. The salary of the Municipal Tax Collector shall be as fixed by the annual Salary Ordinance³² of the Borough of Tuckerton.

§ 60-12. Deputy Tax Collector.

- A. Creation of position. There is hereby created the position of Deputy Tax Collector.
- B. Appointment. The Deputy Tax Collector shall be appointed by the Mayor, with the advice and consent of the Borough Council.
- C. Term of office. The term of the Deputy Tax Collector shall be one year, beginning on January 1 and ending on December 31 of the year of appointment. Vacancies other than due to expiration of term shall be filled by appointment for the unexpired term.
- D. Duties. The Deputy Tax Collector shall work in conjunction with and under the direction of the Municipal Tax Collector. The Deputy Tax Collector shall perform all duties and functions as directed by the Municipal Tax Collector and, in the absence of the Municipal Tax Collector, shall perform all of the duties of the Office of Tax Collector.
- E. Salary. The salary of the Deputy Tax Collector shall be as fixed by the annual Salary Ordinance³³ of the Borough of Tuckerton.

§ 60-13. Deputy Tax/Utility Collector. [Added 9-8-2009 by Ord. No. 7-2009]

- A. Creation of position. There is hereby created the position of Deputy Tax/Utility Collector.
- B. Appointment. The Deputy Tax/Utility Collector shall be appointed by the Mayor, with the advice and consent of the Borough Council.

32. Editor's Note: See Ch. 71, Salaries and Compensation.

33. Editor's Note: See Ch. 71, Salaries and Compensation.

- C. Term of office. The term of the Deputy Tax/Utility Collector shall be one year, beginning on January 1 and ending on December 31 of the year of appointment. Vacancies other than due to expiration of term shall be filled by appointment for the unexpired term.
- D. Duties. The Deputy Tax/Utility Collector shall work in conjunction with and under the direction of the Municipal Tax Collector. The Deputy Tax/Utility Collector shall perform all duties and functions as directed by the Municipal Tax Collector.
- E. Salary. The salary of the Deputy Tax/Utility Collector shall be as fixed by the annual Salary Ordinance of the Borough of Tuckerton.³⁴

§ 60-14. through § 60-15. (Reserved)

34. Editor's Note: See Ch. 71, Salaries and Compensation.

ARTICLE IV
Chief Financial Officer
[Adopted 2-6-1989 by Ord. No. 2-1989]

§ 60-16. Creation of office.

Pursuant to the provisions of Chapter 110 of the Laws of 1988,³⁵ there is hereby created the office of Chief Financial Officer.

§ 60-17. Appointment.

The Chief Financial Officer shall be appointed by the Mayor with the advice and consent of the Borough Council.

§ 60-18. Term of office. [Amended 1-22-1992 by Ord. No. 2-1992]

The term of the Chief Financial Officer shall be four years from the first day of January of the year of the appointment.

§ 60-19. Powers and duties.

The Chief Financial Officer shall perform such duties as are assigned from time to time by the Mayor or Council.

§ 60-20. Compensation.

The salary of the Chief Financial Officer shall be as fixed by the annual Salary Ordinance of the Borough of Tuckerton.³⁶

35. Editor's Note: See N.J.S.A. 40A:9-140.1 et seq.

36. Editor's Note See Ch. 71, Salaries and Compensation.

ARTICLE V

Other Officers and Employees
[Adopted 5-21-1990 by Ord. No. 9-1990]**§ 60-21. Superintendent of Public Works.**

- A. Establishment, appointment and term of office. There shall be a Department of Public Works in the Borough, the head of which shall be the Superintendent of Public Works. He shall be appointed by the Mayor with the advice and consent of the Borough Council.
- B. Powers and duties. The Superintendent of Public Works shall:
- (1) Have charge of public works within the Borough, including roads, streets, sidewalks, curbing, storm sewers and drainage systems, highways and public places.
 - (2) Submit to the appropriate Borough Council committee his recommendations for budget appropriations for the ensuing year.
 - (3) Receive all complaints from Borough residents and taxpayers relating to operations under his jurisdiction, investigate the same, take appropriate action and report results to the Chairman of the Public Works Committee, thereby informing the public.
 - (4) Remove or cause to be removed all obstructions or encumbrances upon any streets or roads or public places in the Borough.
 - (5) Supervise the work of any personnel assigned to his jurisdiction.
 - (6) Recommend the need for any repairs and replacements to any Borough-owned equipment or structures or grounds.
 - (7) Set up, keep and maintain all the necessary books, records, maps, surveys and similar records necessary to perform the duties of his office and turn over all such records to his successor or the chairman of the committee upon his termination of employment with the Borough.

§ 60-21.1. Public Works Manager. [Added 12-3-2012 by Ord. No. 12-2012]

- A. Creation of position. There is hereby created the position of Public Works Manager.
- B. Appointment. The Public Works Manager shall be appointed by the Mayor, with the advice and consent of the Borough Council.
- C. Term of office. The term of the Public Works Manager shall be at the pleasure of the Mayor and Borough Council.
- D. Duties and qualifications. The Public Works Manager shall work in conjunction with and under the direction of the Public Works Superintendent. The Public Works Manager shall be a certified public works manager in accordance with N.J.S.A. 40A:9-154.6a et seq., and shall perform administrative and supervisory duties relating to the installation, maintenance and repair of public works facilities, and assist in the planning, organizing and directing of all programs relating to a public works activities.

- E. Salary. The salary of the Public Works Manager shall be as fixed by the annual Salary Ordinance of the Borough of Tuckerton.³⁷

§ 60-22. Supervisor of Water and Sewer Service.³⁸

- A. Position created. There shall be a Department of Water and Sewer Service in the Borough, the head of which shall be the Supervisor of Water and Sewer Service. He shall be appointed by the Mayor with the advice and consent of the Borough Council.
- B. Powers and duties. The Supervisor of Water and Sewer Service shall be under the direction of the Mayor and Borough Council and, in addition to performing all administrative tasks and related services, shall be responsible for the routine maintenance and repair tasks as required for the Water and Sewer Department and such work, related or incidental thereto, as he may be so directed to do from time to time by the Mayor and Borough Council. His duties shall include all matters incidental to the repair and maintenance of the Borough water and sewer facilities.

§ 60-23. Tax Assessor.³⁹

- A. Appointment; term of office. The Tax Assessor shall be appointed pursuant to N.J.S.A. 40A:9-146 et seq.
- B. Powers and duties. The Tax Assessor shall have, perform and discharge all the functions, powers and duties prescribed by law for a municipal assessor, including but not limited to the following. He shall:
- (1) Maintain adequate assessment records of each separate parcel of real property assessed or exempted.
 - (2) In cooperation with the Borough Engineer, maintain a current Tax Map of the Borough as a public record and cause to be recorded thereon all changes in ownership or character of the real property assessed, employing for that purpose the facilities of other departments as provided by the Administrative Code.⁴⁰

§ 60-24. Borough Administrator. [Amended 9-8-1999 by Ord. No. 10-1999]

- A. Position created. Pursuant to N.J.S.A. 40A:9-136, there is hereby created the position of Borough Administrator to administer the business affairs of the Borough of Tuckerton and to have such powers and perform such duties as hereinafter set forth, with the exception of those required to be exercised by the Mayor and Council or by another officer, board or body.
- B. Appointment and term of office. The Borough Administrator shall be appointed by the Mayor, with the advice and consent of the Borough Council, in accordance with N.J.S.A. 40A:9-137. The term of office of the Borough Administrator shall be at the pleasure of the governing body, subject to the provisions of state law.

37. Editor's Note: See Ch. 71, Salaries and Compensation.

38. Editor's Note: See Ch. 249, Water and Sewers.

39. Editor's Note: See also Art. III, Municipal Tax Collector, and Ch. 235, Taxation.

40. Editor's Note: See Ch. 6, Administration of Government.

- C. Qualifications. The Borough Administrator shall be chosen on the basis of his executive and administrative abilities and qualifications, with special regard as to education, training, and experience in governmental affairs. The Borough Administrator need not be a resident of the Borough of Tuckerton.
- D. Removal from office. The Borough Administrator may be removed by a 2/3 vote of the governing body. The resolution of removal shall become effective three months after its adoption by the governing body. In accordance with N.J.S.A. 40A:9-138, the governing body may provide that the resolution of removal shall have immediate effect; provided, however, that the governing body shall cause to be paid to the Borough Administrator forthwith any unpaid balance of his salary and his salary for the next three calendar months following adoption of the resolution.
- E. Vacancy. Any vacancy in the position of Borough Administrator may be filled by appointment by the Mayor, with the advice and consent of the Borough Council.
- F. Duties and responsibilities. The Borough Administrator shall, under the supervision and control of the Mayor and Borough Council and to the extent not prohibited by law, have the following duties and responsibilities:
- (1) To serve as the principal administrative officer representing the Mayor and Borough Council.
 - (2) To supervise the administration of all departments and offices in consultation with the respective committee chairmen.
 - (3) To represent the Borough in its relation to the federal, state and county governments and to other municipalities and to evaluate the Borough's interest in contracts, franchises and other business transactions as assigned by the Mayor and Borough Council.
 - (4) To receive and reply to inquiries and complaints concerning Borough business and to provide information and assistance in respect thereto.
 - (5) To attend all meetings of the Borough Council as required.
 - (6) To establish and maintain sound personnel practices and maintain appropriate records of all employees and to have the authority to recommend to the Mayor and Borough Council the initial hiring and disciplining of all Borough employees.
 - (7) To receive from each department, office and board its annual budget requests and to review and transmit the same, along with his comments and recommendations, to the Mayor and Borough Council.
 - (8) To assure that the provisions of all franchises, leases, permits and privileges granted by the Borough are complied with.
 - (9) To assign responsibilities for departmental duties and coordinate interdepartmental operations, as authorized by the Borough Council.
 - (10) To assist the residents of the Borough in matters within his jurisdiction by such reports, verbally or in writing, as he deems advisable or as may be requested by the

Borough Council and to submit an annual written report of his work accomplished, at the request of the Borough Council, for the benefit of the public.

- (11) To perform such other duties as may be required by the Mayor and/or Borough Council consistent with the laws of the State of New Jersey or the Borough.

G. Construal of provisions. Nothing in this section shall derogate from or authorize the Borough Administrator to exercise the powers and duties of the elected and appointed officials of the Borough.

§ 60-25. Code Enforcement Officer. [Added 7-7-1993 by Ord.No. 11-1993; amended 11-6-2000 by Ord. No. 20-2000]

A. Position created. There is hereby created the position of Code Enforcement Officer of the Borough of Tuckerton.

B. Appointment. The Code Enforcement Officer shall be appointed by the Mayor, with the advice and consent of the Borough Council.

C. Duties. The duties of the Code Enforcement Officer shall be as follows:

- (1) To conduct field inspections and special investigations to ensure compliance with zoning and various municipal ordinances; enforce rules and regulations in relation to enforcement of ordinances; prepare needed reports; assist in the establishment and maintenance of the records and files; and assist in the promulgation of municipal ordinances.
- (2) To assist the Zoning Officer in the enforcement of the zoning ordinances of the Borough of Tuckerton.⁴¹
- (3) To perform such duties as are required by the Mayor or Borough Council.

D. Qualifications. To be appointed to the position of Code Enforcement Officer, an individual must meet the following requirements. The individual must:

- (1) Have at least one year experience in conducting inspections to detect violations of an ensure compliance with laws, rules and regulations.
- (2) Possess a driver's license valid in New Jersey.
- (3) Have the ability to make necessary inspections and investigations without giving unnecessary offense.
- (4) Have the ability to take and maintain a firm and correct stand when controversial matters are considered.
- (5) Have the ability to prepare clear, sound, accurate and informative reports containing findings, conclusions and recommendations.
- (6) Have the ability to establish and maintain needed records and files.

41. Editor's Note: See Ch. 255, Zoning.

- (7) Have the ability to make evaluative judgments based on the application of statutory or regulatory provisions.

§ 60-26. Zoning Officer.⁴² [Added 11-6-2000 by Ord. No. 20-2000]

- A. Position created. There is hereby created the position of Zoning Officer of the Borough of Tuckerton.
- B. Appointment. The Zoning Officer shall be appointed by the Mayor, with the advice and consent of the Borough Council, for a term of one year. [Amended 3-3-2008 by Ord. No. 3-2008]
- C. Duties. The duties of the Zoning Officer shall be as follows:
- (1) To enforce the zoning ordinances of the Borough of Tuckerton.
 - (2) To issue flood hazard letters, in writing, when requested.⁴³
 - (3) To answer all inquiries with regard to zoning.
 - (4) To refer applicants to Zoning or Planning Boards when variance, subdivision or site plan is required.
 - (5) To review and approve final plans when in compliance and to issue zoning permits as required.
 - (6) To consult with the Planning or Zoning Board Engineer or Attorney when questions of compliance arise.
 - (7) To conduct field inspections to ensure compliance with zoning regulations and applicable rules, and to initiate appropriate enforcement action against violators.
 - (8) May assist in the promulgation of zoning regulations.
 - (9) To prepare and supervise the preparation of reports.
 - (10) To keep a record of all applications for permits and all permits and certificates issued, with a notation of all special conditions involved.
 - (11) To learn and thereafter utilize various types of electronic and/or manual recording and computerized information systems used by the agency, office or related units.
 - (12) To file and safely keep copies of all plans submitted.
 - (13) To collect and record fees for zoning permits and flood letters.
 - (14) To perform such duties as are required by the Mayor or Borough Council.
- D. The Zoning Officer shall be deemed to be the administrative officer as defined in N.J.S.A. 40:55D-3 and shall also issue certifications on behalf of the Borough of Tuckerton certifying whether or not a subdivision has been approved by the Borough of Tuckerton Planning Board, in accordance with N.J.S.A. 40:55D-56 and, in general, shall coordinate

42. Editor's Note: See Ch. 255, Zoning.

43. Editor's Note: See Ch. 166, Flood Hazards.

the efforts of the Planning Board of the Borough of Tuckerton and have such other duties or responsibilities as may, from time to time, be imposed with regard to the Planning Board.

- E. The Zoning Officer shall conduct field inspections and special investigations to ensure compliance with various municipal ordinances, initiate and enforce rules and regulations in relation to enforcement of ordinances, initiate necessary legal action against violators of various municipal ordinances, prepare needed reports, establish and maintain the records and files and may assist in the promulgation of municipal ordinances.
- F. Qualifications. To be appointed to the position of Zoning Officer, an individual must meet the following requirements. The individual must:
- (1) Have at least three years' experience in the preparation and revision of building construction plans and specifications or in investigations relative to compliance with zoning, construction or other municipal laws and regulations.
 - (2) Possess a driver's license valid in New Jersey.
 - (3) Have knowledge of the provisions of the local building code and zoning ordinances.
 - (4) Have knowledge of the effective means of obtaining and maintaining proper liaison between municipal authorities and private contractors.
 - (5) Have the ability to analyze and interpret local zoning ordinances and other local ordinances that may apply to the duties of the position.
 - (6) Have the ability to prepare clear, sound, accurate, and informative reports containing findings, conclusions and recommendations.
 - (7) Have the ability to work with applicants in a prompt, responsive and helpful manner and to apply the law in an even-handed manner.
- G. Deputy Zoning Officer. There is hereby created the position of Deputy Zoning Officer. The Deputy Zoning Officer(s) shall be appointed by the Mayor, with the advice and consent of the Borough Council, for a term of one year. The Deputy Zoning Officer shall meet all of the qualifications of the Zoning Officer set forth above. The duties of the Deputy Zoning Officer shall be to assist the Zoning Officer, to enforce the zoning ordinances of the Borough, and to perform all of the duties of the Zoning Officer at his/her direction or in his/her absence. In addition to the Zoning Officer, the Deputy Zoning Officer shall be deemed to be the administrative officer as defined by the Municipal Land Use Law, N.J.S.A. 40:55D-3. **[Added 3-3-2008 by Ord. No. 3-2008]**

§ 60-27. (Reserved)⁴⁴

§ 60-28. (Reserved)⁴⁵

§ 60-29. Treasurer. [Added 7-2-2001 by Ord. No. 13-2001]

44. Editor's Note: Former § 60-27, Technical Assistant to Construction Official/Control Person, added 11-6-2000 by Ord. No. 20-2000, as amended, was repealed 5-2-2011 by Ord. No. 8-2011. For current provisions, see § 132-1E.

45. Editor's Note: Former § 60-28, Construction Code Official, added 2-21-2001 by Ord. No. 2-2001, was repealed 5-2-2011 by Ord. No. 8-2011. For current provisions, see § 132-1A.

- A. Position created. There is hereby created the position of Treasurer.
- B. Duties. The duties of the Treasurer shall be as follows:
- (1) Assist the Chief Financial Officer in supervising and performing the work involved in the disbursement, accounting, and auditing of funds received and disbursed by the Borough. Assist in the negotiations of loans and sale of bonds for the Borough.
 - (2) Perform all related work as required by the Chief Financial Officer.
- C. Qualifications. To be appointed to the position of Treasurer, an individual must meet the following requirements: **[Amended 12-17-2007 by Ord. No. 18-2007]**
- (1) Four years of varied supervisory accounting experience and work involving the installation, operation, and keeping of large-scale systems of accounts.
 - (2) Thorough knowledge of the principles, methods, and procedures used in modern accounting and auditing, of the laws, rules and regulations governing the installation, operation, and keeping of accounts and their application to specific situations, and the preparation of involved and detailed accounting and other financial reports containing findings, conclusions, and recommendations.
 - (3) Ability to analyze complex financial problems, to give suitable assignments and instructions, to prepare suitable reports, and to direct the establishment and maintenance of extensive financial and related records and files.
 - (4) Good health and freedom from disabling physical and mental defects which would impair the proper performance of the required duties or which may endanger the health and safety of oneself or others. Persons with mental or physical disabilities are eligible as long as they can perform the essential functions of the job after reasonable accommodations are made for their known limitations. If the accommodations cannot be made because it would cause the employer undue hardship, such person may not be eligible.
- D. Compensation. The salary for the position of Treasurer shall be determined from time to time by the Borough Council and shall be paid in accordance with the provisions of the Salary Ordinance of the Borough of Tuckerton.⁴⁶

§ 60-30. Accounting Clerk. [Added 7-2-2001 by Ord. No. 13-2001]

- A. Position created. There is hereby created the position of Accounting Clerk for the Borough of Tuckerton.
- B. Duties. The Accounting Clerk, under direction, performs a variety of responsible and difficult clerical tasks which involve computing, classifying, verifying, and recording numerical data, and the reconciliation of accounts, records, and documents in order to keep sets of financial records complete and performs related work as required.
- C. Qualifications. To be appointed to the position of Accounting Clerk, an individual must meet the following requirements:

46. Editor's Note: See Ch. 71, Salaries and Compensation.

- (1) Possess one year of experience in the preparation, maintenance and/or review and verification of financial records.
 - (2) Possess considerable knowledge of the accounting clerical methods, forms, and techniques.
 - (3) Possess knowledge of office practices and procedures relating to the processing and recording of financial transactions and accounting information, accounting codes, classification, and terminology pertinent to the clerical maintenance operations and possess knowledge of basic arithmetic functions.
 - (4) Possess the ability to read, write, speak, understand, or communicate in English sufficiently to perform the duties of the position. Communications may include such forms as American Sign Language or Braille.
 - (5) Possess the ability to understand transactions and terms of accounting codes and classifications; the ability to understand the relationships among accounting records and documents; the ability to understand, remember, and carry out oral and written directions; the ability to perform routine and repetitive tasks, compare numerical and verbal data, and select appropriate information for forms; the ability to add, subtract, multiply, divide, and find averages and percentages; the ability to apply arithmetic principles and to correct computational errors; the ability to acquire an understanding of numerical recordkeeping and data gathering and other clerical procedures used in a specific establishment; the ability to perform work requiring constant and close attention to clerical and numerical detail.
 - (6) Good health and freedom from disabling physical and mental defects which would impair the proper performance of the required duties or which may endanger the health and safety of oneself or others. Persons with mental or physical disabilities are eligible as long as they can perform the essential functions of the job after reasonable accommodations are made for their known limitations. If the accommodations cannot be made because it would cause the employer undue hardship, such person may not be eligible.
- D. Compensation. The salary for the Accounting Clerk shall be determined from time to time by the Borough Council and shall be paid in accordance with the provisions of the Salary Ordinance of the Borough of Tuckerton.⁴⁷

47. Editor's Note: See Ch. 71, Salaries and Compensation.

ARTICLE VI
(Reserved)⁴⁸

§ 60-31. through § 60-36. (Reserved)

48. Editor's Note: Former Art. VI, Plumbing Inspector, adopted 4-20-1964, as amended, was repealed 5-2-2011 by Ord. No. 8-2011. For current provisions, see § 132-1C.

ARTICLE VII
Municipal Housing Liaison
[Adopted 11-16-2009 by Ord. No. 12-2009]

§ 60-37. Purpose.

The purpose of this article is to create the administrative mechanisms needed for the execution of Tuckerton Borough's responsibility to assist in the provision of affordable housing pursuant to the Fair Housing Act of 1985.

§ 60-38. Definitions.

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

ADMINISTRATIVE AGENT — The entity responsible for administering the affordability controls of some or all units in the affordable housing program for the Borough of Tuckerton to ensure that the restricted units under administration are affirmatively marketed and sold or rented, as applicable, only to low-income or moderate-income households.

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

§ 60-39. Establishment of position; compensation; powers and duties.

- A. Establishment of position of Municipal Housing Liaison. There is hereby created and established the position of Municipal Housing Liaison for the Borough of Tuckerton.
- B. Subject to the approval of the Council on Affordable Housing (COAH), the Municipal Housing Liaison shall be appointed by the Mayor with the advice and consent of the Borough Council, and may be a full- or part-time municipal employee.
- C. The Municipal Housing Liaison shall be responsible for the oversight and administration of the affordable housing program for the Borough of Tuckerton, including the following responsibilities which may not be contracted out, exclusive of Subsection C(6) which may be contracted out:
 - (1) Serving as Tuckerton Borough's primary point of contact for all inquiries from the state, affordable housing providers, administrative agents, and interested households.
 - (2) Monitoring the status of all restricted units in Tuckerton Borough's Fair Share Plan.
 - (3) Compiling, verifying, and submitting annual reports as required by COAH.
 - (4) Coordinating meetings with affordable housing providers and administrative agents, as applicable.
 - (5) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH.
 - (6) If applicable, serving as the administrative agent for some or all of the restricted units in Tuckerton Borough as described in Subsection F below.

- D. Subject to approval by COAH, Tuckerton Borough may contract with or authorize a consultant, authority, government or any agency charged by the governing body, which entity shall have the responsibility of administering the affordable housing program of Tuckerton Borough, except for those responsibilities which may not be contracted out pursuant to Subsection C above. If Tuckerton Borough contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and affirmative marketing plan, the Municipal Housing Liaison shall supervise the contracting administrative agent.
- E. Compensation. Compensation for the Municipal Housing Liaison shall be provided in the annual Salary Ordinance,⁴⁹ as amended and supplemented from time to time.
- F. Administrative powers and duties assigned to the Municipal Housing Liaison are as follows:
- (1) Affirmative marketing:
 - (a) Conducting an outreach process to insure affirmative marketing of affordable housing units in accordance with the Affirmative Marketing Plan of the Borough and the provisions of N.J.A.C. 5:80-26.15; and
 - (b) Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualifications, rental lease requirements, and landlord/tenant law.
 - (2) Household certification:
 - (a) Soliciting, scheduling, conducting and following up on interviews with interested households;
 - (b) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for low- or moderate-income units;
 - (c) Providing written notification to each applicant as to the determination of eligibility or noneligibility;
 - (d) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
 - (e) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
 - (f) Employing the random selection process as provided in the Affirmative Marketing Plan of Tuckerton Borough when referring households for certification to affordable units.
 - (3) Affordability controls:

49. Editor's Note: See Ch. 71, Salaries and Compensation.

- (a) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
 - (b) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
 - (c) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's register of deeds or county clerk's office after the termination of the affordability controls for each restricted unit;
 - (d) Communicating with lenders regarding foreclosures; and
 - (e) Ensuring the issuance of continuing certificates of occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- (4) Resale and rental:
- (a) Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of restricted units for resale or rental; and
 - (b) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or rental.
- (5) Processing request from unit owners:
- (a) Reviewing and approving requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;
 - (b) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the cost of central air conditioning systems; and
 - (c) Processing requests and making determinations on requests by owners of restricted units for hardship waivers.
- (6) Enforcement:
- (a) Securing annually lists of all affordable housing units for which tax bills are mailed to absentee owners and notifying all such owners that they must either move back to their units or sell them;
 - (b) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the administrative agent;

- (c) The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the administrative agent where complaints of excess rent can be made;
 - (d) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
 - (e) Establishing a program for diverting unlawful rent payments to the municipality's affordable housing trust fund or other appropriate municipal fund approved by the NJDCA;
 - (f) Creating and publishing a written operating manual, as approved by COAH, setting forth procedures for administering such affordability controls; and
 - (g) Providing annual reports to COAH as required.
- (7) The administrative agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

§ 60-40. through § 60-42. (Reserved)

ARTICLE VIII
Recycling Coordinator
[Adopted 5-2-2011 by Ord. No. 5-2011]

§ 60-43. Creation of position.

There is hereby created the position of Recycling Coordinator for the Borough of Tuckerton.

§ 60-44. Appointment; term of office.

The Recycling Coordinator shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve for a one year term beginning on January 1 and ending on December 31 of each year.

§ 60-45. Powers and duties.

The Recycling Coordinator is hereby authorized and directed to establish and promulgate reasonable regulations regarding the recycling of recyclable materials and such other matters as are required to implement the Borough's recycling ordinances. Such regulations shall take effect only upon the approval of the Mayor and Borough Council by adoption of a resolution or ordinance implementing the same. The Recycling Coordinator is hereby authorized and directed to administer and enforce the provisions of the Borough's recycling ordinances and any implementing regulations adopted hereunder, and to perform such other functions with regard to recycling as directed.

Chapter 64

POLICE DEPARTMENT

GENERAL REFERENCES

Fire Department — See Ch. 29.

Officers and employees — See Ch. 60.

Mutual aid agreements — See Ch. 55.

ARTICLE I
General Provisions

§ 64-1. Establishment; appointment of personnel.

- A. There is hereby created and established in the Borough of Tuckerton a Police Department, which shall be known as the "Borough of Tuckerton Police Department." The Police Department is established in accordance with the provisions of N.J.S.A. 40A:14-118 et seq.
- B. The Mayor and Borough Council shall provide for the appointment of a Director of Police and/or a Chief of Police and officers and personnel as they shall deem necessary for the proper and efficient operation of the Police Department. The Mayor and Borough Council shall determine the terms of office and compensation and prescribe the powers, functions and duties of all such members, officers and personnel as permitted by law.

§ 64-2. Composition; line of authority; jurisdiction.

- A. Said Police Department shall consist of one Director of Police and/or Chief of Police and such Captains, Lieutenants, Sergeants, police officers, and civilian employees as deemed necessary and appropriate by the Director of Police/Chief of Police in his or her discretion and judgment with the approval of the Mayor and Borough Council. The Director of Police/Chief of Police and/or Mayor and Council may, from time to time, leave one or more of the above positions vacant, as they see fit. The express purpose for renaming these offices is to establish a statutory line of authority from all police employees to a higher elected authority. Whenever any such office is intentionally left vacant, it will be deemed not to exist and it will be passed in the chain of command. The Director of Police/Chief of Police, with the approval of the Mayor and the Council, may therefore recreate or resurrect an office that has been so abolished by naming a person to fill said office. No personnel may be appointed to the Borough of Tuckerton Police Department until they have satisfied all statutory requirements and have complied with the selection process and standards established by the rules and regulations adopted by the appropriate authority to govern said Police Department.
- B. Jurisdiction. The Borough of Tuckerton Police Department shall come under the jurisdiction of the appropriate authority, which is hereby created pursuant to N.J.S.A. 40A:14-118 et seq. Said appropriate authority shall be the Business Administrator or any person designated by the Mayor, subject to the approval of the Borough Council, pursuant to New Jersey Statutes. The Borough Council shall designate the appropriate authority by resolution, and in the absence of a resolution designating the appropriate authority, the Borough Council shall act as the appropriate authority. The appropriate authority shall be responsible directly to the Mayor and Borough Council. The Director of Police/Chief of Police shall be directly responsible to the appropriate authority for the operation of the Police Department pursuant to policies established by said appropriate authority. The appropriate authority shall be responsible to develop appropriate rules and regulations for the government of the police force and for the discipline of its members in accordance with N.J.S.A. 40A:14-118, which shall be known as the Rules and Regulations for the Police Department of the Borough of Tuckerton.
 - (1) Hearing authority.

- (a) All regular officers and members of the Police Department of the Borough of Tuckerton, in the County of Ocean, shall hold office during good behavior and shall not be dismissed except for just cause and in the manner prescribed by law. In the event of any disciplinary proceeding against any member of the Police Department of the Borough of Tuckerton below the rank of Director of Police/Chief of Police, said appropriate authority or his or her designee shall be the sole hearing officer and person in charge of all such proceedings. The decision of the hearing officer shall be final and binding. The right of appeal shall be to the New Jersey Department of Personnel and/or to the New Jersey Superior Court pursuant to N.J.S.A. 40A:14-150 et seq., if and as applicable.
 - (b) Whenever special counsel is designated to be the hearing authority pursuant to Subsection B(1) above, prior approval must be obtained by resolution of the Borough Council.
- (2) Charging authority.
- (a) In the event a Borough of Tuckerton police officer is to be charged in a disciplinary action and said employee is subordinate to the rank of Director of Police/Chief of Police, only the Director of Police/Chief of Police or his or her designee may initiate such charges pursuant to the powers vested in said office by this chapter. In the event that the Office of the Director of Police/Chief of Police has been abolished through the intentional vacancy pursuant to § 64-2, then the appropriate authority or his or her designee shall function as the charging authority. Failure to initiate charges when same are indicated may constitute a neglect or dereliction of duty, but the function of the charging authority may not be circumvented.
 - (b) Whenever any person, whether a police officer, special counsel, or appropriate authority, serves in an investigative capacity and as the charging authority relevant to a Borough of Tuckerton Police Department disciplinary action, he or she may not thereafter be designated as or serve as the hearing authority in that same disciplinary action.
- (3) Any employee seeking to appeal disciplinary charges shall do so in writing submitted to the Office of the Director of Police/Chief of Police. Said appeal shall be filed within five days, not including Saturday, Sunday and legal holidays, of the date and charges that were served upon the employee. The appropriate authority shall schedule a hearing in accordance with the provisions of this chapter and existing state statute. A preliminary notice of disciplinary action served on any employee shall contain the date, time and location for a prospective hearing as required by statute. That hearing date may be postponed at the discretion of the hearing authority within the statutory time lines. Any postponement beyond the statutory thirty-day time line will generally require a waiver of the thirty-day rules by the employee and a formal request for said postponement. However, all employees are put on notice that a failure to submit the required written request for an appeal would constitute an act of insubordination and affect the employee's rights pertaining to said statutory time lines, the discovery proceedings, as well as other rights and remedies appurtenant thereto.
- (4) The Director of Police/Chief of Police. The Director of Police/Chief of Police shall be appointed by the Mayor with the advice and consent of the Borough Council. The

Director of Police/Chief of Police, as the executive head of the Police Department, shall be charged with the duties of supervising and directing the Police Department; and shall be directly responsible to the appropriate authority and to the Mayor for its efficiency and operations. The Director of Police/Chief of Police, an appointed position, shall serve at the pleasure of the governing body.

- (5) Civilian employees. The Director of Police/Chief of Police shall, with the approval and consent of the Mayor and the Borough Council, appoint such civilian members to the Police Department as he or she may deem necessary. Said members are to provide dispatch services, clerical duties and logistics in support of the Police Department.
- (6) Police employees. The Director of Police/Chief of Police shall, with the approval and consent of the Mayor and Borough Council, appoint, promote, assign or reduce the force and all police personnel employed by the Borough of Tuckerton for reasons of economy.
- (7) Geographic table of organization.
 - (a) A geographic table of organization shall be maintained by the Director of Police/Chief of Police to show the following:
 - [1] The Borough of Tuckerton Police Department divisional structure.
 - [2] The Borough of Tuckerton Police Department personnel structure.
 - (b) The express function of each position will be defined within the rules and regulations of the Borough of Tuckerton Police Department promulgated by the appropriate authority, but is not necessarily limited to same.
- (8) Monthly reports to the appropriate authority. The Director of Police/Chief of Police shall submit monthly written reports to the appropriate authority in such form as shall be prescribed by said authority on the operation of the force during the preceding month, and make such other reports as may be requested by said appropriate authority.
- (9) Policies established by the Director of Police/Chief of Police to govern operations. Pursuant to N.J.S.A. 40A:14-118 et seq., the Director of Police/Chief of Police, if such office is filled, shall be directly responsible to the appropriate authority for the efficiency and operations thereof, and that he or she shall, pursuant to policies established by the appropriate authority, perform his or her assigned duties. Therefore, the Director of Police/Chief of Police shall issue whatever operations orders, general orders, or standard operating policies that he or she deems necessary for the operation of the Department.
- (10) Emergency directives. Nothing herein contained shall infringe upon or limit the duty of the Director of Police/Chief of Police to act to provide for the health, safety or welfare of the municipality in an emergency through special emergency directives (N.J.S.A. 40A:14-118 and 40A:14-146.9).
- (11) Additional duties. Additionally, the Director of Police/Chief of Police for the Borough of Tuckerton, pursuant to policies promulgated by the appropriate authority, shall:

- (a) Administer and enforce the rules and regulations of the Police Department and any special emergency directive for the disposition and discipline of the Department and its officers and members;
- (b) Have, exercise and discharge the functions, powers and duties of the Police Department;
- (c) Prescribe the duties and assignments of all subordinates and other personnel; and
- (d) Delegate such authority as may be deemed necessary for the efficient operation of the Police Department to be exercised under the direction and control of the Director of Police/Chief of Police, and provide monthly reports to the Mayor in such form as prescribed in the operation of the Police Department pursuant to N.J.S.A. 40A:14-118 et seq.

§ 64-3. Police Department rules and regulations and police manual.

- A. The appropriate authority pursuant to N.J.S.A. 40A:14-118, is hereby authorized to update, adopt and promulgate rules and regulations for the governing of the Police Department and for the discipline of its members with a view to making the Police Department and all members thereof efficient, vigilant and effective in the service of the Borough of Tuckerton. Said rules and regulations will be in manual form and shall be called the "Rules and Regulations of the Police Department for the Borough of Tuckerton" and shall govern the conduct of and be binding upon the entire membership of said Police Department, including the Director and/or Chief and all subordinates. Said rules and regulations shall provide for penalties and forfeitures for violations thereof.
- B. The rules and regulations shall be distributed in manual form as follows: a serialized copy will be issued to and signed for by each employee of the Police Department for the Borough of Tuckerton. A copy will be maintained by the Borough Clerk for the personnel designated as special officers and to provide public access to same.
- C. All members and employees who are assigned a manual shall be responsible for its maintenance and care. Said manuals shall remain the property of the Borough of Tuckerton, County of Ocean, State of New Jersey, and upon separation from police service, each person is bound to return same. Each person will be responsible for the security of his or her manual, and loss of same may constitute neglect of duty and will result in disciplinary action. All manuals shall be kept current, and supplementary pages concerning additions, revisions or amendments shall be promptly and properly inserted. No Police Department operating policies will be inserted as part of this manual unless and until properly assimilated by the appropriate authority.
- D. Each police officer and each civilian employee is duty bound to thoroughly familiarize himself with the provisions of the police manual. Failure to comply shall be considered a neglect of duty.
- E. In the event neglect of duty is charged against a member for failure to observe the rules and regulations or Department procedures or orders, ignorance of any provision of this manual will not be accepted as an excuse.

§ 64-4. Compensation.

All members, officers and employees of said Police Department, whether full-time, part-time, temporary or special, shall receive only such salary, wage or compensation as the Borough Council may fix and determine.

§ 64-5. Outside employment.

Every officer and member of the Police Department shall devote his or her whole time and attention to the business of the Department, and he or she is expressly prohibited from following any other calling or being employed in any other business during the hours in which he or she is on duty. He or she may, however, accept any respectable employment, except at a place where alcoholic beverages are sold, at any time that he or she is not on duty, provided that such employment shall not allow his or her efficiency as a police officer nor reflect adversely upon his or her character or that of the Department.

§ 64-6. Continuation of office.

Police officers regularly employed by the Borough of Tuckerton at the time of the passage of this chapter shall continue as and be deemed to be members of the Police Department of the Borough of Tuckerton.

§ 64-7. Employment of off-duty officers.

- A. Any person or entity desiring to retain the services of police officers of the Borough of Tuckerton for off-duty police-related activities shall be required to enter into a contract with the Borough of Tuckerton. Said contract shall include, but not be limited to, the nature of duties to be performed, the location of said duties, the date and hours of service, the rate of payment for services of the officers, administrative fees to the Borough of Tuckerton and fees for the use of Borough-owned equipment. The Director of Police/Chief of Police shall require the payment of 100% of the estimated amount due the Borough for the assignment of such off-duty officer or officers from the person or entity requesting such assignment in advance of providing such officer or officers. The Director of Police/Chief of Police is hereby empowered to execute a contract for off-duty police-related activities on behalf of the Borough in accordance with this section.
- B. The Director of Police/Chief of Police shall be responsible for the assignment of all off-duty police-related activities and the billing of all compensation due the Borough. The Director of Police/Chief of Police shall be authorized to designate other members of the Police Department as needed to assist him/her in the assignment of off-duty police-related activities.
- C. All persons or entities shall pay to the Treasurer of the Borough such hourly sum as may be fixed from time to time by resolution of the Borough Council as compensation for such service. The Borough shall remit to the member of the Police Department performing such duties an amount as predetermined from time to time by resolution of the Borough Council as well as the amount that shall be retained by the Borough for administrative expenses, all as established by resolution of the Borough Council. **[Amended 7-17-2006 by Ord. No. 14-2006]**

- D. If additional work time is required due to unanticipated circumstances, and such work is approved by the Police Director/Chief of Police, the private entity shall be liable for payment to the Borough for all such additional hours worked.
- E. Any invoice from the Borough for any balance due, or a credit for any refund, if any, shall be issued by the Borough Treasurer. Payments due from private entity shall be made within 10 days of receipt of the invoice from the Borough.
- F. Each person or entity who shall employ off-duty police officers pursuant to this section shall be responsible for maintaining his/her or its own insurance coverage. Said insurance coverage shall include but not be limited to general liability and automobile liability and shall name the Borough of Tuckerton as an additional insured. In addition, such policy shall provide for a minimum coverage of \$1,000,000 for any one claim or \$2,000,000 for any aggregate claims. Proof of said insurance coverage shall be provided to the Borough of Tuckerton prior to the assignment of any off-duty police officers to said person or entity. The person or entity shall provide for the aforementioned for any and all officers, vehicles and/or equipment that is utilized in the off-duty assignment.
- G. The Director of Police/Chief of Police or his/her designee shall have the authority to order any police officer engaged in off-duty assignments within the Borough of Tuckerton to respond to an emergency situation within the Borough of Tuckerton. The Director of Police/Chief of Police or his/her designee shall also have the right to order any off-duty assignment to be terminated whenever said assignment creates an unacceptable risk to the health, safety and welfare of the off-duty officer and/or the citizens of the Borough of Tuckerton. In the event that a police officer is assigned to an emergency situation, the Director of Police/Chief of Police, or his/her designee, shall make note of said emergency situation, as well as the time said officer was removed from said off-duty assignment. In any situation where an off-duty police officer is called to an emergency situation, said person or entity shall not be responsible for the payment of the officer's hourly rate, administrative fee or any other fees to the Borough until such time as said police officer and/or equipment returns to the assignment with the off-duty employer.
- H. Any person or entity requesting the services of off-duty police officers shall agree to indemnify and hold harmless the Borough of Tuckerton for any and all claims and damages which may arise from the off-duty police officer's employment by said person or entity.

ARTICLE II
Special Law Enforcement Officers

§ 64-8. Definitions.

Whenever any words and phrases are used in this article, the meanings respectively ascribed to them in N.J.S.A. 40A:14-146.9 shall be deemed to apply to such words and phrases used herein.

§ 64-9. Position established.

There is hereby established the position of special police officer in and for the Borough of Tuckerton.

§ 64-10. Determination of eligibility.

Before any special law enforcement officer is appointed, the Director of Police/Chief of Police or, in the absence of the Director/Chief, other chief law enforcement official of the Borough, shall ascertain the eligibility and qualifications of the applicant and report these determinations, in writing, to the Mayor and Council.

§ 64-11. Appointment; residency requirement.

- A. Special law enforcement officers may be appointed for terms not to exceed one year, and the appointments may be revoked by the Mayor and Council for cause, after adequate hearing, unless the appointment is for four months or less, in which event the appointment may be revoked without cause or hearing. Nothing herein shall be construed to require reappointment upon the expiration of the term. The special law enforcement officers so appointed shall not be members of the police force of the Borough, and their powers and duties shall cease at the expiration of the term for which appointed.
- B. Special law enforcement officers shall be residents of the Borough of Tuckerton.

§ 64-12. Qualifications.

- A. No person may be appointed as a special law enforcement officer unless the person:
 - (1) Is a resident of this state during the term of appointment;
 - (2) Is able to read, write and speak the English language well and intelligently and has a high school diploma or its equivalent;
 - (3) Is sound in body and of good health;
 - (4) Is of good moral character;
 - (5) Has not been convicted of any offense involving dishonesty or which would make him or her unfit to perform the duties of his or her office; and
 - (6) Has successfully undergone the same psychological testing that is required of all full-time police officers in the Borough or, with regard to a special law enforcement officer hired for a seasonal period which required psychological testing of its full-time police officers, has successfully undergone a program of psychological testing

approved by the Police Training Commission established in the Department of Law and Public Safety, pursuant to N.J.S.A. 52:17B-70.

- B. Every applicant for the position of special law enforcement officer shall have fingerprints taken, which fingerprints shall be filed with the Division of State Police and the Federal Bureau of Investigation.
- C. No person shall be appointed to serve as a special law enforcement officer if that person serves as a special law enforcement officer in another municipality; nor shall any permanent, regularly appointed full-time police officer of any other municipality in this state be appointed as a special law enforcement officer. No public official with responsibility for setting law enforcement policy or exercising authority over the budget of any municipality in this state or supervision of the Police Department of a municipality in this state shall be appointed as a special law enforcement officer.
- D. Any person who at any time prior to his or her appointment had served as a duly qualified, fully trained, full-time officer in any municipality in this state and who is separated from that prior service and in good standing shall be eligible to serve as a special law enforcement officer consistent with the guidelines promulgated by the Police Training Commission. If the Police Training Commission waives the training requirements which are required by statute, the Mayor and Council, if it chooses, may appoint such person as a special law enforcement officer.

§ 64-13. Training course and certification requirements.

- A. No person may commence his or her duties as a special law enforcement officer unless he or she has successfully completed the training course and certification requirements of N.J.S.A. 40A:14-146.11, unless such training requirements have been waived by the Police Training Commission.
- B. All special law enforcement officers appointed in service on the effective date of this article may continue in service if, within 24 months of the effective date of this article, they will have completed all training and certification requirements of this section.

§ 64-14. Classification of officers.

There are hereby established two classifications of special law enforcement officers.

- A. Class One. Officers of this class shall be authorized to perform routine traffic detail, spectator control and similar duties. Class One officers shall have the power to issue summonses for disorderly persons and petty disorderly persons offenses, violations of municipal ordinances and violations of Title 39 of the Revised Statutes. The use of a firearm by an officer of this class shall be strictly prohibited, and no Class One officer shall be assigned any duties which may require the carrying or use of a firearm.
- B. Class Two. Officers of this class shall be authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time police officer. The use of a firearm by an officer of this class may be authorized only after the officer has been fully certified as successfully completing training as prescribed by the Police Training Commission.

§ 64-15. Uniforms.

Every special law enforcement officer prior to the commencement of his or her duties shall be furnished with a uniform which shall identify the officer's function. The uniform shall include but not be limited to a hat and appropriate badges which shall bear an identification number or name tag and the name of the Borough of Tuckerton. The uniform shall also include an insignia issued by the Police Training Commission which clearly indicates the officer's status as a special law enforcement officer and the type of certification issued by the Commission. All special law enforcement officers prior to the commencement of duties shall be in uniform properly displaying the appropriate insignia.

§ 64-16. Return of equipment and uniform upon termination.

Whenever a special law enforcement officer's appointment is revoked or a special law enforcement officer is not reappointed upon the expiration of the term, the special law enforcement officer shall return to the officer in charge of the station house all Borough of Tuckerton issued uniforms, badges and equipment within 15 days of the revocation or expiration of term.

§ 64-17. Firearms.

The special law enforcement officers shall carry and return firearms pursuant to the guidelines established in N.J.S.A. 40A:14-146.14b.

§ 64-18. Conduct of officers.

Special law enforcement officers shall comply with the rules and regulations applicable to the conduct and decorum of the permanent, regularly appointed police officers of the Borough, as well as any rules and regulations applicable to the conduct and decorum of special law enforcement officers.

§ 64-19. Performance of duties.

- A. A special law enforcement officer shall be under the supervision and direction of the Director of Police/Chief of Police or, in the absence of the Director/Chief, other chief law enforcement officer of the Borough and shall perform his or her duties only in the Borough unless in fresh pursuit of any person pursuant to Chapter 156 of Title 2A of the New Jersey Statutes.
- B. The Director of Police/Chief of Police or, in the absence of the Director/Chief, other chief law enforcement officer of the Borough may authorize special law enforcement officers when on duty to exercise the same powers and authority as permanent, regularly appointed police officers of the Borough, including but not limited to the carrying of firearms and the power to arrest subject to rules and regulations, and such authorization shall not be inconsistent with the certification requirements of § 64-13 herein.

§ 64-20. Hours of employment; classification of Borough as resort community.

- A. The provisions of N.J.S.A. 40A:14-146.16a and c regarding the maximum hours of employment of special law enforcement officers is hereby incorporated as if stated in full herein.

- B. For the purposes of N.J.S.A. 40A:14-146.16a and c, the Borough of Tuckerton is a resort community.

§ 64-21. Limitation of use of officers.

Special law enforcement officers may be employed only to assist the Borough law enforcement unit but may not be employed to replace or substitute for full-time regular police officers or in any way diminish the number of full-time officers employed by the Borough.

Chapter 65**PRIDE AND CELEBRATION COMMITTEE****§ 65-1. Establishment; composition. [Amended 9-5-2007 by Ord. No. 14-2007; 2-6-2012 by Ord. No. 1-2012]**

There is hereby established in the Borough of Tuckerton, a Pride and Celebration Committee which shall be known as the "Tuckerton Pride and Celebration Committee." The Committee shall consist of five members and two alternate members. Members and alternate members shall be appointed by the Mayor with the advice and consent of Council. All members shall be residents of the Borough, except that members may include nonpermanent seasonal residents or individuals who own, operate or are employed by a business or commercial establishment within the Borough. All members shall serve without compensation except as hereinafter provided.

§ 65-2. Purpose.

The purpose of the Committee shall be for the organization, planning, coordination and running of public events officially sanctioned by the Borough Council. The Committee shall be charged with the organization, planning, coordination and running of the Easter Egg Hunt, Tuckerton Family Day, Fourth of July Celebration, Halloween Safe Walk, Ye Old Fashioned Holiday events, holiday displays, seasonal banners and any other activity which shall be directed by the Mayor and Borough Council.

§ 65-3. Terms; vacancies; organization.

- A. The Mayor shall appoint, with the advice and consent of Council, two members for a one-year term, two members for a two-year term and one member for a three-year term. Upon the expiration of the initial terms of appointment, all reappointments shall be for a term of three years. Any vacancy which occurs prior to the expiration of the term for that member shall be filled for the unexpired term only. The two alternate members shall be designated at the time of appointment as Alternate No. 1 and Alternate No. 2. The terms of the alternate members shall be for two years, except that the terms of the alternate members first appointed shall be two years for Alternate No. 1 and one year for Alternate No. 2 so that the term of not more than one alternate member shall expire in any one year. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only. **[Amended 9-5-2007 by Ord. No. 14-2007]**
- B. The Committee shall organize within 30 days after the appointment of its total membership for the remainder of the then calendar year, and thereafter annually by the election of one of its members as Chairman and the appointment of a Secretary, who shall not be a member of the Committee. The salary of the Secretary shall be fixed by the governing body of the municipality. The Secretary shall keep minutes and records of all meetings. All records shall be public records. All meetings shall comply with the Open Public Meetings Act (N.J.S.A. 10:4-7 et seq.).
- C. The Committee members shall serve without compensation but shall be reimbursed for expenses incurred in the performance of official business, with prior approval of the governing body.

- D. The Committee shall not authorize expenditures which exceed, exclusive of gifts and grants, the amount appropriated by the governing body for its use.

Chapter 66

PUBLIC RECORDS AND DOCUMENTS

§ 66-1. Requests for inspection and copies.

- A. Except as otherwise provided by law, all records of the Borough shall be available to the public upon written request therefor, which may, but need not be made, on a form provided by the Borough, a copy of which is on file at the Borough Clerk's office and has been approved by resolution of the Borough Council, and within such response time or times as may be stated thereon and provided by law.
- B. Such records may be inspected at the principal office of the Borough during regular business hours and may be copied, by hand, under the supervision of a representative of the Borough.

§ 66-2. Fees for copies; Tax Collector calculations. [Amended 11-1-2010 by Ord. No. 24-2010; 11-7-2011 by Ord. No. 14-2011]

- A. The following fees shall be charged for the purchase of copies of public documents and records:
- (1) Duplicate tax bills: \$5 each.
 - (2) Photographs: \$5 each.
 - (3) Vital statistics certificates: \$10 each.
 - (4) Duplicate tax sale certificate: \$100 each.
 - (5) Letter-size and smaller: \$0.05.
 - (6) Legal-size and larger: \$0.07.
 - (7) The Borough of Tuckerton must provide electronic copies free of charge (i.e., records sent via e-mail and fax).
 - (8) The Borough of Tuckerton must charge the actual cost to provide records in another medium (i.e., computer disc, CD-ROM, DVD).
 - (9) If the actual cost to produce paper copies exceeds the \$0.05 and \$0.07 rates, the Borough of Tuckerton may charge the actual cost of duplication.
- B. Whenever the nature, format or size of a government record embodied in the form of printed matter to be copied pursuant to this section is such that the record cannot be reproduced by ordinary document-copying equipment in ordinary business size, the Borough shall charge the actual cost of duplicating the record, which shall be based upon the actual direct cost of providing the copy or copies. The requestor shall have the opportunity to review and object to the charge prior to it being incurred.

- C. The custodian shall permit access to a Borough record and provide a copy thereof in the medium requested if the Borough maintains the record in that medium. If the Borough does not maintain the record in the medium requested, the custodian shall either convert the record to the medium requested or provide a copy in some other meaningful medium. If a request is for a record in a medium not routinely used by the Borough, the Borough may charge the actual cost of duplication.
- D. Tax Collector calculations:
- (1) In accordance with N.J.S.A. 54:5-54, the Tax Collector shall provide to any party entitled to redeem a certificate pursuant to this section (N.J.S.A. 54:5-54) two calculations of the amount required for redemption within a calendar year at no cost. For each subsequent calculation requested from the Tax Collector, there shall be a fee of \$50. A request for a redemption calculation shall be made in writing to the Tax Collector.
 - (2) In accordance with N.J.S.A. 54:5-97.1, the Tax Collector may charge a lienholder of a tax lien \$50 for the calculation of the amount due to redeem the tax lien as required pursuant to N.J.S.A. 54:5-97.1. Any request for a redemption calculation shall specify the date to be used for the calculation, which shall be the date of the notice. Neither the Tax Collector nor the municipality shall be liable for an incorrect calculation. The fee paid to the municipality shall not become part of the lien and shall not be passed on to any party entitled to redeem pursuant to N.J.S.A. 54:5-54.

Chapter 71

SALARIES AND COMPENSATION

Chapter 74

SHADE TREE COMMISSION

§ 74-1. Establishment; purpose.

- A. There is hereby established in the Borough of Tuckerton a Shade Tree Commission which shall be known as the "Shade Tree Commission of the Borough of Tuckerton." The Commission shall consist of five members and two alternate members. Members and alternate members shall be appointed by the Mayor, shall be residents of the municipality, and shall serve without compensation except as hereinafter provided.
- B. The purpose of the Commission shall be for the regulation, planting, care and control of shade and ornamental trees and shrubbery upon and in the streets, highways, public places, parks and parkways of the Borough, except state highways unless the Department of Transportation shall assent thereto, and except county highway, parks and parkways, unless the County Shade Tree Commission or County Department of Parks and Recreation shall assent thereto.

§ 74-2. First Commission; subsequent Commission; terms.

- A. The first Commissioners shall be appointed within 60 days after the ordinance providing for the Commission shall become effective, and their terms of office shall commence upon the day of their appointment and be for the respective periods of one, two, three, four and five years beginning on January 1 next succeeding such appointment. The terms of each appointee shall be designated in his appointment. All subsequent appointments, except to fill vacancies, shall be for the full term of five years, to take effect on January 1.
- B. Alternate members shall be designated at the time of appointment as "Alternate No. 1" and "Alternate No. 2" and shall serve during the absence or disqualification of any regular member or members. The term of each alternate member shall be five years commencing on January 1 of the year of appointment; provided, however, that in the event two alternate members are appointed, the initial term of Alternate No. 2 shall be four years and the initial term of Alternate No. 1 shall be five years. The terms of the first alternate members appointed pursuant to this section shall commence on the day of their appointment and shall expire on the fourth or fifth December 31 next ensuing after the date of their appointments, as the case may be. An alternate member 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.

§ 74-3. Organization; salaries of officers and employees.

The Commission shall organize within 30 days after the appointment of its total membership for the remainder of the then-calendar year, and thereafter annually by the election of one of its members as Chairman and the appointment of a Secretary, who need not be a member. The salary of the Secretary, who may be compensated even if a member of the Commission, shall be fixed by the governing body of the municipality; the salary of all other employees shall be fixed by the Commission. All salaries shall be fixed as nearly as practicable in accordance with the salary schedule, if any, of the municipality for corresponding positions.

§ 74-4. Vacancies.

Any vacancy occurring by reason of the death, resignation or removal of any Commissioner shall be filled for the unexpired term by the authority having power to make the original appointments.

§ 74-5. Powers of Commission.

The Shade Tree Commission shall have the power to:

- A. Exercise full and exclusive control over the regulation, planting and care of shade and ornamental trees and shrubbery now located or which may hereafter be placed in any public highway, park or parkway, except such as are excluded pursuant to § 74-1 of this chapter, including the planting, trimming, spraying, care and protection thereof.
- B. Regulate and control the use of the ground surrounding the same so far as may be necessary for their proper growth, care and protection.
- C. Move or require the removal of any tree, or part thereof, dangerous to public safety.
- D. Care for and control such parks and parkways, encourage arboriculture; make, alter, amend and repeal, in the manner prescribed for the passage, alteration, amendment and repeal of ordinances by the governing body of the municipality, any and all ordinances necessary or proper for carrying out the provisions hereof.

- E. Administer treatment to, or remove, any tree situate upon private property which is believed to harbor a disease or insects readily communicable to neighboring healthy trees in the care of the municipality and enter upon private property for that purpose, with the consent of the owner thereof, provided the suspected condition is first confirmed by certificate issued by or on behalf of the Department of Agriculture.

§ 74-6. Cost of trees and improvements; charge and lien on property; exception.

- A. Except as hereinafter provided, the initial cost of all trees planted by the Commission, the cost of planting the same, the cost of the posts and boxes or guards used for the protection thereof, and the cost of the removal of any tree or part thereof dangerous to public safety shall, if the Commission shall so determine, in accordance with uniform rules and regulations promulgated for this purpose, be a charge upon the real estate in front of which such tree or trees shall be planted or removed as an improvement thereof. Such cost if it is so determined that it is to be paid by the owner shall, unless paid directly to the Commission, be certified by it to the Collector of Taxes of the municipality, shall thereupon become and be a lien upon said real estate, shall be included in the next tax bill rendered to the owner or owners thereof, and be collected in the same manner as other taxes against that property.
- B. The provisions of this section shall not apply to:
- (1) A planting to replace a tree or trees theretofore planted by the Commission;
 - (2) A planting in connection with Arbor Day exercises or other educational demonstrations.

§ 74-7. Planting and removal of trees; notice and hearing; emergencies.

In every case where the property of an abutting owner will be chargeable with the cost of planting of any shade tree or trees, the Commission shall give notice of the meeting at which it is proposed to consider said planting by publishing the notice at least once, not less than 20 days before the meeting, in a newspaper circulating in the municipality, or by personal service of a copy of the notice upon the abutting owner at least 10 days before the meeting. The notice shall specify the street, streets, or portions thereof, on which such planting is proposed and require all persons who may object thereto to present their objections in writing at the office of the Commission at or before the meeting. Before final action shall be taken, all objections so filed shall be considered. The Commission shall give reasonable notice of its intention to remove, or cause the removal of, a tree, or part of a tree, dangerous to public safety, unless public safety requires immediate removal, in which case no notice shall be necessary.

§ 74-8. Annual appropriation; estimate; amount.

- A. During the month of December in each year, the Shade Tree Commission shall certify to the governing body of the municipality the estimated sum necessary for the proper conduct of its work during the ensuing fiscal year, which shall include the sums estimated to be expended for such of the following items as it is anticipated expenditure will be made for, namely:
- (1) Payment of wages and salaries of employees;

- (2) Expenses of Commission members in discharging official duties, including expenses incident to attendance at professional meetings;
 - (3) Purchase of trees and shrubbery; and
 - (4) Purchase of necessary equipment and materials and the cost of services for the prudent promotion of the work.
- B. The governing body of the municipality shall annually appropriate such sum as it may deem necessary for said purposes.

§ 74-9. Violations and penalties; jurisdiction of courts; copy of ordinance as evidence.

- A. The Commission may prescribe a fine for the violation of each of its ordinances in an amount not exceeding \$1,500 for each violation, and the courts which now or hereafter shall have jurisdiction over actions for the violation of ordinances of the municipality in which the Commission has been or shall be appointed shall have jurisdiction in actions for the violation of such ordinances as the Commission shall enact. The ordinances shall be enforced by like proceedings and process, and the practice for the enforcement thereof shall be the same as that provided by law for the enforcement of the ordinances of the municipality in which the Commission exists. The officers authorized by law to serve and execute process in the aforementioned courts shall be the officers to serve and execute any process issued out of any court under this chapter. A copy of any ordinance of the Commission, certified to under the hand of its Secretary or Chairman shall be received in any court of this state as full and legal proof of the existence of the ordinance, and that all requirements of law in relation to the ordaining, publishing and making of the same so as to make it legal and binding have been complied with, unless the contrary be shown.
- B. In addition to the penalties authorized by Subsection A of this section, the Commission may require a person who removes or otherwise destroys a tree in violation of a municipal ordinance to pay a replacement assessment to the municipality. The replacement assessment shall be the value of the tree as determined by the appraisal of a trained forester or certified tree expert retained by the Commission for that purpose. In lieu of an appraisal, the Commission may adopt a formula and schedule based upon the number of square inches contained in a cross section of the trunk of the tree multiplied by a predetermined value per square inch, not to exceed \$27 per square inch. The square-inch cross section shall be calculated from the diameter at breast height and, if there is a multiple stem tree, then each trunk shall be measured and an average shall be determined for the tree. For the purposes of this section, "diameter at breast height" shall mean the diameter of the tree taken at a point 4 1/2 feet above ground level. The Commission shall modify the value of the tree based upon its species variety, location and its condition at the time of removal or destruction.
- C. Any public utility or cable television company that clears, moves, cuts or destroys any trees, shrubs or plants for the purpose of erecting, installing, moving, removing, altering or maintaining any structures or fixtures necessary for the supply of electric light, heat or power, communication or cable television services upon any lands in which it has acquired an easement or right-of-way shall not be subject to any penalty imposed by a Commission pursuant to Subsections A or B of this section. This subsection shall not exempt any public utility or cable television company from any penalty or replacement assessment imposed for negligent actions.

§ 74-10. Disposition of penalties.

All moneys collected in any municipality, either as liens or penalties, for any violation of a rule or regulation of a Shade Tree Commission or as a charge against real estate, under any provision of this chapter shall be forthwith paid over the municipal officer empowered to be custodian of the funds of the municipality.

Chapter 77**WATERWAYS COMMISSION****§ 77-1. Establishment.**

There is hereby established a Waterways Commission, which shall be an advisory body responsible for assisting the Borough in the restoration, protection and maintenance of all tidal and nontidal waterways and shorelines within the Borough, including man-made and natural lagoons and adjacent waters of the Little Egg Harbor Bay. The Commission shall, to the greatest extent possible, coordinate with other Borough boards and commissions, such as the Environmental Commission, Economic Development Committee and the Land Use Board, in the fulfillment of its duties.

§ 77-2. Membership; Chairperson. [Amended 12-6-2010 by Ord. No. 27-2010⁵⁰]

The Waterways Commission shall consist of seven members and two alternate members, designated as Alternate No. 1 and Alternate No. 2. Members shall be appointed by the Mayor with the advice and consent of the Borough Council. A Chair shall be elected annually from among the members of the Commission. The Chair shall establish the meeting schedule, in conjunction with the Borough Clerk, and insure that all required official meeting notices are published.

§ 77-3. Terms of office; vacancies.

- A. The term of office for the members of the Commission shall be for three years. A vacancy on the Commission occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as the original appointment.
- B. The terms of office of the alternate members of the Commission shall be two years, staggered so that not more than one term expires each year. Alternate members may participate in all matters 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. A vacancy occurring otherwise than by expiration of term shall be filled in the same manner as the original appointment for the unexpired term only.
- C. All terms shall run from January 1 of the year in which the appointment is made.

§ 77-4. Meetings.

50. Editor's Note: This ordinance was vetoed by the Mayor 12-17-2010 but was overridden by a two-thirds majority vote by the Borough Council 1-3-2011.

- A. There shall be not less than one meeting each month. All meetings of the Commission shall be open to the public. A quorum of the members must be present. Four of the seven members present shall constitute a quorum.
- B. The Chair shall preside at all meetings of the Commission. All meetings of the Commission shall include the opportunity for public participation.

§ 77-5. Duties of members.

Commission members shall work to fulfill the mission of the Commission, under the leadership of the Chair. Members shall attend business meetings and shall use their talents and resources to support the achievement of Commission goals.

§ 77-6. Removal of members.

The Mayor and Borough Council may remove any member of the Commission, with or without cause, upon majority vote.

§ 77-7. Powers and duties.

The Commission shall:

- A. Formulate such recommendations to the Borough Council concerning the restoration, protection and maintenance of all tidal and nontidal waterways and shorelines within the Borough, including man-made and natural lagoons and adjacent waters of the Little Egg Harbor Bay.
- B. Seek alternative sources of funding for waterway initiatives from all available public and private sources.
- C. Work with the Mayor and Borough Council to define and implement an annual work plan, with defined goals and objectives; and participate in budget workshops to insure that the Commission's needs are addressed.
- D. Manage projects with thorough communications and goals and coordinate with all county, state and federal regulatory agencies having jurisdiction over Borough waterways for the purpose of advancing local objectives.
- E. Keep records of its meetings and make an annual report to the governing body.
- F. Perform any other duties as directed by the Mayor and Borough Council.

Part II, General Legislation

Chapter 80

AFFORDABLE HOUSING

GENERAL REFERENCES

Subdivision of land — See Ch. 231.

Zoning — See Ch. 255.

ARTICLE I
Development Fees
[Adopted 5-21-2007 by Ord. No. 8-2007]

§ 80-1. Purpose.

In *Holmdel Builder's Association v. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules. This article establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's rules. Fees collected pursuant to this article shall be used for the sole purpose of providing low- and moderate-income housing. This article shall be interpreted within the framework of COAH's rules on development fees.

§ 80-2. Basic requirements.

The Borough of Tuckerton shall not spend development fees until COAH or the court has approved a plan for spending such fees and the Borough of Tuckerton has received third-round substantive certification from COAH or a judgment of compliance from the court. This article shall be subject to the provisions of any affordable housing growth share ordinance adopted by the Borough.

§ 80-3. Definitions.

The following terms, as used in this article, shall have the following meanings:

AFFORDABLE HOUSING DEVELOPMENT — A development included in the Borough's housing element and fair share plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one-hundred-percent-affordable development.

COAH — The New Jersey Council on Affordable Housing.

DEVELOPMENT FEE — Funds paid by an individual, person, partnership, association, company or corporation for the improvement of property as permitted by COAH's rules.

EQUALIZED ASSESSED VALUE — The value of a property determined by the Municipal Tax Assessor through a process designed to ensure that all property in the municipality is assessed at the same assessment ratios required by law. Estimates at the time of issuance of a building permit may be obtained utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the Municipal Tax Assessor.

§ 80-4. Residential development fees.

- A. Within the Borough's residential zoning district(s), residential developers shall pay a fee of 1% of the equalized assessed value for residential development, provided no increased density or other similar compensatory benefit is permitted.
- B. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. For

example, if an approval allows four units to be constructed on a site that was zoned for two units, the fees would equal 1% of the equalized assessed value on the first two units, and 6% of the equalized assessed value for the two additional units. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

§ 80-5. Nonresidential development fees.

- A. Within the Borough's nonresidential zoning district(s), nonresidential developers shall pay a fee of 2% of the equalized assessed value for the nonresidential development.
- B. If an increase in floor area ratio is approved pursuant to N.J.S.A. 40:55D-70d(4), then the additional floor area realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of 6% of the equalized assessed value for the nonresidential development. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base floor area for the purposes of calculating the bonus development fee shall be the highest floor area permitted by right during the two-year period preceding the filing of the variance application.

§ 80-6. Eligible exactions, ineligible exactions and exemptions.

- A. Affordable housing developments shall be exempt from development fees. All other forms of new construction shall be subject to development fees unless exempted below.
- B. Developments that have received preliminary or final approval prior to the imposition of a municipal development fee shall be exempt from development fees unless the developer seeks a substantial change in the approval.
- C. Development fees shall be imposed and collected when an existing structure is expanded or undergoes a change to a more intense use resulting in an increase in the assessed value of the property of \$20,000 or more. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

§ 80-7. Collection of fees.

Fifty percent of the development fee will be collected at the time of issuance of the building permit. The remaining portion will be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

§ 80-8. Contested fees.

Imposed and collected development fees that are challenged shall be placed in an interest-bearing escrow account by the Borough of Tuckerton. If all or a portion of the contested fees are returned to the developer, the accrued interest on the returned amount shall also be returned.

§ 80-9. Affordable housing trust fund.

- A. The Borough of Tuckerton shall create an interest-bearing housing trust fund at its banking institution for the purpose of depositing development fees collected from residential and

nonresidential developers and proceeds from the sale of units with extinguished controls. All development fees paid by developers pursuant to this article shall be deposited into this fund.

- B. Within seven days from the opening of the trust fund account, the Borough of Tuckerton shall provide COAH with written authorization, in the form of a three-party escrow agreement between the Borough, the Borough's banking institution, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:94-6.16(b).
- C. No funds shall be expended from the affordable housing trust fund unless the expenditure conforms to a spending plan approved by COAH or the court. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

§ 80-10. Use of funds.

- A. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the municipal fair share. Such activities include, but are not limited to: rehabilitation, new construction, RCAs subject to the provisions of N.J.A.C. 5:94-4.4(d), ECHO housing, purchase of land for affordable housing, purchase housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, or administration necessary for implementation of the housing element and fair share plan. The expenditure of all funds shall conform to a spending plan approved by COAH or the court.
- B. Funds shall not be expended to reimburse Borough of Tuckerton for past housing activities.
- C. After subcontracting development fees collected to finance an RCA, a rehabilitation program or a new construction project that are necessary to address the Borough of Tuckerton's affordable housing obligation, at least 30% of the balance remaining shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal fair share plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.
 - (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, and rental assistance.
 - (2) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the third-round municipal fair share plan to make them affordable to households earning 30% or less of median income. The use of development fees in this manner shall entitle the Borough of Tuckerton to bonus credits pursuant to N.J.A.C. 5:94-4.22.
 - (3) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- D. The Borough of Tuckerton may contract with a private or public entity to administer any part of its housing element and fair share plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:94-7.

- E. No more than 20% of the revenues collected from development fees each year, exclusive of the fees used to fund an RCA, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a housing element and fair share plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Development fee administrative costs are calculated and may be expended at the end of each year or upon receipt of the fees.

§ 80-11. Monitoring.

The Borough of Tuckerton shall complete and return to COAH all monitoring forms included in the annual monitoring report related to the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, and funds from the sale of units with extinguished controls, and the expenditure of revenues and implementation of the plan certified by COAH or approved by the court. All monitoring reports shall be completed on forms designed by COAH.

Chapter 85**ALARM SYSTEMS****GENERAL REFERENCES**

Fire detection systems — See Ch. 163, Art. II.

§ 85-1. Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:

ALARM AGENT — Any person employed by an alarm business to perform any of the following functions within the Borough: altering, leasing, installing, maintaining, moving, repairing, replacing, selling or servicing any alarm system in any building place or business. "Selling," as used in this section, does not include a person(s) who engages in the sale or manufacture of an alarm system from a fixed location and who neither visits the location where the alarm system is to be installed, nor designed the scheme for the physical location and the installation of the alarm system in a specific location.

ALARM BUSINESS — Any business which is engaged in the selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing of any alarm system in any place, building or premise.

ALARM SYSTEM — Any device designed, when actuated, to produce or emit a sound or transmit a signal or message for the purpose of alerting others to the existence of an emergency situation requiring immediate investigation by police, fire or other agent.

BOROUGH ALARM ADMINISTRATOR — The Chief of Police or any other person authorized by the Borough Council to be responsible for the enforcement of this chapter and any administrative duties regarding the regulation and control of alarm businesses, agents and systems in the Borough.

FALSE ALARM — The activation of an alarm system by causes other than those to which the alarm system was designed or intended to respond.

§ 85-2. Operation and maintenance.

- A. All components of alarm systems, alarm devices, dialer alarms and local alarms shall be properly maintained by alarm agents or users of such systems and be in good repair. The Borough Alarm Administrator or his/her representative is authorized to disconnect such devices or systems that in his/her judgment are not properly maintained or in good repair.
- B. Prior to the installation of any alarm in the Borough, direct connect, phone dialer, local or central station, the alarm business must complete the prescribed form and submit it to the Borough Alarm Administrator for his approval.
- C. The contents of any recorded message from a dialer alarm system must be intelligible and in a format approved by the Chief of Police. No such message shall be transmitted more than three times as a result of a single stimulus of the mechanism. Messages shall not exceed 15 seconds, and the time gap between delivery shall be approximately 10 seconds.

- D. All local alarms shall be equipped with a time relay or battery to limit the sounding of alarms to 30 minutes or less, after which time the system shall rearm itself.
- E. Each alarm company operator shall provide accurate and complete instructions to the alarm system user in the proper use and operation of said false alarm.
- F. All alarm systems shall have a standby, backup power supply which will automatically assume the operation of the alarm system should any interruption occur in the power to the system. The transfer of power from the primary source to the backup source must occur in a manner which does not activate the alarm.
- G. Every alarm business shall provide ready repair service upon notification of an alarm breakdown within two hours upon such notification.

§ 85-3. Inspection; required information.

- A. The Borough Alarm Administrator or his/her representative is authorized, at reasonable time and upon oral notice, to enter any premises in the Borough of Tuckerton to inspect the installation and/or operation of any alarm device or alarm business as official business.
- B. All alarm businesses must submit the names, addresses and emergency numbers of person(s) to contact if the alarm is activated to the Borough Alarm Administrator and shall update and/or amend this list monthly. This list is confidential and shall be used by the Police and/or Fire Department when necessary to make contact due to official business.

§ 85-4. False alarms.

- A. The Police Chief shall keep a written record (the police event/dispatch card) of all false alarms which summon the Police Department to investigate.
- B. After five false alarms in any new calendar year, the Borough Alarm Administrator shall charge the owner or lessee of such alarm an administrative inspection fee as outlined in § 85-5C.
- C. The Borough Alarm Administrator is authorized to have any alarm device that does not meet the requirements of this chapter, or is responsible for excess false alarms, excessive false alarms being more than 10 in one calendar year, to disconnect such alarm device.
- D. Should any disconnection result due to § 85-4C, all liability shall be upon said subscriber for all losses whatsoever during the period of disconnection, and no liability shall befall the Borough.
- E. In order to reconnect, the alarm subscriber must submit, in writing, to the Borough Alarm Administrator, proof that the problem with his alarm has been corrected. Approval may be given on a trial basis for 60 days. A reconnect fee will be charged as set forth in § 85-5D.
- F. Owner, lessee or alarm business, after consulting with the Borough Alarm Administrator, may appeal said Administrator's decisions under §§ 85-3 and 85-4 to the Borough Council.

§ 85-5. Fees.

- A. To cover the cost to the Borough of processing applications for alarm businesses and agents, the following nonrefundable fees must accompany said applications:

- (1) Alarm business: initial fee of \$25; thereafter, an annual renewal fee of \$10.
 - (2) Alarm agent: initial fee of \$10 with no annual renewal fee. This fee includes the cost of fingerprinting and an identification card.
- B. Phone dialer. The owner or lessee of an automatic dialing device which is interconnected to a special trunk line transmitting directly into the Police Department shall pay the Borough's nonrefundable fee of \$5 a month to cover the cost to the Borough of providing the personnel to monitor said line.
- C. The following administrative inspection fee shall be applicable as a result of excess false alarms:
- (1) Zero to four : no fee.
 - (2) Beginning with the fifth and thereafter, an administrative inspection fee of \$15 will be charged in order to cover the cost of inspecting the licensed premises.
- D. The reconnection fee as outlined in § 85-4E shall be \$25.

Chapter 89

ALCOHOLIC BEVERAGES

GENERAL REFERENCES

Municipal Alliance Committee — See Ch. 53.

Curfew — See Ch. 138.

§ 89-1. Maximum number of licenses.

From and after the final passage, approval and publication, as required by law, of this chapter, the number of licenses to sell alcoholic beverages at retail in the Borough of Tuckerton, Ocean County, New Jersey, shall be limited as follows: not more than five plenary retail consumption licenses, not more than one plenary retail distribution license and not more than one club license shall be outstanding in the Borough at the same time.

§ 89-2. Permitted hours of sale and business operation. [Amended 3-15-1971 by Ord. No. 2-1971; 10-1-1984 by Ord. No. 13-1984]

- A. No alcoholic beverage shall be sold or delivered between the hours of 2:00 a.m. and 7:00 a.m. of any day, except:
- (1) On Sunday mornings, when sales are hereby permitted to be extended to 3:00 a.m.
 - (2) The first day of January of each year, when sales may be extended throughout the day.
- B. Licensed premises.

- (1) No licensed premises shall remain open to the public, nor shall any customers or patrons be permitted to remain in or on the licensed premises, between the hours of 2:30 a.m. and 7:00 a.m. of any day, except:
 - (a) On Sunday mornings, when the licensed premises may remain open to the public until 3:30 am.
 - (b) The first day of January of each year, when licensed premises may remain open throughout the day.
- (2) It shall be deemed a violation of this section whenever all persons have not totally vacated the licensed premises during the times prescribed by this subsection.

§ 89-3. No delivering or serving of alcoholic beverages during prohibited hours of sale.

No delivering or serving of any alcoholic beverage shall be made, permitted or suffered on any licensed premises during any period when the sale of alcoholic beverages is prohibited hereby.

§ 89-4. Selling, serving or delivering of alcoholic beverages.

Selling, serving or delivering of any alcoholic beverage may be made at any time not hereinbefore specifically prohibited.

§ 89-5. Time reference.⁵¹

The hours fixed herein shall be according to prevailing time.

§ 89-6. Licenses subject to rules and regulations.

Each and every license for the sale of any alcoholic beverage shall be issued subject to statutory provisions, the rules and regulations of the State Commissioner of Alcoholic Beverage Control and also subject to any and all rules and regulations to be adopted by the governing body of this municipality.

§ 89-7. License fees. [Amended 3-15-1971 by Ord. No. 3-1971; 5-1-1972 by Ord. No. 3-1972]

- A. Fees for licenses shall be as follows: [Amended 5-19-1986 by Ord. No. 13-1986; 6-1-1987 by Ord. No. 4-1987; 9-22-2003 by Ord. No. 11-2003]
 - (1) Plenary retail consumption license: \$1,789.
 - (2) Plenary retail distribution license: \$1,270.
 - (3) Club license: \$150.
- B. Prior to July 2, 1972, said respective fees shall be prorated upon the aforesaid rates for a period from the date of issuance to July 1, 1973.

51. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 89-8. View of interior from entrance. [Added 12-3-1984 by Ord. No. 17-1984]

Every premises licensed for the sale of alcoholic beverages, except club licenses, shall admit a view of the interior from the entrance of the licensed premises; provided, however, that a curtain or other means of screening may be used on the windows or doors of the premises to a height of five feet from the floor of such premises; provided that the same does not prevent an examination of the interior from the entrance by a police officer, inspector or other officer of the law.

§ 89-9. Suspension or revocation of license.

Upon conviction, after hearing, of any violation of any provision of this chapter, or any statute, rule or regulation aforesaid, or any violation of Title 33 of the Revised Statutes of New Jersey (1937), or of the regulations promulgated by the Commissioner pursuant thereto or of this chapter shall be cause for the suspension or revocation of said license.

Chapter 93**ANIMALS**

ARTICLE I

Licensing and Regulation of Dogs
[Adopted 3-4-1957 by Ord. No. 113]**§ 93-1. Dogs running at large prohibited.**

No dog, licensed or unlicensed, shall be permitted to run at large in the streets or public places or on any property not that of the owner or person harboring said dog at any time in the Borough of Tuckerton.

§ 93-2. Violations and penalties. [Amended 11-7-1977; 9-9-1992 by Ord. No. 20-1992]

The owner or person harboring any dog in violation of any of the provisions of this article shall, upon conviction thereof, be subject to a fine not exceeding \$1,000 or imprisonment for a term not exceeding 90 days, or both, in the discretion of the court. Each and every day that such violation shall continue shall be a further and separate offense under the terms of this article, subject to the penalties herein prescribed.

§ 93-3. Filing of written complaint.

In order that the owner or person harboring any dog, licensed or unlicensed, who shall suffer such dog to run at large in violation of this article shall be guilty of the violation of this article, it is necessary that the owner, lessee or any persons having a legal interest in any property on which any dog, licensed or unlicensed, shall stray, whether causing damage or not, shall file a written complaint with the proper court having jurisdiction to accept such complaint setting forth in the said written complaint that the owner or person harboring any dog, licensed or unlicensed, suffered such dog to run at large on the streets or public places or on any property not that of the owner or the person harboring said dog.

§ 93-4. Filing of complaint by officials. [Amended 12-18-1995 by Ord. No. 19-1995]

The police officers, Chief of Police, Animal Control Officer, Code Enforcement Officer, Mayor and members of the Borough Council or any other police enforcement officer having jurisdiction in the Borough of Tuckerton shall also have the right to file a complaint with the proper court having jurisdiction to accept such complaint concerning any violation of any of the terms of this article, and this section shall pertain to any property of which any dog, licensed or unlicensed, shall be permitted to run at large.

§ 93-5. Seizure of stray dogs authorized.

Any dog, licensed or unlicensed, which shall run at large on the streets or public places or on the property not that of the owner or person harboring such dog in the Borough of Tuckerton, shall be deemed a stray dog and may be seized by the local authorities under the provisions set forth in the Laws of 1941 of the State of New Jersey, Chapter 151, and all amendments thereto.⁵²

§ 93-6. License fee. [Amended 4-21-1958 by Ord. No. 118; 10-1865; 8-1-1977; 7-18-1983 by Ord. No. 11-1983; 12-15-2003 by Ord. No. 18-2003]

52. Editor's Note: See N.J.S.A. 4:19-15.16.

- A. The license fee to be paid annually for a dog license and each renewal thereof shall be and is set at the sum of \$6 for each dog that has been altered or spayed. The license fee for any unspayed or unaltered dog shall be \$9.
- B. The license fee for a dog license and each renewal shall be paid by January 31 of each year.
- C. Any annual dog license fee or renewal not paid by January 31 shall be subject to the following late fees:
 - (1) After January 31 and up to and including May 31: \$5.
 - (2) After May 31 and thereafter: \$10.

§ 93-7. License and registration tag required.

Any person who owns, keeps or harbors a dog shall, in the month of January and annually thereafter, apply for and procure from the Borough Clerk of the Borough of Tuckerton a license and official metal registration tag for each such dog so owned, kept or harbored and shall place upon each such dog a collar or harness with the registration tag securely fastened thereto.

§ 93-8. One license and tag required per year.

Only one license and registration tag shall be required in any licensing year.

§ 93-9. Licensing age.

The owner of any newly acquired dog of licensing age or of any dog which attains licensing age shall make application for a license and registration tag for such dog within 10 days after such acquisition or age attainment. A "dog of licensing age" shall mean any dog which has attained the age of seven months or which possesses a set of permanent teeth.

§ 93-10. Nuisances. [Added 12-18-1995 by Ord. No. 19-1995]

- A. No person keeping, harboring or in charge of any dog, cat or other domesticated animal shall cause, suffer or allow such dog, cat or animal to soil, defile, deface on or defecate or commit any nuisance on any public property, including but not limited to any common thoroughfare, sidewalk, passageway, play area, park or any place where people congregate or walk. The aforesaid restrictions shall not apply to those persons who shall comply with the following:
 - (1) The person in charge of such dog, cat or animal shall immediately remove all feces deposited by such animal in a sanitary manner.
 - (2) The feces removed from the aforementioned designated area shall be disposed of by the person owning, harboring, keeping or in charge of any such dog, cat or animal in accordance with the provisions of this section in a sanitary manner.
- B. No person keeping, harboring or in charge of any dog, cat or other domesticated animal shall cause, suffer or allow such dog, cat or other animal to soil, defile, deface on or defecate or commit any nuisance upon any private property, without the express permission of the property owner.

- C. Disposition shall be made of animal wastes or excrement in such a manner as to prevent insect breeding or rodent infestation or pollution of the air, ground or body of water or the creation of any other unhealthy or unsanitary condition.
- D. This section shall be enforceable in the same manner and subject to the same penalties as all other sections of this article.

ARTICLE II
Proper Disposal of Pet Waste
[Adopted 10-3-2005 by Ord. No. 22-2005]

§ 93-11. Purpose.

To establish requirements for the proper disposal of pet solid waste in the Borough of Tuckerton so as to protect public health, safety and welfare, and to prescribe penalties for failure to comply.

§ 93-12. Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

IMMEDIATE — Shall mean that the pet solid waste is removed at once, without delay.

OWNER/KEEPER — Any person who shall possess, maintain, house or harbor any pet or otherwise have custody of any pet, whether or not the owners of such pet.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

PET — A domesticated animal (other than a disability assistance animal) kept for amusement or companionship.

PET SOLID WASTE — Waste matter expelled from the bowels of the pet; excrement.

PROPER DISPOSAL — Placement in a designated waste receptacle, or other suitable container, and discarded in a refuse container which is regularly emptied by the municipality or some other refuse collector; or disposal into a system designed to convey domestic sewage for proper treatment and disposal.

§ 93-13. Requirement for disposal.

All pet owners and keepers are required to immediately and properly dispose of their pet's solid waste deposited on any property, public or private, not owned or possessed by that person.

§ 93-14. Exemptions.

Any owner or keeper who requires the use of a disability assistance animal shall be exempt from the provisions of this section while such animal is being used for that purpose.

§ 93-15. Enforcement.

The provisions of this article shall be enforced by the Police Department, Code Enforcement Officer and Health Department serving the Borough of Tuckerton.

§ 93-16. Violations and penalties.

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of not more than \$1,000 or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

ARTICLE III
Tethering of Dogs
[Adopted 6-15-2015 by Ord. No. 6-2015]

§ 93-17. Tethering of dogs restricted.

- A. It is unlawful to chain or tether unneutered/unspayed dogs in any manner and/or at any time within the Borough.
- B. Neutered/spayed dogs may be tethered under the following circumstances:
- (1) The tether must be at least 15 feet long and have operative swivels on both ends, weigh no more than 1/8 of the dog's weight and be attached to a properly fitting collar or harness.
 - (2) The collar used for tethering may not be a choke chain collar, slip collar or prong collar.
 - (3) The tether must allow the dog access to proper shelter, sufficient food and sufficient water.
 - (4) The tether may not be used in any area where it may become tangled around objects, such as, but not limited to, a tree, pole, fence or stake.
 - (5) The tether cannot inhibit the movement of the animal's limbs or cause injury, harm, entanglement or strangulation.
 - (6) The tether must restrain the dog within the bounds of the owner's or caregiver's property.
 - (7) The tether must terminate no less than five feet from any fence, pool, wall, vehicle, tree or other object or obstruction upon which any animal may harm itself.
 - (8) Dogs may not be tethered for more than four consecutive hours in any twenty-four-hour period of time and never between sunset and sunrise.
- C. When a violation of this provision occurs, an animal control officer or law enforcement officer is authorized to document the circumstances and evidence, take reasonable measures to remove the animal from the tether, take as evidence, and take the animal to the pound.

Chapter 103

BRUSH, GRASS AND WEEDS

GENERAL REFERENCES

Fire prevention — See Ch. 163.

Solid waste — See Ch. 223.

Littering — See Ch. 193.

Streets and sidewalks — See Ch. 229.

Property maintenance — See Ch. 210.

Weed control — See Ch. 252.

§ 103-1. Removal of obnoxious matter required.

It shall be the duty of the owner and of the tenant of lands lying within the territorial limits of the Borough of Tuckerton to remove from such lands brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris within 10 days after notice from the Borough Code Enforcement Officer to remove the same. Delivery of said notice, in the case of an owner, shall be made by mailing the same to such owner by registered mail, postage prepaid, at his address as shown on the last tax duplicate of the Borough, and, in the case of a tenant, by mailing the same to such tenant by registered mail, postage prepaid, at the street address of the lands in question.

§ 103-2. Costs of removal to become lien. [Amended 10-15-2012 by Ord. No. 9-2012]

A. In cases where the owner or tenant shall have refused or neglected to remove said brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris within the time provided in the preceding section hereof, the same may be removed by or under the direction of said Borough Code Enforcement Officer. Where the same shall have been removed by or under the direction of said Borough Code Enforcement Officer, he shall certify the cost thereof to the Borough Council upon the following schedule of charges:

| | |
|--------------------------------------|-------------------------------------|
| Code Enforcement Officer supervision | \$125.00 |
| Foreman | \$32.00 per hour |
| | \$42.00 per hour for overtime hours |
| Laborer/driver | \$20.65 per hour |
| | \$31.00 per hour for overtime hours |
| Push lawn mower | \$8.50 per hour |
| Riding lawn mower | \$24.00 per hour |
| Weed whacker | \$8.50 per hour |
| Trailer | \$5.00 per hour |
| Pickup truck | \$12.00 per hour |
| Chain saw | \$8.50 per hour |
| Blower | \$8.50 per hour |

- B. The Borough Council shall examine the certificate, and, if it shall be found correct, the Borough Council shall, by resolution, cause the cost as shown thereon to be charged against the lands from which the obnoxious growths or other matter shall have been removed. The amount so charged shall forthwith become a lien upon the lands and be added to and become and form a part of the taxes next to be assessed and levied upon such lands; the same shall bear interest at the same rate as taxes and shall be collected and enforced by the same officers and in the same manner as taxes.

§ 103-3. Violations and penalties.

Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by one or more of the following: by a fine of not more than \$1,000, imprisonment for a term not to exceed 90 days and/or a period of community service not exceeding 90 days, in the discretion of the Municipal Court. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

Chapter 107

(RESERVED)

Chapter 110

BUILDINGS, NUMBERING OF

GENERAL REFERENCES

Certificates of occupancy — See Ch. 122.

Subdivision of land — See Ch. 231.

§ 110-1. Purpose.

The purpose of these regulations is to require the clear display of authorized and assigned house or building numbers on every building fronting on any street in the Borough of Tuckerton in order to assist the general public and emergency services, public and private, in identifying any property in case of emergency or otherwise.

§ 110-2. Applicability.

All residential, commercial, industrial or other structures erected or to be erected within the Borough of Tuckerton shall display identification numbers as provided herein and in accordance with specifications provided herein.

§ 110-3. Determination and assignment of numbers.

House numbers shall be determined and assigned by the Borough of Tuckerton. The owner of any structure requiring a house number, for which structure such a number has not been assigned as of the effective date of this chapter, will be notified by the Borough when such number is

assigned to said structure. The Borough Clerk, in cooperation with the United States Postmaster and the Borough Tax Assessor, shall determine the house number assignment for each structure, unless otherwise provided by this chapter.

§ 110-4. Assignment and recording of lot numbers in subdivisions.

Upon any subdivision or resubdivision of land in the Borough of Tuckerton resulting in a lot or lots other than those delineated on said map, the Tax Assessor shall assign a number to each lot resulting from said subdivision or resubdivision which shall be in proper numerical sequence in relation to the number assigned to other lots fronting on the same street.

§ 110-5. Assignment of numbers prior to recording of subdivisions.

No subdivision or resubdivision of land requiring approval by the Planning Board shall be recorded on the Tax Assessment Map unless a house number has been assigned by the Tax Assessor to each lot so divided.

§ 110-6. Requirements prior to issuance of building permits and certificates of occupancy.

Whenever any house, building or structure shall be erected or located in the Borough of Tuckerton after the establishment of the numbering system, in order to preserve the continuity and uniformity of numbers of the houses, buildings and structures, it shall be the duty of the owner to procure, from the office of the Tax Assessor, the correct number or numbers as designated for said property and to immediately affix the number or numbers so assigned to the house, building or structure. No building permit shall be issued for any house, building or structure until the owner has procured from the Tax Assessor the official number of said proposed or existing house, building or structure. No certificate of occupancy shall be issued for any house, building or structure hereafter erected, enlarged or occupied until a permanent and proper number has been affixed.

§ 110-7. Responsibility of owners.

The owner, occupant or lessee of each and every structure which now fronts or which may hereafter front upon any public or private street within the Borough of Tuckerton who has been assigned a house number shall, at his own expense, cause the authorized and assigned number of such structure to be permanently and conspicuously placed in accordance with the specifications set forth herein.

§ 110-8. Number specifications.

House or building numbers shall be:

- A. In Arabic numerals.
- B. A minimum height of three inches for residential properties and a minimum of six inches for commercial and industrial properties.
- C. Mounted in a secure fashion to the front wall or porch of the building so as to be clearly visible from the street.

- D. Sufficiently legible as to contrasting background, arrangement, spacing and uniformity so as to be clearly visible from the street.
- E. At least 30 inches above ground level and so placed that trees, shrubs or other obstructions do not block the line of sight of the numbers from the street upon which the building fronts.

§ 110-9. Placement on posts, rods or mailboxes.

If numbers affixed to the front of the building would not be visible from the street, regulations may be satisfied if the owner, occupant or lessee shall provide the Arabic numerals, as required by these regulations, upon a post, rod or other type of fixture of substantial nature or a mailbox at or near the frontage with the same number affixed thereof and so located upon the same so that the number may be conspicuous and visible from the street upon which the building fronts. When the provisions of this section have been complied with, the owner, occupant or lessee of the house or building shall not be otherwise obligated to affix Arabic numerals to said house or building and shall be permitted, at his option, to utilize cursive numbers or no numbers at all upon the house or building.

§ 110-10. Garden apartments and townhouse condominium complexes.

Garden apartment and townhouse condominium complexes shall provide such building and apartment numbers as are provided for in the regulations.

§ 110-11. Violations and penalties.

Any person or persons convicted of a violation of these regulations shall be liable to a fine not to exceed \$1,000 or 90 days in jail, or both. Each day that the violation occurs shall be deemed to be a separate violation.

Chapter 115

BUILDINGS, UNFIT

GENERAL REFERENCES

Building construction — See Ch. 107.

Fire prevention — See Ch. 163.

Uniform construction codes — See Ch. 132.

Property maintenance — See Ch. 210.

§ 115-1. Repair, closing or demolition required.

It is hereby found and declared that there exist certain structures in this Borough which are unfit for human habitation, occupancy or use and are inimical to the welfare and dangerous and injurious to the health and safety of the people of this state and that a public necessity exists for the repair, closing or demolition of such structures.

§ 115-2. Exercise of police powers.

It is further found and determined that there exist in this Borough certain structures which are unfit for human habitation, occupancy or use due to dilapidation, defects increasing the hazards

of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to the partial destruction of structures by fire without said structures having been subsequently repaired, or due to the other conditions rendering such structures unsafe or insanitary or dangerous or detrimental to the health or safety or otherwise inimical to the welfare of the residents of this Borough, and that the police powers of this Borough to repair, close or demolish the aforesaid structures or any other dwellings or structures of a similar character which shall hereafter appear in this Borough should be exercised for the public good and welfare.

§ 115-3. Terms defined.

The words "governing body," "public officer," "public authority," "owner," "parties in interest" and "building," as used in this chapter, shall be defined and construed to respectively mean and have the same definitions as are set forth in N.J.S.A. 40:48-2.4 for said terms, except for the word "structure," which is defined in accordance with the Uniform Construction Code.⁵³

§ 115-4. Designation of public officer. [Amended 8-6-1979 by Ord. No. 5-1979]

This chapter shall relate to structures or parts thereof; the public officer hereby designated to exercise the powers prescribed by this chapter is the Construction Code Official of this Borough.

§ 115-5. Petitions, complaints and hearings. [Amended 8-6-1979 by Ord. No. 5-1979]

Whenever a petition is filed with the public officer by a public authority or at least five residents of the Borough charging that any structure is unfit for human habitation, occupancy or use, or whenever it appears to the public officer, on his own motion, that any structure is unfit for human habitation, occupancy or use, the public 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 structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public 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; that the owner and parties in interest shall be given the right to file an answer and appear in person and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in the courts shall not be controlling in hearings before the public officer.

§ 115-6. Order of public officer; action by Borough; recovery of costs.

If, after such notice and hearing, the public officer determines that the structure under consideration is unfit for human habitation, occupancy or use, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof and parties in interest an order.

- A. If the repair, alteration or improvement of said structure can be made at a reasonable cost 50% in relation to the value of the structure, the owner shall, to the extent and within the time specified in the order, repair, alter or improve said structure to render it fit for human habitation, occupancy or use or, at the option of the owner, vacate or close the structures as unfit for human habitation, occupancy or use.

53. Editor's Note: See Ch. 132, Construction Codes, Uniform.

- B. If the repair, alteration or improvement of said structure cannot be made at a reasonable cost 50% in relation to the value of the structure, the owner shall, within the time specified in the order, remove or demolish such structure.
- 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 structure, the public officer may cause such structure to be repaired, altered or improved or to be vacated and closed. The public officer may cause to be posted, on the main entrance of any structure so closed, a placard with the following words: "This structure is unfit for human habitation or occupancy or use; the use or occupation of this structure is prohibited and unlawful."
- D. If the owner fails to comply with an order to remove or demolish the structure, the public officer may cause such structure to be removed or demolished.
- E. Recovery of costs; demolition of fire-damaged property.
 - (1) The amount of such cost of such repairs, alterations or improvements or vacating and closing or removal or demolition shall be a Borough lien against the real estate upon which such cost shall be incurred. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure if the same are salable and shall credit the proceeds of such sale, if any, against the costs of removal or demolition and the cost of the clearance and leveling of the site, and any balance remaining shall be deposited in the Superior Court of New Jersey by the public officer, shall be secured in such manner as may be directed by such court and shall be distributed according to the order or judgment of the court to the persons found to be entitled thereto by the order or judgment of said court; provided, however, that nothing herein shall be construed to impair or limit in any way the power of the Borough to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. **[Amended 8-6-1979 by Ord. No. 5-1979]**
 - (2) If an actual and immediate danger to life is posed by the threatened collapse of any fire-damaged or other structurally unsafe building, the public officer may, after taking such measures as may be necessary to make the building temporarily safe, seek a judgment in summary proceedings for the demolition thereof. **[Added 8-6-1979 by Ord. No. 5-1979]**

§ 115-7. Standards.

The public officer may determine that a structure is unfit for human habitation, occupancy or use if he finds that conditions exist in such structure which are dangerous or injurious to the health or safety of the occupants of such structure, the occupants of neighboring structures or other residents in the Borough. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire; natural defects; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; uncleanness; lack of heating facilities to properly heat said structure in the season or seasons of the year requiring artificial heat for the structure to make the same habitable for human beings; or that said structure and premises around the same do not have adequate and healthy drinking water or the structure does not have adequate and proper toilet facilities.

§ 115-8. Serving of complaints or orders.

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

§ 115-9. Remedy. [Amended 6-8-1979 by Ord. No. 5-1979]

Any person aggrieved by an order issued by a public officer under this act may, within 30 days after the posting and service of such order, bring an action for injunctive relief to restrain the public officer from carrying out the provisions of the order and for any other appropriate relief. The court may proceed in the action in a summary manner or otherwise. The remedy herein provided shall be exclusive, and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant hereto or because of noncompliance by any person with any order of the public officer.

§ 115-10. Additional powers of public officer.

The public officer is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein or by law granted:

- A. To investigate the structure conditions in the Borough in order to determine which dwellings therein are unfit for human habitation, occupancy or use.
- B. To administer oaths and affirmations, examine witnesses and receive evidence.
- C. To enter upon premises for the purpose of making examinations, provided that such entry shall be made in such manner as to cause the least possible inconvenience to persons in possession.
- D. To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter.
- E. To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

§ 115-11. Administration.

The governing body of this Borough shall, as soon as possible after the effective date of this chapter, prepare an estimate of the annual expenses or costs to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of the structures in said Borough for the purpose of determining the fitness of such structures for human habitation, occupancy or use and for the enforcement and administration of its ordinances adopted under this act, and this Borough is authorized to make such appropriations from its revenue as it may deem

necessary for said purpose and to accept and apply grants or donations to assist it in carrying out the provisions of this chapter.

§ 115-12. Construction of provisions.

Nothing in this chapter shall be construed to abrogate or impair the powers of the courts or any department of the Borough to enforce any provisions of its charters or its ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any law of this state or any ordinance of this Borough.

Chapter 118

BULKHEADS

GENERAL REFERENCES

Building construction — See Ch. 107.

Docks and wharves — See Ch. 142.

Uniform construction codes — See Ch. 132.

Property maintenance — See Ch. 210.

ARTICLE I
Permits and Construction
[Adopted 11-1-1965]

§ 118-1. Purpose.

The following provisions shall constitute the method of obtaining a permit and the minimum requirements for the construction and alterations of bulkheads in the Borough of Tuckerton.

§ 118-2. Permit required for construction or alteration.

Before any person, persons or corporation shall erect, construct or alter any bulkhead or bulkheads, or make any addition to an existing bulkhead or bulkheads, the person, persons or corporation intending to erect, construct alter, change or add to said bulkhead or bulkheads shall first apply to and file with the Building Inspector plans, specifications and an estimate of the cost of the proposed work and shall obtain a signed permit from said Inspector.

§ 118-3. Expiration and display of permit.

- A. Any permit which may have been issued by the Building Inspector, but under which no work has commenced within three months after the date of issuance, shall expire by limitation.
- B. The permit which has been issued must be kept at the scene of operation at all times during the progress of the work.

§ 118-4. Permit fees, [Amended 8-1-1983 by Ord. No. 13-1983; 12-4-1989 by Ord. No. 22-1989]

A fee shall be paid for each and every permit for the construction and erection of a new bulkhead or bulkheads and also for the alteration and addition to any existing bulkhead or bulkheads. The fee charged shall be \$0.90 per linear foot of bulkhead to be installed or repaired, with a minimum fee of \$45.

§ 118-5. Right of inspection.

The Building Inspector shall have the right of inspection between the hours of 9:00 a.m. and 6:30 p.m., at any time at his or her convenience, for the purpose of ascertaining whether the construction and materials used are in accordance with the provisions of this article, and any owner, contractor or other person who shall refuse to comply with the reasonable and proper orders of the Inspector with relation to any matters committed to him by this article shall be guilty of a violation of the same.

§ 118-6. Minimum construction requirements.

All bulkheads constructed, erected, altered or changed in any manner whatsoever within the Borough limits shall be constructed with the following minimum requirements:

- A. Eight-inch pressure-treated pine or cedar piling, five feet zero inches on center driven to refusal.

- B. Four-by-six-inch whaler top and bottom, pressure treated.
- C. Two-by-eight-inch tongue and groove pressure-treated sheathing, minimum 12 feet long, depending on location.
- D. Back poles (pine) minimum 16 feet long, eight inches in diameter.
- E. Key logs, minimum six inches in diameter (pine).
- F. Tie rods 3/4 by 16 inches galvanized with three-inch O.D.D.D. washers.
- G. Five-eighths galvanized bolts with washers.

§ 118-7. Appeals.

Any person or corporation aggrieved at any ruling made by the Building Inspector may appeal from any such ruling or decision to the Mayor and Borough Council of the Borough of Tuckerton, within 30 days from the date of the decision.

§ 118-8. Violations and penalties.⁵⁴

The owner or owners of any plot of land or parts thereof, upon which any bulkhead or bulkheads in violation of this article may be placed; any architect, builder or carpenter who may be employed or assists in the commission of such violation; and any or all persons, who may violate any of the provisions of this article or fail to comply therewith, or any of the requirements thereof, or who shall violate or fail to comply with any order or regulation made thereunder, or who shall build in violation of any order or regulation thereunder, or who shall build in violation of any detailed statement or any specifications or plans submitted and approved thereunder, shall, upon conviction thereof, severally, for each and every violation of noncompliance, be punishable by a fine of not more than \$500 or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the Judge, and the permit shall stand revoked until such time as the chapter is complied with. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

54. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

ARTICLE II

Bulkhead Maintenance**[Adopted 9-9-1998 by Ord. No. 6-1998]****§ 118-9. Maintenance.**

- A. The owners or other persons in interest in any property upon which any bulkhead, dock or pier heretofore has been or hereafter shall be erected along any navigable waters within this Borough shall keep and maintain the same in such a state of repair as to maintain the filling in of land around and about the same to the grade above mean high tide as established in that area and to prevent tidal erosion and damage thereto and to adjacent properties.
- B. It shall be the duty of the Building Inspector, from time to time, to inspect all such waterfront bulkheads, piers or docks in this Borough and to report to the Council and notify the owners or occupants of said premises of the existence of a dangerous, rotten or defective condition therein; thereafter, it shall be the duty of the owner, possessor or other persons in interest in said property to forthwith replace, remedy or repair or cause to be replaced or repaired such dangerous and defective condition.
- C. Upon the neglect or failure of any such owner, possessor or other person in interest to repair or remedy such damaged, dangerous or defective condition within a reasonable time to be determined by the Building Inspector, or immediately upon the discovery of such dangerous and defective condition, the Building Inspector shall give written notice of the work required to be done to the owner or owners of such lands by mail, if their post office address be known, or if not known, then by posting such notice upon the property affected thereby, or by leaving the same with any occupant thereof or by personal service, if the owner be a resident of and present within this Borough. Such notice shall provide for allowing the owner 60 days time within which to perform the work thereby required. In the event that the owner must obtain a permit or approval from the Department of Environmental Protection, the owner must provide proof within the sixty-day period that such permit or approval is required and that the appropriate permit has been applied for. The owner must further provide documentation to the municipality that any required permits with the Department of Environmental Protection are being diligently pursued. Failure to complete the required repairs within 30 days after receipt of the appropriate permit from the Department of Environmental Protection shall constitute a violation of this article.

Chapter 122

CERTIFICATES OF INSPECTION

GENERAL REFERENCES

Building construction — See Ch. 107.

Fire prevention — See Ch. 163.

Numbering of buildings — See Ch. 110.

Property maintenance — See Ch. 210.

Unfit buildings — See Ch. 115.

Zoning — See Ch. 255.

Uniform construction codes — See Ch. 132.

ARTICLE I

Inspection Requirements and Granting of Certificate of Occupancy**§ 122-1. Inspection upon initial occupancy or change of occupancy.**

All buildings, structures and units thereof that are rented or sold, regardless of the term, in the Borough of Tuckerton, for living or sleeping purposes, shall be inspected by the Code Enforcement Official on every initial occupancy or change of occupancy after the effective date of this article.

§ 122-2. Compliance with standards required.

All buildings, structures and units thereof, which are inspected pursuant to this article, shall comply in all respects with the requirements of Borough ordinances and the applicable provisions of the New Jersey Uniform Construction Code and the provisions of N.J.S.A. 55:13A-1 et seq. and 55:13B-1.

§ 122-3. Responsibilities of owner, agent or manager.

The owner, rental agent or manager of all buildings and structures and units thereof, which are subject to inspection pursuant to this article, shall be responsible for notifying the Code Enforcement Official, in writing, or on a form acceptable to the Code Enforcement Official, that such premises are rented or being offered to be rented or sold so that an inspection or reinspection may be made to a change in occupancy.

§ 122-4. Issuance of certificate.

Upon completion of an inspection of the premises and the same being determined by the Code Enforcement Official to comply with § 122-1 et seq., a rental or resale certificate of inspection shall issue. A copy of the certificate shall be posted by the owner, rental agent or manager of the inspected property in each separate leased or rented unit. No person shall occupy any building, structure or any units thereof until a rental certificate of inspection has been issued and the owner/landlord shall have registered the premises with the Borough Clerk's Office.

§ 122-5. Notification of violations.

In the event that the Code Enforcement Official determines, after an inspection, that the premises in question are in violation of § 122-1 et seq., the Code Enforcement Official shall notify, in writing, the owner, rental agent or manager of the violations noted. Upon correction of the violations, the owner, rental agent or manager shall notify, in writing, the Code Enforcement Official that the corrections have been made so that a reinspection of the property may occur. If, upon reinspection of the property, the Code Enforcement Official determines that previous violations were not corrected or new violations exist, then the Code Enforcement Official shall, again in writing, notify the owner, rental agent or manager of the inspected property of the violations, and this process shall continue until all violations have been corrected. No occupancy of the subject premises shall occur until the violations have been corrected and a certificate of inspection has been issued.

§ 122-6. Service of notice.

Service shall be deemed to be properly served upon such owner if a copy thereof is delivered to the owner, rental agent or manager personally; or by leaving the notice at the usual place of abode, in the presence of someone in the family or suitable age and discretion who shall be informed of the contents thereof; or by certified mail and regular mail simultaneously addressed to the owner at the last known address with return receipt requested; or, if the certified or registered letter is returned with receipt showing that it has not been delivered, by posting a copy thereof in a conspicuous place in or about the structure affected by such notice; and there shall be at least one publication of such notice in a local newspaper of general circulation.

§ 122-7. Revocation of certificate.

If, subsequent to the issuance of a rental certificate of inspection, the Code Enforcement Official learns or become aware of violations of § 122-1 et seq., an inspection shall be made of the subject premises. If violations are found to exist, then notification, in writing, shall be given to the owner, rental agent or manager, and said person shall have 10 days from service of the notice to correct all deficiencies noted therein. In the event that the same have not been corrected within 10 days, then the rental certificate of inspection may be revoked by the Code Enforcement Official by mailing a notice of revocation by certified mail to the owner, rental agent or manager and to the tenant or tenants, and the premises will be vacated.

§ 122-8. Violations and penalties.

- A. If, subsequent to the issuance or a rental or resale certificate of inspection, the Code Enforcement Official learns or becomes aware of violations of § 122-1 et seq., an inspection shall be made of the subject premises. If violations are found to exist, then notification, in writing, shall be given to the owner, rental agent or manager, and said person shall have 10 days from service of the notice to correct all deficiencies noted therein. In the event that the same have not been corrected within 10 days, then the rental certificate of inspection may be revoked by the Code Enforcement Official by mailing a notice of revocation by certified mail to the owner, rental agent or manager and to the tenant or tenants, and the premises will be vacated.
- B. Any person, firm or corporation which shall violate any provision of this article shall, upon conviction thereof, be subject to a fine of not less than \$100 nor more than \$1,000, or imprisonment for a term not to exceed 30 days, or both, at the discretion of the court. Each day that a violation continues, after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense.
- C. Upon conviction for a second violation, any person, firm or corporation shall be subject to a fine of not less than \$500 nor more than \$1,000 or imprisonment for a term not to exceed 30 days, or both, at the discretion of the Court. Each day that a violation continues, after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense.
- D. Notwithstanding any of the aforementioned and not in limitation thereof, in case any violation order is not promptly complied with, the Code Enforcement Official may request the jurisdiction's legal representative to institute an appropriate action or proceeding at law or in equity to exact the penalty provided as indicated above or may ask the legal

representative to proceed at law or in equity against the persons responsible for the violation for the following purposes:

- (1) To restrain, correct or remove the violation or refrain from any further execution of work;
- (2) To restrain or correct the erection, installation or alteration of each structure;
- (3) To require the removal of work in violation; or
- (4) To prevent the occupation or use of the structure or part thereof which has been erected, constructed, installed or altered in violation of, or not in compliance with, the provisions of this Code or in violation of a plan or specification under which an approval, permit or certificate was issued.

§ 122-9. Fees.

- A. The owner of the inspected property shall be charged a fee for each inspection as follows:
 - (1) Each dwelling unit: \$75.
 - (2) Seasonal rental inspection: \$150 per calendar year.
- B. A fee of \$40 shall be charged for each dwelling which is required to be reinspected during any calendar year resulting from and pursuant to the provisions of § 122-5. The fee of \$40 shall be charged for each reinspection.
- C. The aforesaid fees shall be paid to the Construction Office prior to any inspection being made hereunder.
- D. The term "dwelling unit" shall be defined as a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, cooking and sanitation.

ARTICLE II

Waiver of Certificate of Inspection**§ 122-10. Temporary waiver of certificate of inspection.**

A purchaser of any property regulated by the chapter may waive the seller's responsibility to obtain a certificate of inspection prior to the transfer of title; provided, however, that such waiver shall be in writing on forms provided by the Borough. Such waiver shall state that the buyer is fully aware that he, she or it is assuming full responsibility for obtaining a certificate of inspection prior to the occupancy of the property. An application for a waiver of the certificate of inspection shall be accompanied by a fee of \$25.

§ 122-11. Violations and penalties.

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of not less than \$100 nor more than \$1,000, by imprisonment for a term not to exceed 30 days, or by community service, as determined in the discretion of the Municipal Court Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished, as provided above, for each separate offense.

Chapter 127**CHECKS, FRAUDULENT****§ 127-1. Service charges.**

Whenever a check payable to any account of the Borough of Tuckerton is returned for insufficient funds, a service charge of \$20 shall be added to the account. The service charge shall be paid and credited before any other payment on the account is accepted and credited. In addition, the Borough may require future payments upon the account to be tendered in cash or by certified or cashier's check.

§ 127-2. Unpaid service charges.

Unpaid service charges shall be collected in the same manner prescribed by law for the collection of the account for which the check was tendered.

Chapter 132**CONSTRUCTION CODES, UNIFORM****GENERAL REFERENCES**

Building construction — See Ch. 107.

Fire prevention — See Ch. 163.

Unfit buildings— See Ch. 115.

Streets and sidewalks — See Ch. 229.

Bulkheads — See Ch. 118.

Water and sewers — See Ch. 249.

Certificates of occupancy — See Ch. 122.

§ 132-1. Enforcing agency established.

- A. There is hereby established in the Borough of Tuckerton a State Uniform Construction Code enforcing agency, to be known as the "Building Official's Office," consisting of a Construction Official, Plumbing Subcode Official, Fire Protection Subcode Official and such other subcode officials or additional subcodes as the Commissioner of the New Jersey Department of Community Affairs shall adopt as part of the State Uniform Construction Code. The Construction Official shall be the chief administrator of the enforcing agency.
- B. Each official position created in Subsection A hereof shall be filled by a person qualified for such position pursuant to N.J.S.A. 52:27D-119 et seq., as amended, and N.J.A.C. 5:23. More than one such official position may be held by the same person, provided that such person is qualified to hold each such position; and each of such official positions may be held by more than one person, provided that each such person appointed is qualified to hold each such position. A construction official or subcode official shall be appointed by the Mayor, with the advice and consent of the Borough Council, for a term of four years and shall, upon appointment to a second consecutive term, or on or after the commencement of a fifth consecutive year of service, be granted tenure as provided by N.J.S.A. 52:27D-126, and shall not be removed from office except for just cause after a fair and impartial hearing.

- C. The position of Plumbing Inspector is hereby created by the Borough of Tuckerton. The term of office of the Plumbing Inspector shall be one year from the first day of January of each year and ending on the 31st day of December of each year. The appointment of the Plumbing Inspector shall be made by the Mayor, with the advice and consent of the Borough Council. The Mayor and Borough Council may further appoint a Deputy Plumbing Inspector(s), for a term of one year, who shall meet all of the qualifications of the office of Plumbing Inspector as required by law. The Deputy Plumbing Inspector shall perform all of the duties of the Plumbing Inspector at his/her direction or in his/her absence.
- D. The position of Mechanical Inspector is hereby created by the Borough of Tuckerton. The term of the Mechanical Inspector shall be one year from the first day of January of each year to the 31st day of December of each year. The appointment to the position of Mechanical Inspector shall be made by the Mayor, with the advice and consent of the Borough Council. The Mayor and Borough Council may further appoint a Deputy Mechanical Inspector(s), for a term of one year, who shall meet all of the qualifications of the office of Mechanical Inspector as required by law. The Deputy Mechanical Inspector shall perform all of the duties of the Mechanical Inspector at his/her direction or in his/her absence.
- E. There is hereby created the position of Technical Assistant to the Construction Official/Control Person of the Borough of Tuckerton. The Technical Assistant to the Construction Official/Control Person shall be appointed by the Mayor, with the advice and consent of the Borough Council. The duties of the Technical Assistant to the Construction Official/Control Person shall be as follows:
- (1) Under the direction of the Construction Official, provide technical assistance in the issuance of permits for construction in order to ensure compliance with the provisions of the Uniform Construction Code and other applicable codes and ordinances of the Borough of Tuckerton.
 - (2) Review applications for construction permits to ensure that all necessary information and documents are included, and request additional documenting information if required. Explain procedures to applicant and, utilizing the checklist provided by the Construction Official, inform applicant of any additional requirements, including the need for a zoning official review and sign-off.
 - (3) Issue necessary application forms to applicant and initiate office file, as appropriate.
 - (4) Determine prior approvals and plan review required for proposed work.
 - (5) Issue permits and certificates after approval and authorization have been granted by the appropriate subcode or construction official.
 - (6) Collect fees as required.
 - (7) Maintain records and prepare reports as required.
 - (8) Review inspection logs for overdue inspections, and advise appropriate official when action for noncompliance according to Uniform Construction Code regulations is appropriate.

- (9) After review and approval by the appropriate official, issue fence permits, shed permits, contractor's licenses, garage sale permits and road opening permits. Maintain records of permits issued, receive fees, and issue necessary receipt to applicant.
 - (10) Coordinate activities of the Construction Official and subcode officials and inspectors, as well as the Zoning Officer and Code Enforcement Officer.
 - (11) Act as initial public contact for all matters related to construction, zoning and Code enforcement. Receive inquiries and complaints both in person and via telephone. Refer to appropriate Borough officials.
 - (12) Perform all duties as outlined in Uniform Construction Code Municipal Procedures Manual.
- F. Salaries for such individuals in such positions shall be determined by the Mayor and Borough Council.
- G. The public shall have the right to do business with the enforcement agency at one office, except for emergencies and unforeseen and unavoidable circumstances.

§ 132-2. Fees. [Amended 8-17-2015 by Ord. No. 13-2015]

- A. The fees for a construction permits shall be the sum of the subcode fees listed below and shall be paid before the permit is issued.
- (1) Building:
 - (a) New construction and additions: \$0.040 per foot C.V.
 - (b) Modular homes, manufactured buildings: \$125.
 - (c) Renovations, alterations, and moving buildings:
 - [1] Per \$1,000 to \$50,000: \$30.
 - [2] Per \$1,000 over \$100,000: \$20.
 - (d) Minimum building permit: \$75.
 - (e) R-5 roofing and siding: \$75 each.
 - (f) Demolition:
 - [1] R-5 SFD: \$75.
 - [2] All other buildings: \$150.
 - (g) Decks:
 - [1] Up to 100 square feet: \$75.
 - [2] Per square foot additional: \$0.25.
 - (h) Signs:
 - [1] Up to 32 square feet: \$75.

- [2] Per square foot additional: \$1.
- (i) Temporary use permit (six months): \$200.
- (j) P.V. solar system: \$250.
- (k) Swimming pools:
 - [1] Public; all: \$300.
 - [2] Private in-ground: \$300.
 - [3] Private aboveground: \$100.
 - [4] Private hot tub: \$100.
 - [5] Required enclosure: \$100.
- (l) Bulkheads, new: \$30 per \$1,000 of work.
- (m) Bulkheads, replace with like: \$300.
- (n) Docks, floats, ramps, or lifts: \$100 each.
- (o) Tents over 900 square feet or 30 feet any direction: \$120 each.
- (2) Certificates of occupancy:
 - (a) Certificate of occupancy R-5: \$50.
 - (b) Certificate of continued occupancy R-5: \$150.
 - (c) Temporary certificate of occupancy R-5: \$50.
- (3) Fire protection:
 - (a) Preengineered suppression systems: \$400 each.
 - (b) Sprinkler systems:
 - [1] Up to 200 heads: \$300.
 - [2] Up to 400 heads: \$750.
 - [3] Up to 1,000 heads: \$1,050.
 - [4] Over 1,000 heads: \$1,350.
 - (c) Smoke alarms, fire alarms, heat detectors, CO2 detectors, alarm devices:
 - [1] Up to 12 devices: \$50.
 - [2] For each additional 25: \$25.
 - (d) Standpipes: \$300.
 - (e) Appliances: \$50 each.

- (f) Commercial kitchen exhaust systems: \$250 each.
- (g) Incinerators or crematorium: \$460 each.
- (4) Plumbing:
 - (a) Minimum fee: \$75.
 - (b) Modular home; manufactured building: \$125.
 - (c) Plumbing fixtures: \$15 each.
 - (d) Active solar systems (water): \$250.
 - (e) Water connection: \$85.
 - (f) Sewer connection: \$85.
 - (g) Heat ducts or baseboard heat: \$85.
 - (h) Backflow preventers: \$85.
 - (i) Grease traps, sprinklers, special devices: \$85.
 - (j) Lawn irrigation systems: \$85.
 - (k) Refrigeration units: \$85.
- (5) Mechanical:
 - (a) Minimum fee: \$75.
 - (b) Water heater: \$100 each.
 - (c) Furnace: \$100 each.
 - (d) Central air conditioner: \$100 each.
 - (e) Boiler: \$100 each.
 - (f) Gas piping: \$75 each.
 - (g) Chimney: \$75 each.
 - (h) Oil piping: \$75 each.
 - (i) LPG tank: \$75 each.
 - (j) Hydraulic piping: \$75 each.
 - (k) Fireplace: \$100 each.
 - (l) Fuel-burning unit: \$100 each.
 - (m) Gas conversion: \$100 each.
 - (n) Aboveground tanks to 220 gallons: \$100 each.

- (o) Aboveground tanks to 400 gallons: \$200 each.
- (p) In-ground tank removal: \$75 each.
- (q) In-ground tanks to 400 gallons: \$300 each.
- (r) In-ground tank removal and direct replacement to 400 gallons: \$300 each.
- (s) In-ground tanks over 400 gallons: \$750 each.
- (t) Propane exchange installations: \$200 each.
- (u) Propane filling stations: \$750 each.
- (6) Electric:
 - (a) Minimum fee: \$75.
 - (b) Modular home; manufactured building: \$125.
 - (c) P.V. solar systems:
 - [1] Up to 10 kw: \$250.
 - [2] Each additional 1 kw over 10: \$25.
 - (d) Fixtures, receptacles, lighting, devices: \$50 up to 25, \$25 each additional 25.
 - (e) Replacement wiring, storable pool, hydro-massage tub, underwater lighting fixture, household cooking equipment up to 16 kw, fire, security, or burglar alarm control unit; each receptacle rated 30 to 50 amps, light standards greater than eight feet, including luminaries, communications closets: \$25 each.
 - (f) Receptacles over 50 amps: \$50 each.
 - (g) Motors and electrical devices (each):
 - [1] One to nine horsepower: \$25.
 - [2] Greater than nine through 50 HP: \$50.
 - [3] Greater than 50 through 100 HP: \$200.
 - [4] Greater than 100 horsepower: \$500.
 - (h) Transformers and generators (each):
 - [1] Zero to nine kw or kva: \$25.
 - [2] Greater than nine through 45 kw/kva: \$50.
 - [3] Greater than 45 through 112.5 kw/kva: \$200.
 - [4] Greater than 112.5 kw/kva: \$500.
 - (i) Service panels, entrance or subpanels (each):
 - [1] Up to 225 amps: \$75.

- [2] Greater than 225 through 400 amps: \$150.
 - [3] Greater than 400 through 1,000 amps: \$250.
 - [4] Greater than 1,000 amps: \$500.
 - (j) Private swimming pool, spa, hot tub, fountain: \$75 each.
 - (k) Public swimming pool, spa, hot tub, fountain: \$150 each.
 - (l) Annual pool inspections: \$75 each.
 - (m) Signs: \$75 each.
 - (n) Smoke detectors, fire alarms, burglar alarms: \$75 per system.
 - (o) Irrigation systems in R-5: \$75.
 - (p) Irrigation systems all other use groups: \$225.
- (7) Any item not specifically referred to in this fee schedule are addressed in N.J.A.C. 5:23-4.20 under the heading "Department Fees."

§ 132-3. Waiver of building permit fees.

- A. 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 contained therein.
- B. A disabled person, or a parent or a 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.
- C. For the purposes of this section, "disabled person" means a person who has the total and permanent inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, including blindness, and shall include, but not be limited to, any resident of this state who is disabled pursuant to the federal Social Security Act (42 U.S.C. § 416) or the federal Railroad Retirement Act of 1974 (45 U.S.C. § 231 et seq.) or is rated as having a 60% disability or higher pursuant to any federal law administered by the United States Veterans' Act. For purposes of this subsection, "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20° shall be considered as having a central visual acuity of 20/200 or less.

§ 132-4. Violations and penalties.

The owner or owners of any plot of land or parts thereof upon which any building in violation of this chapter may be placed, any architect, builder, carpenter or mason who may be employed or assists in the commission of such violation and any or all persons who may violate any of the provisions of this chapter or fail to comply therewith, or with any of the requirements thereof, or who shall violate or fail to comply with any order or regulation made thereunder, or who shall

build in violation of any order or regulation made thereunder, or who shall build in violation of any detailed statement or any specifications or plans submitted and approved thereunder, shall, upon conviction thereof, severally for each and every violation or noncompliance respectively not otherwise provided for, forfeit and pay a fine of not more than \$500 or suffer imprisonment in the county jail for a term of not exceeding 90 days, or both such fine and imprisonment, and the permit shall stand revoked until such time as the chapter is complied with.

Chapter 135

CONTRACTORS, REGISTRATION OF

GENERAL REFERENCES

Building construction — See Ch. 107.

Fire prevention — See Ch. 163.

Uniform construction codes — See Ch. 132.

§ 135-1. Registration required; exception.

- A. Every person, firm or corporation engaged in the business of constructing, erecting, altering, repairing, restoring, reroofing, re-siding, moving or demolishing the whole or any part of buildings or structures, or engaged in the construction and installation of swimming pools, or engaged in the business of erecting or altering signs or landscaping, shall be required to register the name of such person, firm or corporation with the Building Department unless he or it holds a valid state license for that type of work. Every person, firm or corporation subject to registration under this chapter shall be required to register and submit an application pursuant to this chapter annually on or before January 15 of each year.
- B. The owner or occupant of the building or structure who does all of his own work without the use of any contractor and executes a sworn statement to this effect on forms supplied by the Zoning Officer or Construction Office control person shall not be required to register as required by this chapter.
- C. Any person, firm or corporation not required to register under this chapter because of possession of a valid state license for said work shall be required nonetheless to submit to the Zoning Officer or Construction Office control person on or before January 15 of each year a copy of the applicable license. Also, any builder who has registered with the Department of Community Affairs pursuant to the provisions of the New Home Warranty and Builders' Registration Act, N.J.S.A. 46:3B-1 et seq., shall not be required to register under this chapter; however, said builder shall be required to provide proof of registration pursuant to the New Home Warranty and Builders' Registration Act and also provide proof that said builder has provided the warranty required pursuant to the provisions of that Act.

§ 135-2. Form of application for registration and license.

- A. The application for registration and license as required by § 135-1 above shall be made to the Zoning Officer or Construction Office control person on a form furnished by that office.
- B. The application shall set forth the following information:

- (1) The applicant's name, business name, business address (post office box not sufficient) and telephone number.
 - (2) Whether the applicant is an individual, partnership, corporation or any other entity and, if other entity, a full explanation and description thereof.
 - (3) If the applicant is an individual, the applicant's residence address, the date and place of birth and social security number.
 - (4) If the applicant is a partnership, the full names, residence addresses, dates and places of birth of each member and their respective social security numbers.
 - (5) If the applicant is a corporation or other entity, in the case of a corporation, the full names, residence addresses, dates and places of birth and social security numbers of each officer and each stockholder, the name and address of the principal office (the term "stockholder" as used herein means and includes any person owning or having an interest, either legal or equitable, of at least ten percent of the stock issued and outstanding of the applicant corporation); in the case of another entity, the full names, residence addresses, dates and places of birth and social security numbers of each person owning or having an interest, whether legal or equitable, aggregating in value ten percent or more of the total capital of said entity, the name and address of the registered agent, if any, and the address of the principal office.
 - (6) The number of years the applicant has been in business at its present business address or at any prior location, including the addresses of such prior location, and all corporate names under which the applicant has operated and all corporate officers and major interest holders.
 - (7) The name and address of the insurance company providing the applicant with public liability insurance, policy number, expiration date and the amount of coverage to be in an amount of at least \$300,000 single limit.
 - (8) The name and address of the applicant's workers' compensation insurance carrier, policy number and expiration date of said policy.
 - (9) The identity of any other municipality in which the applicant is licensed.
 - (10) The identity of any municipality which requires licensing in which the applicant's license has been revoked for any reason. If there has been a revocation of said license, indicate the municipality and the reason for revocation.
- C. The character and business responsibility of the applicant or any partner, officer or stockholder shall be deemed satisfactory unless the application or other evidence presented to the Zoning Officer or the Construction Office control person shall disclose any of the following:
- (1) Prior violations of statutes, ordinances or regulations relevant to the construction, erection, alteration, repair, restoration, reroofing, re-siding, removing or demolition of any building, structure, swimming pool sign, billboard or part thereof, or any property improvements which have not been timely corrected.
 - (2) A determination of previous fraudulent acts of conduct.

- (3) A history of adjudicated breaches of contracts.
 - (4) The failure to carry and maintain public liability and workers' compensation insurance coverage.
- D. If said application for registration and license is denied, the applicant shall be advised in writing of the reasons for denial.

§ 135-3. Registrations fees, renewals and change of address.

- A. Upon filing such application, the applicant shall pay to the Zoning Officer or Construction Office control person a fee of \$50 to cover the cost of licensing. The applicant shall also pay any other fees necessary to complete the required criminal background check.
- B. The term of such registration shall be for a term of one calendar year.
- C. The registration fee set forth in Subsection A of this section shall not be prorated for a term of less than one year.
- D. A license shall be renewed by the Zoning Officer or the Construction Office control person upon payment by the applicant of an annual renewal fee of \$50. It shall be specifically understood, however, that the term of any license issued under this chapter shall be effective only for a period of one calendar year. Each applicant must therefore reapply and comply with all the registration requirements of this chapter annually with each renewal application.
- E. All registered contractors shall notify the licensing officer of any change in the names, addresses, places of business and telephone numbers listed on the application within 14 days after such change shall occur.
- F. A file of all registered contractors shall be kept in the office of the Zoning Officer or the Construction Office control person which shall include the contractors' respective names, addresses and telephone numbers.
- G. The contractor shall notify the Zoning Officer and/or Construction Office control person of any changes in the name and/or address of the insurance carrier and change in the policy limits for the public liability and workers' compensation coverages and shall confirm the renewal each year of these coverages by submitting a certificate of insurance for each policy to the Zoning Officer or the Construction Office control person to be kept on file.

§ 135-4. Conditions for revocation.

The Zoning Officer or the Construction Office control person shall revoke the registration of any contractor licensed hereunder who shall be guilty of any one or more of the following acts or omissions:

- A. Fraud or misrepresentation or concealment of a material fact in the information given upon initial registration or upon reregistration after revocation.
- B. Violation of the Building, Plumbing, Fire Prevention, or Health Codes of the Borough of Tuckerton or of any other ordinance or statute which governs the activities or nature of work performed by the contractor.

- C. Material and substantial breach of contract with the owner or purchaser.

§ 135-5. Revocation procedure.

- A. The Zoning Officer or Construction Office control person, on his or her own initiative and on forms to be prescribed by him or her or any person, firm or corporation which has entered into an agreement for work, either verbal or written, with any contractor registered hereunder, may file a complaint against any registered contractor by the filing of the same with the Building Department. Such complaint shall be in writing and signed by the person filing same. The complaint shall contain a statement of facts setting forth the specific facts relating to the violation of this chapter or of the Borough of Tuckerton Building, Plumbing, Fire Prevention or Health codes or any other Borough ordinance or statute pertaining to building, construction or the registered contractor's activities.
- B. Upon a complaint being filed in the manner and form herein prescribed, the Zoning Officer or Construction Office control person shall forthwith issue a notice, in writing, directing the contractor to file a written answer within 10 days after the service of notice, responding to the charges or showing cause why his or her registration should not be revoked. A copy of the complaint shall be served with said notice.
- C. Failure of the contractor in question to file a written answer within 10 days may be deemed an admission by him or her of the commission of the act or violations cited in the complaint, and his or her license thereupon may be revoked forthwith by the Zoning Officer or Construction Office control person without further evidence.
- D. In the event that the contractor in question shall file a written answer within the time period prescribed in the notice, a hearing shall be scheduled, notice of which shall be served no less than 10 days prior to the date fixed for the hearing. Said hearing shall be held by and before the Zoning Officer or the Construction Office control person of the Borough of Tuckerton, who shall thereafter make all decisions as to fact and law concerning revocation of the registration. At the hearing, the Zoning Officer or Construction Office control person and the licensee shall each have the right to appear personally or by counsel (counsel shall be required if the licensee is a corporation) and cross-examine witnesses and produce witnesses and evidence in his behalf.

§ 135-6. Violations and penalties.

- A. Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine of not less than \$100 nor more than \$1,000, by imprisonment for a term not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service as determined by the Municipal Court Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 138

CURFEW**GENERAL REFERENCES**

Parental responsibility — See Ch. 199.

Peace and good order — See Ch. 201.

§ 138-1. Curfew established for certain minors; exception.

It shall be unlawful hereafter for any minor under the age of 18 years to loiter, idle, wander, stroll, play or remain in or upon the public streets, highways, sidewalks, roads, playgrounds, alleys, parks, vacant lots, public buildings, places of amusement or entertainment, places of business conducted for profit to which the public is invited or unsupervised places, either on foot or in or upon any vehicle, within the Borough of Tuckerton, County of Ocean, between the hours of 10:00 p.m. and 6:00 a.m. on the following day: provided, however, that the provisions of this section shall not apply to any such minor when accompanied by his or her parent or parents, guardian or other adult person having custody, care or control of such minor.

§ 138-2. Responsibility of parent or guardian.

It shall be unlawful for any parent, guardian or other adult person having custody, care or control of a minor child under the age of 18 years to knowingly permit such minor to loiter, idle, wander, stroll, play or remain in or upon the public streets, highways, sidewalks, roads, playgrounds, alleys, parks, vacant lots, public buildings, places of amusement or entertainment, places of business conducted for profit to which the public is invited or unsupervised places, as mentioned in § 138-1 hereof, following the adoption of this chapter.

§ 138-3. Notice of violation.

If any minor under the age of 18 years should be apprehended for violating the provisions of this chapter, the assigned police officers of the Borough of Tuckerton shall notify the parents, guardians or other person having the care, custody or control of such minor, of such arrest, and may, if deemed advisable, make such further inquiry or take such action concerning the presence of such minor in or upon the public or quasi-public places, as aforesaid, as may seem advisable.

§ 138-4. Exceptions.

The provisions of this chapter shall not be applicable to any minor under the age of 18 years during the time necessarily required for such minor to travel from any of the following places to his or her residence:

- A. A place of employment at which such minor may be gainfully employed.
- B. A school or place of instruction at which such minor may be in bona fide attendance.
- C. A place at which a function may be held that shall be or had been sponsored by a religious group, school, or civic or other properly supervised event or program.
- D. A place at which a bona fide, supervised social meeting, gathering or assemblage had taken place.

§ 138-5. Emergencies.

Should an emergency arise necessitating a minor child under the age of 18 years to be dispatched upon an errand requiring his or her presence in, on or upon a street or automobile, or in any public or quasi-public place, as aforesaid, during the curfew hours herein established, he or she shall have in his or her possession a note signed by the parent, guardian or other person having custody, care or control of such minor child under the age of 18 years, stating the nature of the errand, the necessity therefor, the place to which such minor child is to go, the time and date such note was issued and the time required for such errand. The abuse of the provisions of this section shall constitute a violation of the provisions of this chapter punishable as hereinafter provided.⁵⁵

§ 138-6. Violations and penalties. [Amended 3-4-1974 by Ord. No. 3-1974]

- A. Any person 18 years of age or older violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$500 or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.
- B. Upon the violation of any of the provisions of the chapter by any person under 18 years of age, any member of the Police Department of the Borough of Tuckerton concerned therewith shall determine whether, in his discretion, a complaint should be made to the Juvenile and Domestic Relations Court of the County of Ocean. In any event, should such person become a repeated violator of the provisions of this chapter, as reflected upon the records of the Police Department of the Borough of Tuckerton, then a complaint shall be transmitted through the Chief of the Police Department of the Borough of Tuckerton to the Juvenile and Domestic Relations Court for such action as that Court, in its discretion, may deem proper.

§ 138-7. Regulations to be posted in public places.

Notice of the existence of this chapter and of the curfew regulations established by it shall be posted in or at such public or quasi-public places as may be determined by the Acting Chief of Police in order that the public may be constantly informed of the existence of this chapter and its regulations.⁵⁶

Chapter 142**DOCKS AND WHARVES****GENERAL REFERENCES**

Bulkheads — See Ch. 118.

55. Editor's Note: The former section regarding presumption of parental knowledge, which section immediately followed this section, was repealed 8-21-1978 by Ord. No. 6-1978. For provisions regarding responsibility of parents or guardians, see Ch. 199, Parental Responsibility.

56. Editor's Note: The former section regarding announcement of curfew hours, which section immediately followed this section, was repealed 8-21-1978 by Ord. No. 6-1978.

§ 142-1. Definitions.

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

PERSON — Any person, persons, firm, partnership or corporation.

§ 142-2. Docking permit required.

No person shall dock a boat at the public dock stalls known as "Scow Landing Public Dock" and "Willow Landing Public Dock" in the Borough of Tuckerton without first having obtained a permit for such privilege in the manner hereinafter provided.

§ 142-3. Permit required to use boat stalls.

No person shall use, take or occupy one or more boat stalls or spaces until a permit for that purpose has been obtained.

§ 142-4. Only designated boat stalls or spaces to be used.

No person shall use the public docks or any part thereof as a boat stall or space except that portion of said dock now or hereinafter set apart for boat stalls or spaces.

§ 142-5. Application for permit.

Any person desiring to obtain the privilege of docking or renting a boat stall or space may do so by applying and making application with the Borough Clerk for a permit for said dock stall or space.

§ 142-6. Applications subject to approval.

The Borough Clerk shall have the right and power to act upon all applications for the issuance of permits, which right and power of the Borough Clerk shall, however, be subject to final approval of the Borough Council.

§ 142-7. Annual fee. [Amended 3-15-1971 by Ord. No. 1-1971; 2-18-1981 by Ord. No. 1-1981; 3-17-1986 by Ord. No. 10-1986; 3-7-1988 by Ord. No. 1-1988; 2-22-1995 by Ord. No. 2-1995; 9-22-2003 by Ord. No. 12-2003; 4-4-2011 by Ord. No. 4-2011]

The annual fee for the issuance of each permit shall be \$425.

§ 142-8. Fees become Borough property.

All fees received by the Borough Clerk shall be turned over to the Borough Treasurer and shall be and become the property of the Borough of Tuckerton.

§ 142-9. Duration of permits. [Amended 3-15-1971 by Ord. No. 1-1971]

All permits issued shall be for the period of one year commencing January 1 through December 31, inclusive.

§ 142-10. Payment of fees.

All fees shall be paid in full at the time of the issuance of the permit.

§ 142-11. Parking by permit only. [Added 11-7-2005 by Ord. No. 30-2005⁵⁷]

- A. No person shall park a vehicle in the designated parking areas known as “Scow Landing Public Dock” and “Willow Landing Public Dock” between the hours of 9:00 p.m. to 6:00 a.m. without first having obtained a permit in the manner hereinafter provided.
- B. Parking permits shall be restricted to persons who have obtained a permit to dock a boat at a public dock stall as provided in this chapter.
- C. Parking permits shall be obtained from the office of the Municipal Clerk after application on forms prescribed by the Municipal Clerk.
- D. Parking permits shall be limited to one permit per dock stall rented.
- E. Notwithstanding any provision to the contrary, nothing provided herein shall prohibit or restrict the governing body from waiving any parking restriction provided in this section for any public purpose, including but not limited to public events and emergencies.

§ 142-12. Violations and penalties. [Amended 10-3-2005 by Ord. No. 19-2005]

Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$500 or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

Chapter 147**DRUG-FREE ZONES****§ 147-1. Map approved.**

- A. The Borough of Tuckerton hereby approves the map produced by the Municipal Engineer for the purposes of affixing the location and boundaries of the area on or within the area of 1,000 feet of any property used for school purposes which is owned by or leased to any elementary or secondary school or School Board as an official finding or record of the location or boundaries of the area or areas on or within 1,000 feet of said school properties. The Borough also approves the said map for the purposes of affixing and establishing the location and boundaries of all areas within 500 feet of any public building or public park as defined in N.J.S.A. 2C:35-7.1.
- B. The original of said map or a true copy thereof shall be kept on file with the Clerk of the municipality and shall be maintained as an official record of the municipality.

Chapter 163

57. Editor's Note: This ordinance also renumbered former § 142-11, Violations and penalties, as § 142-12.

FIRE PREVENTION

GENERAL REFERENCES

Fire Department — See Ch. 29.

Brush, grass and weeds — See Ch. 103.

Building construction — See Ch. 107.

Unlit buildings — See Ch. 115.

Fire insurance claims — See Ch. 179, Art. I.

Junkyards— See Ch. 183.

Littering — See Ch. 193.

Property maintenance — See Ch. 210.

Solid waste — See Ch. 223.

Tanks — See Ch. 229, Article I.

ARTICLE I

Fire Prevention Standards**[Adopted 6-16-1975 by Ord. No. 9-1975]****§ 163-1. Adoption of Fire Prevention Code.**

There is hereby adopted by the Mayor and Council of the Borough of Tuckerton, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the "Fire Prevention Code" recommended by the American Insurance Association, being particularly the 1970 edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended by §§ 163-9 and 163-10 of this article, of which code not less than three copies have been and now are filed in the office of the Clerk of the Borough of Tuckerton and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this article shall take effect, the provisions thereof shall be controlling within the limits of the Borough of Tuckerton.

§ 163-2. Fee for permits.

There will be a fee of \$25 for all permits required by any section of the Fire Prevention Code.

§ 163-3. Establishment and duties of Bureau of Fire Prevention.

- A. The Fire Prevention Code shall be enforced by the Bureau of Fire Prevention in the Fire Department of the Borough of Tuckerton which is hereby established and which shall be operated under the supervision of the Chief of the Fire Department.
- B. The Fire Marshal in charge of the Bureau of Fire Prevention shall be appointed by the Mayor and Council on the basis of examination to determine his qualifications. His appointment shall continue during good behavior and satisfactory service, and he shall not be removed from office except for cause after public trial.
- C. The Chief of the Fire Department may detail such members of the Fire Department as inspectors as shall from time to time be necessary. The Chief of the Fire Department shall recommend to the Mayor and Council the employment of technical inspectors, who, when such authorization is made, shall be selected through an examination to determine their fitness for the position. The examination shall be open to members and nonmembers of the Fire Department, and appointments made after examination shall be for an indefinite term with removal only for cause.
- D. A report of the Bureau of Fire Prevention shall be made annually and transmitted to the chief executive officer of the municipality; it shall contain all proceedings under this code, with such statistics as the Chief of the Fire Department may wish to include therein. The Chief of the Fire Department shall also recommend any amendments to the code which, in his judgment, shall be desirable.

§ 163-4. Definitions.

As used in this article and the code adopted hereby, the following terms shall have the meanings indicated:

CHIEF OF THE BUREAU OF FIRE PREVENTION — The Fire Marshal of the Borough of Tuckerton.

CORPORATION COUNSEL — The Attorney for the Borough of Tuckerton.

MUNICIPALITY — The Borough of Tuckerton.

§ 163-5. Limits of districts in which storage of explosives and blasting agents is prohibited.

The limits referred to in Section 12.5b of the Fire Prevention Code, in which storage of explosives and blasting agents is prohibited, are hereby established as follows: the limits of the Borough of Tuckerton.

§ 163-6. Limits of districts in which storage of flammable liquids in outside aboveground tanks is prohibited.

- A. The limits referred to in Section 16.22a of the Fire Prevention Code, in which storage of flammable liquids in outside aboveground tanks is prohibited, are hereby established as follows: the limits of the Borough of Tuckerton.
- B. The limits referred to in Section 16.61 of the Fire Prevention Code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby established as follows: the limits of the Borough of Tuckerton.

§ 163-7. Limits in which bulk storage of liquefied petroleum gases is restricted.

The limits referred to in Section 21.6a of the Fire Prevention Code, in which bulk storage of liquefied petroleum gas is restricted, are hereby established as follows: the limits of the Borough of Tuckerton.

§ 163-8. Fire lanes on private property devoted to public use.

The fire lanes referred to in Section 28.16 of the Fire Prevention Code are hereby established as follows:

(Reserved)

§ 163-9. Amendments.

(Reserved)

§ 163-10. Modifications.

The Chief of the Bureau of Fire Prevention shall have the power to modify any of the provisions of the Fire Prevention Code upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Chief of the Bureau of Fire Prevention thereon shall be entered upon the records of the Department and a signed copy shall be furnished the applicant.

§ 163-11. Appeals.

Whenever the Chief of the Bureau of Fire Prevention shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Bureau of Fire Prevention to the Mayor and Council within 30 days from the date of the decision appealed.

§ 163-12. New materials, processes or occupancies which may require permits.

The Mayor and Council, the Chief of the Fire Department and the Chief of the Bureau of Fire Prevention shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those now enumerated in said code. The Chief of the Bureau of Fire Prevention shall post such list in a conspicuous place in his office and distribute copies thereof to interested persons.

§ 163-13. Violations and penalties.

- A. Any person who shall violate any of the provisions of the code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the Mayor and Council or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, upon conviction thereof, be punishable by a fine of not more than \$500 or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the Judge. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each 10 days that prohibited conditions are maintained shall constitute a separate offense.
- B. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

ARTICLE II

Fire Detection Systems**[Adopted 8-6-1979 by Ord. No. 7-1979]****§ 163-14. Buildings constructed for single- and two-family occupancy.**

Every building constructed for single-family and two-family occupancy within the Borough of Tuckerton shall have installed therein and thereafter maintained an approved fire detection system. The detector shall be of the ionization or other approved type, sensitive to any of the products of combustion, except that a detector sensitive to heat only is unacceptable. The detector shall be of the type operated by battery or electricity on a specific circuit. A minimum of one detector shall be required on each level or floor containing sleeping quarters. Alarm signaling devices shall be clearly audible in all bedrooms when all intervening doors are closed. For the purpose of installation and maintenance, only the applicable sections of National Fire Prevention Association (NFPA) No. 74, Standard for the Installation, Maintenance and Use of a House Fire Warning System, shall constitute accepted practices. Installation of the fire detection system must have prior approval of the Construction Code Official or Fire Subcode Official of the Borough of Tuckerton.

§ 163-15. Buildings constructed for multifamily residential occupancy.

Every building constructed for multifamily residential occupancy, including but not limited to hotels, motels, rooming houses and apartment complexes, shall have installed an approved, supervised fire detection system. The detector shall be of the ionization type, sensitive to any of the products of combustion, except that detectors sensitive to heat only are not acceptable. A minimum of one detection system shall be required on each level or floor of individual units containing sleeping quarters. Also, one unit shall be required at each central exitway and at the top of each stairway. Fire alarm enunciated panels shall be provided at such locations as required by the Construction Code Official or Fire Subcode Official of the Borough of Tuckerton.

§ 163-16. Selling or renting of residences not meeting requirements prohibited.

No single-family, two-family or multifamily residences shall be sold or rented after the adoption of this article, and no structural changes or alterations of a value in excess of \$1,000 shall be made thereto, unless and until the residence meets the requirements of the above sections.

§ 163-17. Violations and penalties.

Failure to install and/or maintain a fire detection system will result in a fine not to exceed \$500 or imprisonment of 90 days, or both.

Chapter 166

FLOODPLAIN MANAGEMENT

GENERAL REFERENCES

Building construction — See Ch. 107.

Uniform construction codes — See Ch. 132.

Docks and wharves — See Ch. 142.

Mobile home parks — See Ch. 196.

Subdivision of land — See Ch. 231.

Sewer system — See Ch. 217.

Site plan review — See Ch. 220.

Streets and sidewalks — See Ch. 229.

Water and sewers — See Ch. 249.

Zoning — See Ch. 255.

ARTICLE I

Flood Damage Prevention**[Adopted 9-18-2006 by Ord. No. 20-2006.⁵⁸]****§ 166-1. 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.

§ 166-2. Findings of fact.

- A. The flood hazard areas of the Borough of Tuckerton 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, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

§ 166-3. Statement of purpose.

It is the purpose of this article 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:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To 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. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood-blight areas;
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

58. Editor's Note: This ordinance also repealed former Ch. 166, Flood Hazards, adopted 3-21-1983 by Ord. No. 3-1983, as amended.

§ 166-4. Methods of reducing flood losses.

In order to accomplish its purposes, this article 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.

§ 166-5. Definitions.

- A. Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.
- B. As used in this article, the following terms shall have the meanings indicated:

ADVISORY BASE FLOOD ELEVATION (ABFE) — The elevation shown on a community's Advisory Flood Hazard Map that indicates the advisory stillwater elevation plus wave effect ($ABFE = SWEL + \text{wave effect}$) resulting from a flood that has a one-percent or greater chance of being equaled or exceeded in any given year. **[Added 4-1-2013 by Ord. No. 1-2013]**

ADVISORY FLOOD HAZARD AREA (AFHA) — The land in the floodplain within a community subject to flooding from the one-percent-annual-chance event depicted on the Advisory Flood Hazard Map. **[Added 4-1-2013 by Ord. No. 1-2013]**

ADVISORY FLOOD HAZARD MAP — The official map on which the Federal Emergency Management Administration has delineated the areas of advisory flood hazards applicable to the community. **[Added 4-1-2013 by Ord. No. 1-2013]**

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

AREAS OF SPECIAL FLOOD-RELATED EROSION HAZARD — The land within a community which is most likely to be subject to severe flood-related erosion losses. After

a detailed evaluation of the special flood-related erosion hazard area will be designated a Zone E on the Flood Insurance Rate Map.

BASE FLOOD — The flood having a one-percent 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 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.

COASTAL HIGH HAZARD AREA — An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

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.

ELEVATED BUILDING — A nonbasement building: a) built in the case of a building in an area of special flood hazard to have the top of the elevated floor, or in the case of a building in a coastal high hazard area to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water; and b) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. 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. In areas of coastal high hazard elevated buildings also includes a building otherwise meeting the definition of elevated building even though the lower area is enclosed by means of breakaway walls.

EROSION — The process of the gradual wearing away of land masses.

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

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM) — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards 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.

FLOOD-RELATED EROSION — The collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by unusually high water

level in a natural body of water, accompanied by a severe storm, or by unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

FLOOD-RELATED EROSION AREA or FLOOD-RELATED EROSION-PRONE AREA — A land area adjoining the shore of a lake or other body of water which, due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion.

FLOOD-RELATED EROSION AREA MANAGEMENT — The operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and floodplain management regulations.

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.

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.

FREEBOARD — A requirement adding height above the base flood elevation to provide an extra margin of protection to account for waves, debris, blocked bridge or culvert openings, and the hydrological effect of urbanization of the watershed. **[Added by 12-3-2012 by Ord. No. 10-2012]**

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:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) 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
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program, as determined by the Secretary of the Interior; or
 - (b) 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, useable 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 nonelevation design requirements.

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 recreation 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.

PRIMARY FRONTAL DUNE — A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves from coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from the relatively steep slope to a relatively mild slope.

RECREATIONAL VEHICLE — A vehicle which is: a) built on a single chassis; b) 400 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.

REFERENCE FEATURE — The receding edge or bluff or eroding frontal dune or, if such a feature is not present, the normal high water line or the seaward line of permanent vegetation if a high water line cannot be identified.

SIXTY-YEAR SETBACK — A distance equal to 60 times the average annual long-term recession rate at a site, measured from the reference feature.

THIRTY-YEAR SETBACK — A distance equal to 30 times the average annual long-term recession rate at a site, measured from the reference feature.

SAND DUNES — Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

START OF CONSTRUCTION — For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348), 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. 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 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: **[Amended 4-1-2013 by Ord. No. 1-2013]**

- (1) 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 assure safe living conditions; or
- (2) 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 article that permits construction in a manner that would otherwise be prohibited by this article.

§ 166-6. Lands to which the ordinance applies.

This article shall apply to all areas of special flood hazards within the jurisdiction of the Borough of Tuckerton, Ocean County, New Jersey.

§ 166-7. Basis for establishing the areas of special flood hazard. [Amended 4-1-2013 by Ord. No. 1-2013; 9-2-2014 by Ord. No. 8-2014]

- A. The areas of special flood hazard for the Borough of Tuckerton, Community No. 340395, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
 - (1) A scientific and engineering report, "Flood Insurance Study, Ocean County, New Jersey (all jurisdictions)," dated March 28, 2014.
 - (2) Flood Insurance Rate Map for Ocean County, New Jersey (all jurisdictions) as shown on Index and Panel(s) Nos. 0576, 0577, 0578 and 0581, the effective date of which is March 28, 2014.

- B. The above documents are hereby adopted and declared to be a part of this article. The Flood Insurance Study and maps are on file at Borough Hall, 140 E. Main Street, Tuckerton, New Jersey 08087.

§ 166-8. Penalties for noncompliance. [Amended 3-5-2007 by Ord. No. 2-2007]

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this article and other applicable regulations. Violation of the provisions of this article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Borough of Tuckerton from taking such other lawful action as is necessary to prevent or remedy any violation.

§ 166-9. Abrogation and greater restrictions.

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

§ 166-10. Interpretation.

In the interpretation and application of this article, 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.

§ 166-11. Warning and disclaimer of liability.

- A. The degree of flood protection required by this article 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 article 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 article shall not create liability on the part of the Borough of Tuckerton, any officer or employee thereof or the Federal Insurance Administration for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

§ 166-12. Establishment of development permit.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in § 166-7. 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 § 166-17B; and
- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

§ 166-13. Designation of the local administrator.

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

§ 166-14. Duties and responsibilities of the administrative officer. Duties of the Zoning Officer shall include, but not be limited to:

- A. Permit review. He shall:
 - (1) Review all development permits to determine that the permit requirements of this article 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.
 - (3) Review all development permits to determine if the proposed development is located in the floodway; assure that the encroachment provisions of § 166-18A are met.
 - (4) Review all development permits in the coastal high hazard area of the area of special flood hazard to determine if the proposed development alters sand dunes so as to increase potential flood damage.
- B. When base flood elevation and floodway data has not been provided in accordance with § 166-7, 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 § 166-17A and § 166-17B.
- C. Information to be obtained and maintained. He 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 § 166-12C.
 - (3) Maintain for public inspection all records pertaining to the provisions of this article.

- D. Alteration of watercourse. He shall:
- (1) Notify adjacent communities and the New Jersey Department of Environmental Protection, Floodplain Management 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. He 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 filed conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 166-15.

§ 166-15. Variance procedure.

- A. Appeal board.
- (1) The Land Use Board as established by the Borough of Tuckerton shall hear and decide appeals and requests for variances from the requirements of this article.
 - (2) The Land Use 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 article.
 - (3) Those aggrieved by the decision of the Land Use Board, or any taxpayer, may appeal such decision to the governing body as provided by law.
 - (4) In passing upon such applications, the Land Use Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article; 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 § 166-15A(4) and the purposes of this article, the Land Use Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.
- (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 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a) through (k) in § 166-15A(4) have been fully considered. As the lot size increases beyond the 1/2 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 a 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
 - (d) Victimization of the public as identified in § 166-15A(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.

§ 166-16. Provisions for flood hazard reduction. [Amended 4-1-2013 by Ord. No. 1-2013]

In all areas of special flood hazards, 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 and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All manufactured homes 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) 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 the 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: 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. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other covering or devices, provided that they permit the automatic entry and exit of floodwaters.

§ 166-17. Specific standards. [Amended by 12-3-2012 by Ord. No. 10-2012; 4-1-2013 by Ord. No. 1-2013; 6-3-2013 by Ord. No. 5-2013; 9-2-2014 by Ord. No. 8-2014; 4-6-2015 by Ord. No. 2-2015]

In all areas of special flood hazards except coastal high hazard areas, where base flood elevation data have been provided as set forth in § 166-7 or in § 166-14B, the following standards are required:

A. Residential construction.

- (1) In A or AE Zones, new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation and required freeboard as per § 166-17D.
- (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 basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified) or applicable freeboard, whichever is greater; and, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
- (3) New construction and substantial improvement of any residential structure in a zone other than those covered in Subsection A(1) and (2) above shall have the lowest floor, including basement, elevated to or above base flood elevation.

B. Nonresidential construction.

- (1) In A or AE Zones all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, attendant utilities and sanitary facilities, elevated to the level of the base flood elevation and applicable freeboard; or

- (a) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (c) 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 § 166-14C(2).
 - (2) Require within any AO Zone on the municipality's FIRM that all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified) or applicable freeboard requirement, whichever is greater; and, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
 - (3) New construction and substantial improvement of any structure in a zone other than those covered in Subsection B(1) and (2) above shall have the lowest floor, including basement, elevated to or above base flood elevation; or
 - (a) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (c) 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 § 166-14C(2).
- C. Manufactured homes.
 - (1) Manufactured homes shall be anchored in accordance with § 166-16A(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 any applicable freeboard.
- D. Additional freeboard requirements.
 - (1) In the V and VE Zones and all areas of the Tuckerton Beach section of the Borough (defined as all properties located in the R-50 Zone south of Bass Road), all new construction or substantial improvement of any residential, commercial, industrial or other nonresidential structure or manufactured home shall have the lowest floor, including basement, elevated to at least the depth number, specified in feet, plus three feet of freeboard, above the BFE and provide adequate drainage paths around structures on slopes, to guide floodwaters around and away from the proposed structures. New construction in V and VE Zones shall be elevated on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest

floor (excluding the piling or column), together with all electrical, heating, ventilation, plumbing and air-conditioning equipment and other services facilities (including ductwork), is elevated to three feet or more above the base flood elevation (three-feet freeboard). All portions of the building below the freeboard level must be constructed using flood-damage-resistant materials.

- (2) In all zones not covered in Subsection D(1) above, all new construction or substantial improvement of any residential, commercial, industrial or other nonresidential structure or manufactured home shall have the lowest floor, including basement, elevated to at least the depth number, specified in feet, plus one foot of freeboard, above the highest adjacent grade and provide adequate drainage paths around structures on slopes, to guide floodwaters around and away from the proposed structures.

§ 166-18. Floodways.

Located within areas of special flood hazard established in § 166-7 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. If § 166-18A is satisfied, all new construction and substantial improvements must comply with § 166-16.
- C. In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than 0.2 of a foot at any point.

§ 166-19. Coastal high hazard area. [Amended 3-5-2007 by Ord. No. 2-2007; 4-1-2013 by Ord. No. 1-2013]

Coastal high hazard areas (V or VE Zones) are located with the areas of special flood hazard established in § 166-7. These areas have special flood hazards associated with high-velocity waters from tidal surges and hurricane wave wash; therefore, the following provisions shall apply:

- A. Location of structures.
- (1) All buildings or structures shall be located landward of the reach of the mean high tide.
- (2) The placement of manufactured homes shall be prohibited, except in an existing manufactured home park or manufactured home subdivision.
- B. Construction methods.
- (1) Elevation. All new construction and substantial improvements shall be elevated on piling or columns so that:

- (a) The bottom of the lowest horizontal structural member of the lowest floor (excluding piling or columns) is elevated to or above the base flood elevation, advisory base flood elevation or as required by the Uniform Construction Code (N.J.A.C. 5:23), whichever is more restrictive; and
 - (b) With all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls as provided or in § 166-19B(4).
- (2) Structural support.
 - (a) All new construction and substantial improvements shall be securely anchored on piling or columns.
 - (b) The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse or lateral movement due to the effects of wind and water loading values, each of which shall have a one-percent chance of being equaled or exceeded in any given year (one-hundred-year mean recurrence interval).
 - (c) There shall be no fill used for structural support.
- (3) Certification. A registered professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of § 166-19B(1) and (2)(a) and (b).
- (4) Space below the lowest floor.
 - (a) Any alteration, repair, reconstruction or improvements to a structure started after the enactment of this article shall not enclose the space below the lowest floor unless breakaway walls, open wood latticework or insect screening is used as provided for in this section.
 - (b) Breakaway walls, open wood latticework or insect screening shall be allowed below the base flood elevation, provided that they are intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall be designed for a safe loading resistance of not less than 10 pounds per square foot and not more than 20 pounds per square foot (either by design or when so required by local or state codes) and may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - [1] Breakaway wall collapse shall result from a water load of less than that which would occur during the base flood; and
 - [2] The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water load acting simultaneously on all building components (structural and nonstructural). Water-loading values

used shall be those associated with the base flood. Wind-loading values used shall be those required by applicable state or local building standards.

- (c) If breakaway walls are utilized, such enclosed space shall be used solely for the parking of vehicles, building access, or storage and not for human habitation.
 - (d) Prior to construction, plans for any breakaway wall must be submitted to the Building Subcode Official for approval.
- C. Sand dunes. There shall be no alteration of sand dunes, which would increase potential flood damage.

§ 166-20. through § 166-30. (Reserved)

ARTICLE II

Private Storm Drain Inlet Retrofitting
[Adopted 9-7-2010 by Ord. No. 23-2010]**§ 166-31. Purpose.**

The purpose of this article is to require the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply, so as to comply with the requirements of the New Jersey Department of Environmental Protection, Division of Water Quality, Bureau of Nonpoint Pollution Control.

§ 166-32. Definitions; word usage.

For the purpose of this article, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Borough of Tuckerton or other public body, and is designed and used for collecting and conveying stormwater.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

STORM DRAIN INLET — An opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

WATERS OF THE STATE — The ocean and its estuaries, all springs, streams 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.

§ 166-33. Prohibited conduct.

No person in control of private property (except a residential lot with one single-family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:

- A. Already meets the design standard below to control passage of solid and floatable materials; or
- B. Is retrofitted or replaced to meet the standard in § 166-34 below prior to the completion of the project.

§ 166-34. Design standard.

Storm drain inlets identified in § 166-33 above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets (for purposes of this section, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids):

- 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 seven square inches, or is no greater than 0.5 inches across the smallest dimension.
 - (3) 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.
- B. 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.
- C. This standard does not apply:
- (1) Where the Municipal Engineer agrees 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;
 - (2) Where flows 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:
 - (a) A rectangular space 4 5/8 inches long and 1 1/2 inches wide (this option does not apply for outfall netting facilities); or
 - (b) A bar screen having a bar spacing of 0.5 inches.
 - (3) Where flows are conveyed through a trash rack that has parallel bars with one-inch spacing between the bars; or
 - (4) 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.

§ 166-35. Enforcement.

This article shall be enforced by the Code Enforcement Officer of the Borough.

§ 166-36. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this article shall be subject to a fine not to exceed \$1,000 for each storm drain inlet that is not retrofitted to meet the design standard.

Chapter 169
GAMES OF CHANCE

ARTICLE I

Raffles**[Adopted 11-6-1995 by Ord. No. 17-1995]****§ 169-1. License fees.**

The Borough shall charge a municipal license fee for raffles and other legalized games of chance in accordance with N.J.A.C. 13:47-4.10 in an amount equal to the amount charged by the State Legalized Games of Chance Control Commission.

§ 169-2. Exemptions.

The Borough shall exempt all qualified organizations from the payment of any municipal licensing fee under this section. This exemption shall not apply to any fee due the State Legalized Games of Chance Control Commission.

Chapter 172
GRIEVANCE PROCEDURE

ARTICLE I
Handicapped Discrimination
[Adopted 10-15-1984 by Ord. No. 14-1984]

§ 172-1. Purpose.

The purpose of this article is to establish a grievance procedure to provide for the prompt and equitable resolution of complaints alleging handicapped discrimination in the administration of municipal programs and activities.

§ 172-2. Definitions.

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

GRIEVANCE — A complaint by any person or persons alleging a discriminatory practice, procedure or effect in the administration of municipal programs, activities or services based upon a physical or mental handicap or impairment.

GRIEVANT — A person who files a grievance.

HANDICAPPED PERSON — Any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment or is regarded as having such an impairment.

MAJOR LIFE ACTIVITIES — A function, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

PHYSICAL OR MENTAL IMPAIRMENT — Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin and endocrine; or any mental or physiological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities. The term "physical or mental impairment" includes but is not limited to such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

REPRESENTATIVE — A person or agent designated to represent any party in this procedure.

§ 172-3. Procedures for processing.

- A. Grievances shall be processed promptly and expeditiously and shall be adjudicated according to the terms of the procedure provided herein.
- B. Formal grievances and appeals shall be in writing.
- C. Communications and decisions concerning formal grievances shall be in writing.
- D. A grievant shall be permitted a representative at all levels of the grievance procedure and may produce witnesses for the purpose of taking testimony relevant to the alleged discrimination on the basis of handicap.

- E. A grievant shall present a written statement of the alleged grievance to the Borough Clerk within 15 days of the occurrence of the grievance. The Borough Clerk will review the grievance and investigate the facts and submit a written answer to the grievant within seven days of the submission date on the grievance form.
- F. If the grievant is dissatisfied with the answer submitted by the Borough Clerk, the grievant may appeal the answer to the Mayor and Borough Council within seven days after receipt of the written answer. A hearing shall be scheduled within seven days after receipt of the grievance appeal. The hearing granted by the Mayor will take place within 15 days after the scheduled date is submitted to the grievant.
- G. If the grievant is still dissatisfied with the answer received from the Mayor, a grievant may request arbitration of a grievance within 20 days of the decision of the Mayor by filing notice of the grievant's continued disagreement. An arbitrator shall be selected from the American Arbitration Association according to the Association's procedure. The cost of the services of the arbitrator shall be shared equally by the parties. The arbitrator's decision shall be binding on all parties to the grievance.
- H. Failure by a grievant to process a grievance within the specified time limit shall render the grievance as settled in favor of the Borough. Failure by the Borough to issue a decision within the specified time limit shall render the grievance advanced to the next level. The aforementioned time limits may, however, be extended by mutual consent of the parties.
- I. Nothing herein contained shall be construed as limiting the right of a grievant to discuss the grievance informally with any Borough administering personnel.

Chapter 176**HAZARDOUS WASTES****GENERAL REFERENCES**

Solid waste — See Ch. 223.

Underground storage tanks — See Ch. 226.

§ 176-1. Definitions.

The following words, whenever used in this chapter, shall, for the purpose of this chapter, have the following meanings:

PERSON — Any individual or group of individuals composing any community of interest, firm, partnership, corporation, political subdivision or authority.

POTENTIALLY DANGEROUS SUBSTANCE — Any substance which is, in its production and/or disposal, regulated by any governmental agency for the purpose of protecting health, safety or welfare of citizens from the actual or potential threat imposed by noncompliant production and/or disposal of such substances, and shall specifically include chemical waste, sewage, septage, or any other chemical or biological wastes.

REGULATED VEHICLE — Any vehicle duly authorized by the Board of Public Utilities or other regulating agency of the State of New Jersey.

TRANSPORTATION — Movement from one location to another by use of a vehicle or container upon public streets or highways.

§ 176-2. Restriction on transport.

No person shall transport a potentially dangerous substance through the Borough of Tuckerton, unless transportation is made on a duly regulated vehicle which prominently displays a certification of approval from an appropriate governmental agency.

§ 176-3. Restriction on disposal.

No person shall dispose of, dump or place any potentially dangerous substance into any manhole, pipe, sewage line, receptacle of any type, stream, lake, field or lot, situate within the Borough of Tuckerton.

§ 176-4. Restriction on parking of trucks carrying flammable substances.

No person shall permit any truck or other vehicle designed to transport flammable substances and carrying such substances to be parked within 200 feet of any residential or commercial building, except when making a delivery of such flammable substance to such building or neighboring building. If any truck or other vehicle is being used to deliver said flammable substance, it shall be permitted to park in the vicinity of the delivery place for only such time as is necessary to make said delivery. The provisions of this section are not intended to prohibit an individual who owns a residential or commercial building from parking any such truck or other motor vehicle on his own property, provided that said truck or motor vehicle is not within 200 feet of any neighboring residential or commercial building.

§ 176-5. Violations and penalties.

Any person who violates any provision of this chapter by transporting potentially dangerous substances in an unregulated vehicle or who disposes of a potentially dangerous substance in a place other than authorized shall, upon conviction, be subject to a fine not to exceed \$500 or imprisonment not to exceed 90 days, or both. If any person performs a series of prohibited transactions, each transaction shall be deemed to be a separate violation of this chapter for sentencing purposes.

Chapter 179**INSURANCE**

ARTICLE I

Fire Insurance Claims**[Adopted 8-3-1981 by Ord. No. 13-1981]****§ 179-1. Restrictions on payment.**

- A. No insurance company authorized to issue fire insurance policies in the State of New Jersey, which issues or renews any fire insurance policy after the adoption of this article and the filing of same with the State Commissioner of Insurance, shall pay to any claimant a sum in excess of \$2,500 for fire damage on any real property located within the Borough of Tuckerton until such time as:
- (1) All taxes and assessments and all other municipal liens and charges due and payable to the Borough of Tuckerton as is indicated on an official certificate of search for municipal liens, shall have been paid in full; or
 - (2) The municipality submits to the insurance company a copy of a resolution adopted pursuant to N.J.S.A. 17:36-11.
- B. However, if an appeal is taken on the amount of any lien or charge, other than an appeal on an assessed valuation of real property, the insurance company shall issue a draft payable to the court of record, pursuant to N.J.S.A. 17:36-10, in an amount totaling 75% of the full amount of the lien or charge being contested, and the insurance company shall issue a draft payable to the municipality for the remaining 25% of the lien or charge being contested; provided, however, that the amount paid by the insurance company to the court and the municipality shall not exceed the proceeds payable under its insurance policy.

§ 179-2. Interpretation of provisions.

The provisions of this article are intended to be interpreted in conjunction with N.J.S.A. 17:36-8 through N.J.S.A. 17:36-13, and the provisions of said statutes are herein incorporated by reference.

Chapter 183
JUNKYARDS

GENERAL REFERENCES

Solid waste — See Ch. 223.

§ 183-1. Operation of junkyards prohibited.

From and after the passage of this chapter, it shall be unlawful for any person, firm or corporation to maintain, operate or conduct, within the Borough of Tuckerton, a junk shop or junkyard in or upon which junk as hereinafter described shall be purchased, sold, stored, repaired, renovated or restored.

§ 183-2. Definitions.

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

JUNK — Old or used, dismantled or partially dismantled automobiles or other dismantled or partially dismantled motor vehicles; scrap iron; old brass, old copper, old tin, old lead or other old metal; old or used glass or glassware; used or secondhand building materials, including used lumber and old rubber; and any other junk of a similar character. This definition shall not be construed to include old or used automobiles or other motor vehicles to be sold or exchanged as completely assembled motor-driven vehicles.

§ 183-3. Violations and penalties.⁵⁹

Any person, firm or corporation violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$500 or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

Chapter 187

LANDMARKS PRESERVATION

GENERAL REFERENCES

Planning Board — See Ch. 45, Art. I.

Property maintenance — See Ch. 210.

Building Construction — See Ch. 107.

Subdivision of land — See Ch. 231.

Uniform construction codes — See Ch.132.

Zoning — See Ch. 255.

59. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 187-1. Definitions.

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

ADDITION — The construction of a new improvement as part of an existing improvement when such new improvement changes the exterior appearance of any landmark.

ALTERATION — Any work done on any improvement which is not an addition to the improvement and which changes the appearance of the exterior surface of any improvement.

DEMOLITION — The razing of any improvement or the obliteration of any natural feature of a landmark.

HISTORIC DISTRICT — A definable group of tax map lots, the improvements on which, when viewed collectively, have a unique character resulting from their architectural style; represent a significant period(s) in the architectural and social history of the municipality; and, because of their unique character, can readily be viewed as an area or neighborhood distinct from surrounding portions of the municipality. Except as otherwise stated, all references to landmarks in this chapter shall be deemed to include historic districts as well.

HISTORIC LANDMARK — Any real property, such as a building, structure, ruins, foundation, route, trail or place, including but not limited to a cave, cemetery, burial ground, camp or village area, or a natural configuration, geological formation or feature which is of particular historic, cultural, scenic or aesthetic significance to the Borough of Tuckerton and in which the broad cultural, political, economical or social history of the nation, state or community is reflected or exemplified; is identified with historic personages or with important events in the main current of national, state or local history; shows evidence of habitation, activity or the culture of prehistoric man; embodies a distinguishing characteristic or an architectural type valuable as representative of a period, style or method of construction; represents a work of a builder, designer, artist or architect whose individual genius influenced his age; or is imbued with traditional or legendary lore. All landmarks shall specifically be identified within the community facilities plan element of the Master Plan as recognized by the provision of N.J.S.A. 40:55D-28b(6). The designation of a landmark shall be deemed to include the Tax Map lot(s) on which it is located.

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.

REPAIR — Any work done on any improvement which is not an addition to the improvement and does not change the appearance of the exterior surface of any improvement.

REPLACEMENT — Repairs when a building permit is required for same.

STRUCTURE — Any improvement, including but not limited to all buildings.

§ 187-2. Landmarks Commission; interpretive statement.

- A. There is hereby created in and for the Borough of Tuckerton a Commission to be known as the "Landmarks Commission of the Borough of Tuckerton."
- B. The Landmarks Commission shall consist of five (5) regular members and two (2) alternate members, as appointed by the Mayor, as follows: [**Amended 3-18-1991 by Ord. No. 4-1991; 8-1-1994 by Ord. No. 12-1994**]

- (1) Four of whom shall be citizens of the Borough holding no other municipal office, position or employment, except for membership on the Planning Board or Zoning Board of Adjustment.
 - (2) One of whom shall be a member of the governing body.
 - (3) Two of whom shall be alternate members who shall be citizens of the Borough holding no other municipal office, position or employment, except for membership on the Planning Board or Zoning Board of Adjustment.
- C. The term of office for each member shall be: **[Amended 3-18-1991 by Ord. No. 4-1991; 8-1-1994 by Ord. No. 12-1994]**
- (1) The initial four regular members of the Landmarks Commission who are citizens holding no other municipal office shall be appointed to one-, two- and three-year terms, respectively. Thereafter, the term of office for each such regular member shall be for four years.
 - (2) The initial two alternate members of the Landmarks Commission shall be appointed to one- and two-year terms, respectively. Thereafter, the term of office for each such alternate member shall be for two years.
 - (3) The term of the member from the governing body shall coincide with his term of office on the governing body.
 - (4) In the event that a member resigns before the termination of his term, a replacement shall be appointed for the remaining term of office.
- D. Vacancies shall be filled in the same manner in which the previous incumbent was appointed, and such vacancy appointment shall be only for the balance of such incumbent's unexpired term.
- E. The Commission shall elect from its membership a Chairman and a Vice Chairman.
- F. The Commission shall create rules and procedures for the transaction of its business subject to the following regulations:
- (1) A quorum for the transaction of business shall consist of three of the Commission's members, including the Chairman or, in his absence, the Vice Chairman, but not less than a majority of the full authorized membership may grant or deny a certificate of appropriateness.
 - (2) The Commission shall appoint a Secretary, who need not be a member of the Commission. The Secretary shall keep minutes and records of all meetings and proceedings, including voting, records, attendance, resolutions, findings, determinations and decisions. All such material shall be public records.
 - (3) All meetings shall comply with the Open Public Meetings Act (N.J.S.A. 10:4-7 et seq.).
- G. The Commission members shall serve without compensation but shall be reimbursed for expenses incurred in the performance of official business.

- H. Within the limits of funds appropriated for the performance of its work, grants and gifts, the Commission may obtain the services of qualified persons to direct, advise and assist the Commission and may obtain the equipment, supplies and other material necessary to its effective operation.
- I. Powers and duties. The Commission shall:
- (1) Within six months of its organization, prepare and adopt, pursuant to § 187-3A et seq. hereof, a landmark designation list and official map which shall then be referred to the Planning Board for inclusion in the Master Plan pursuant to N.J.S.A. 40:55D-28b and to the municipal governing body for the inclusion in the Zoning Ordinance.⁶⁰
 - (2) Hear and decide applications for certificates of appropriateness pursuant to § 187-4 hereof.
 - (3) Amend, from time to time, as circumstances warrant, the landmark designation list and landmark map in the manner set forth in § 187-2I(2) hereof.
 - (4) Report at least annually to the Planning Board and the municipal governing body on the state of historic preservation in the municipality and to recommend measures to improve same.
 - (5) Collect and disseminate material on the importance of historic preservation and techniques for achieving same.
 - (6) Advise all municipal agencies regarding goals and techniques of historic preservation.
 - (7) Adopt and promulgate such regulations and procedures not inconsistent with this chapter as are necessary and proper for the effective and efficient performance of the duties herein assigned.
- J. Interpretative statement.
- (1) In adopting this chapter, it is the intention of the municipal governing body to create an agency which can administer a system of preservation regulations, based on a rational plan and objective criteria, which will complement existing land use and construction code legislation. The controls herein established, while compatible with N.J.S.A. 40:55D-28b(6) and Section 317 of the BOCA Code, should be viewed as having an independent basis under N.J.S.A. 40:48-2.
 - (2) This chapter should not be viewed as requiring or prohibiting the use of any particular architectural style; rather, the purpose is to preserve the past by making it compatible with and relevant to the present. To that end, new construction in or near a landmark should not necessarily duplicate the style of the landmark, it should simply be compatible with and not detract from the landmark.

§ 187-3. Designation of landmarks and historic districts.

- A. The Commission shall make a comprehensive survey of the Borough of Tuckerton for the purpose of identifying historic districts and landmarks which are worthy of protection and preservation.

⁶⁰. Editor's Note: See Ch. 225, Zoning.

- B. Based on the survey or upon the recommendation of concerned citizens, the Commission shall document the importance and historical significance to the municipality, state or nation of each landmark designation in terms of the purposes and criteria set forth in this chapter. Thereafter, the Commission, by certified mail, shall:
- (1) Notify each owner that his property has been tentatively designated as an historic landmark.
 - (2) Advise each owner of the significance and consequences of such tentative designation, and advise him of his opportunities and rights to challenge or contest such designation.
 - (3) Invite each owner to consent voluntarily to final designation without the need for public hearing or other procedure.
- C. The Commission shall, as soon as practicable, make public a complete list and map of the tentatively designated landmarks and districts specifying the locations, boundaries and popular names thereof. In designating any landmark or historic district, the Commission may exempt any improvement or any portion of any Tax Map lot the demolition or alteration or improving of which would not affect the landmark or district as to the purposes and criteria set forth in this chapter. Such exemption shall only be for good cause shown and upon affirmative vote of 2/3 of the full authorized membership of the Commission. The tentative list and map shall thereafter be submitted at a public hearing 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 on same, in the official newspaper not less than 10 days before such hearing is to be held.
- D. After full consideration of the evidence brought forth at the special hearing, the Commission shall make its final decisions on the designations and shall issue its final report to the public stating reasons in support of its actions with respect to each landmark and historic district designation.
- E. The list shall be submitted thereafter to the Borough Clerk. The Borough Council shall then consider whether to adopt the designation list and map by ordinance. Once adopted, the designation list and map may be amended in the same manner in which it was adopted.⁶¹
- F. Copies of the designation list and official map as adopted 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 served by certified mail upon the owner of each site included in the final list, and a true copy thereof shall be filed with the County Clerk for recordation in the same manner as certificates of lien upon real property.
- G. Each designated historic district or landmark may be marked by an appropriate plaque, in such form as the Commission shall promulgate by regulation.

§ 187-4. Certificate of appropriateness.

61. Editor's Note: Ordinance No. 3-1994, adopted 4-2-1984, adopted a list of historic districts and landmarks and a map delineating such historic districts and landmarks. Said list and map are on file in the office of the Borough Clerk and may be examined there during regular business hours.

- A. Actions requiring a certificate of appropriateness. A certificate of appropriateness issued by the Landmark Advisory Commission shall be required before a permit is issued for any of the following or, in the event that no other type of permit is otherwise required, before work can commence on any of the following activities on the property of any landmark or within any historic district:
- (1) Demolition of an historic landmark or of any improvement within any historic district.
 - (2) Relocation of any historic landmark or of any improvement within any historic district.
 - (3) Change in the exterior appearance of any existing landmark or of any improvement within any historic district by addition, alteration or replacement.
 - (4) Any new construction of a principal or accessory structure.
 - (5) Changes in or addition of new signs or exterior lighting, except that no certificate of appropriateness shall be required for one unlit sign per premises if the surface area of such sign does not exceed one square foot.
- B. Exceptions. A certificate of appropriateness shall not be required for any repainting, repair or exact replacement of any existing improvement. In the event that the color or exterior surface material of the improvement shall be changed as a result of such repainting, repair or exact replacement, a certificate of appropriateness shall not be required if the new color or exterior surface is one that has been previously approved by regulation duly promulgated by the Commission for similar improvement in that district or as to the landmark. In the event that the repainting, repair or exact replacement does not conform to said regulations, a certificate of appropriateness shall be required.

§ 187-5. Applications for certificates.

- A. Application procedure for a certificate of appropriateness shall be made on forms available therefor from the Secretary to the Landmarks Commission. Completed applications shall be delivered to: Borough of Tuckerton, 140 East Main Street, Tuckerton, NJ 08087.
- B. Applications shall include the following: [**Amended 8-1-1994 by Ord. No. 12-1994**]
- (1) All forms completed by the applicant.
 - (2) The following exhibits may also be required:
 - (a) An overall site plan layout, at a minimum scale of one inch equals 20 feet, showing the location of all adjacent properties.
 - (b) Sufficient color photographs of all adjacent properties and buildings within a minimum of 60 feet of the landmark property lines. Each photograph shall be properly identified and referenced on the site plan.
 - (c) Elevation drawings may be optional at the Commission's request. All building elevations required shall be at a minimum scale of 1/8 inch equals one foot.
- C. The Landmarks Commission shall reach a decision on the application within 21 days after the Secretary has declared an application to be complete; otherwise, the application shall be deemed to have been approved. Nothing herein shall prohibit an extension of time

by mutual agreement of the applicant and the Landmarks Commission. The Landmarks Commission may advise the applicant and make recommendation in regard to the appropriateness of proposed action, and may grant approval upon such conditions as it deems appropriate within the intent and purposes of this chapter. If an application is approved, the Landmarks Commission shall forthwith issue a certificate of appropriateness. If the Landmarks Commission disapproves an application, the Landmarks Commission shall state its reasons, in writing, in resolution form within 10 days of such decision. In case of disapproval, the Landmarks Commission shall notify the applicant, in writing, of such resolution of disapproval and provide the applicant with a certified copy thereof. A summary of the Commission's action shall be published in the official newspaper.

- D. In the event that an application alleges the compliance with the requirements of this section would be an unreasonable hardship and that the nature of his application is such that the minor change sought neither justifies the time and expense of the plenary proceeding nor will impact negatively on the public good nor specifically on the historic qualities sought to be preserved; the Commission, by a 2/3 affirmative vote of its full authorized membership, may grant such relief from the requirements of this section as it deems consistent with the public good and the purposes of this chapter.
- E. An applicant may allege that a certificate of appropriateness would be granted without his fulfilling all of the application requirements set forth herein 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 Commission, by a majority vote of its full authorized membership, upon a finding that the applicant's claim is accurate, may forthwith grant a certificate of appropriateness on that basis.

§ 187-6. Standards of consideration.

- A. Demolitions. In regard to an application to demolish an historic landmark or any improvement within an historic district, the following matters shall be considered:
 - (1) Its historic architectural and aesthetic significance.
 - (2) Its use.
 - (3) Its importance to the municipality and the extent to which its historical or architectural value is such that its removal would be detrimental to the public interest.
 - (4) 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.
 - (5) The extent to which its retention 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.
 - (6) If it is within an historic district, the probable impact of its removal upon the ambience of the historic district.

- B. Removal out of the municipality. In regard to an application to remove an historic landmark within an historic district, to a location outside the municipality, the following matters shall be considered:
- (1) The historic loss to the site of original location.
 - (2) The compelling reasons for not retaining the landmark or structure at its present site.
 - (3) The proximity of the proposed new location to the municipality, including the accessibility to the residents of the municipality and other citizens.
 - (4) The probability of significant damage to the landmark or structure itself.
 - (5) The applicable matters listed in § 187-6A.
- C. Removals within the municipality. In regard to an application to move an historic landmark or any structure in an historic district to a new location within the municipality, the following matters shall be considered in addition to the matters listed in § 187-6B:
- (1) The compatibility, nature and character of the current and of the proposed surrounding areas as they relate to the intent and purposes of this chapter.
 - (2) If the proposed new location is within an historic district, the visual compatibility factors as set forth in § 187-6G hereof.
- D. Visual compatibility considered for additions or removals. In regard to an application to move a landmark or structure into, or to construct a new structure or add to or alter an existing structure within an historic district, or a landmark, the visual compatibility of the proposed structure with the structures and surroundings to which it would be visually related shall be considered in terms of the visual compatibility factors as set forth in § 187-6G hereof.
- E. Considerations on other actions. In regard to an application for other approval of any proposed action as set forth in § 187-4A hereof, the following matters shall be considered:
- (1) If an historic landmark or a structure in an historic district is involved:
 - (a) The impact of the proposed change on its historic architectural character.
 - (b) Its importance to the municipality and the extent to which its historic or architectural interest would be adversely affected to the detriment of the public interest.
 - (c) The extent to which there would be involvement of textures and materials that would not be reproduced or could be reproduced only with great difficulty.
 - (2) The use of any structure involved.
 - (3) The extent to which the proposed action would adversely affect the public's view of a landmark or structure within an historic district from a public street.
 - (4) If the application deals with a structure within an historic district, the impact the proposed change would have on the character and ambience of the historic district and the structure's visual compatibility with the buildings, places the structures to which

it would be visually related in terms of the visual compatibility factors set forth in § 187-6G hereof.

- F. Additional matters considered. In regard to all applications, additional pertinent matters may be considered, but in no instance shall interior arrangement be considered.
- G. Visual compatibility factors. The following factors shall be used in determining the visual compatibility of a building, structure or appurtenance thereof with the buildings and places to which they are visually related and shall be known as "visual compatibility factors:"
- (1) Height. The height of the proposed building shall be visually compatible with adjacent buildings.
 - (2) Proportion of building's front facade. The relationship of the width of the building to the height of the front elevation shall be visually compatible with buildings and places to which it is visually related.
 - (3) Proportion of openings within the facility. The relationship of the width of windows to the height of windows in a building shall be visually compatible with the buildings and places to which it is visually related.
 - (4) Rhythm of solids to voids on front facades. The relationship of solids to voids in the front facade of a building shall be visually compatible with the buildings and places to which it is visually related.
 - (5) Rhythm of spacing of buildings on street. The relationship of the building to the open space between the adjoining building shall be visually compatible with the buildings and places to which it is visually related.
 - (6) Rhythm of entrance and/or porch projections. The relationship of entrance and porch projections to the street shall be visually compatible with the buildings and places to which it is visually related.
 - (7) Relationship of materials, texture and color. The relationship of materials, texture and color of the facade and roof of a building shall be visually compatible with the predominate materials used in the buildings to which it is visually related.
 - (8) Roof shapes. The roof shape of a building shall be visually compatible with buildings to which it is visually related.
 - (9) Walls and continuity. Appurtenances of a building such as walls, open-type fencing, evergreen landscape masses, shall form cohesive walls of enclosure along a street, to the extent necessary to maintain visual compatibility of the building with the buildings and places to which it is visually related.
 - (10) Scale of building. The size of a building, the mass of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with the buildings and places to which it is visually related.
 - (11) Directional expression of front elevation. A building shall be visually compatible with buildings and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or nondirectional character.

- (12) The color chart incorporated by reference as Schedule A in § 255-63.2 of the Borough Code (Freestanding signs) is hereby deemed to be part of the visual compatibility factors herein, and said colors shall be considered to be acceptable by the Landmarks Commission. [Added 10-5-2009 by Ord. No. 10-2009]

§ 187-7. Effect of issuance of certificate; approval or denial of application; appeals.

- A. If a certificate of appropriateness has been issued for an application that requires approval of the Planning Board or Zoning Board of Adjustment, the certificate of appropriateness shall be deemed to be a positive recommendation to that body as to the historic preservation aspects of the matter before that body.
- B. The Planning Board or Zoning Board of Adjustment may, nevertheless:
- (1) Affirm or deny the application based on the entire record before it, notwithstanding the certificate of appropriateness as to the historic preservation aspects; or
 - (2) Reject the Commission's recommendation as signified by the issuance or denial of a certificate of appropriateness by a 2/3 vote of the full authorized membership of the Board, provided that the reasons they do so are set forth on the record at the time such action is taken.
- C. An appeal of the grant or denial of a certificate of appropriateness may be had as follows:
- (1) If the Zoning Officer refuses to issue a permit based on denial of a certificate of appropriateness, appeal shall lie with the Zoning Board of Adjustment within 10 days after such denial.
 - (2) If the Planning Board or Zoning Board of Adjustment denies or grants a development application in the course of which it accepts or rejects the recommendation of the Commission, as signified by the denial or issuance of a certificate of appropriateness, as the case may be, appeal shall then lie with the municipal governing body pursuant to N.J.S.A. 40:55D-17. Such appeal may be brought by any person otherwise entitled to appeal an action of the Planning Board or Zoning Board of Adjustment.
- D. Nothing herein shall be deemed to limit the right of judicial review of the municipal action after an appeal is concluded by the municipal governing body.

§ 187-8. Violations and penalties.

- A. If any person shall undertake any activity vis-a-vis a landmark or improvement within an historic district without first having obtained a certificate of appropriateness, such person shall be deemed to be in violation of this chapter.
- B. Upon learning of the violation, the Zoning Officer shall personally serve upon the owner of the lot whereon the violation is occurring a notice describing the violation in detail and giving the owner 10 days to abate the violation by restoring the landmark or improvement to its status quo ante. If the owner cannot be personally served within the municipality with said notice, a copy shall be posted on site and a copy sent by certified mail, return receipt requested, to the owner at his last known address as it appears on the municipal tax rolls.
- C. In the event that the violation is not abated within 10 days of service or posting on site, whichever is earlier, the Zoning Officer shall cause to be issued a summons and complaint,

returnable in the municipal court, charging violation of this chapter. Each separate day the violation exists shall be deemed to be a new and separate violation of this chapter.

- D. The penalty for violation shall be as follows:
- (1) For each day, up to 10 days: not more than \$25 per day.
 - (2) For each day, 11 to 25 days: not more than \$50 per day.
 - (3) For each day beyond 25: not more than \$75 per day.
- E. In the event that any action which would permanently change adversely the landmark or historic district, such as demolition or removal, is about to occur without a certificate of appropriateness having been issued, the Zoning Officer is hereby authorized to apply to the Superior Court of New Jersey for such injunctive relief as is necessary to prevent the destruction of any landmark.

§ 187-9. Preventive maintenance.

- A. Recognizing the need for preventive maintenance to ensure the continued useful life of landmarks and structures in historic districts, the municipal governing body hereby declares that code enforcement vis-a-vis landmarks and structures in historic districts is a high municipal priority.
- B. In the event that any landmark or improvement in an historic district deteriorates to the point that, in the best estimate of the Department of Inspections, the cost of correcting the outstanding code violations equals more than 25% of the cost of replacing the entire improvement on which the violations occur, the Department shall serve personally or by certified mail, return receipt requested, a notice on the owner of the landmark listing the violations, the estimate for their abatement, and the replacement cost of the improvement and stating that if the owner does not take all necessary remedial action within 90 days, or such extensions as the Department shall for good cause grant, the municipality may, at the expiration of 90 days, enter upon the property and abate such violations itself and cause the cost thereof to become a lien on the property.
- (1) Upon receipt of such notice, the owner may, within 10 days after such receipt, notify the Department of Inspections of his wish to have a hearing as to the allegations and estimates set forth in the Department's notice. Such hearing shall be conducted by the Construction Official and shall, so far as possible, be by the formal adversary proceeding in which the Department of Inspections shall establish the matters alleged in the notice by a preponderance of the evidence. If the owner does not request a hearing, the procedures set forth in § 187-9B above shall obtain. If a hearing is requested, the Construction Official will, within 10 days following the hearing, serve on the owner an opinion in writing setting forth his conclusions and the reasons therefor. Such opinion shall be deemed to be a first notice pursuant to § 187-9B hereof.
 - (2) Thereafter, if the owner does not comply, the Department may enter onto the premises and, by use of municipal labor and outside contractors, or both, perform such work as is necessary to abate all violations.

- (3) The head of the Department shall then certify to the municipal governing body the cost of such work, plus all administrative, clerical and legal costs and overhead attributable thereto and shall present same to the municipal governing body.
- (4) The municipal governing body may, by resolution, vote to cause the sum so certified to become a lien upon the landmark property, payable with the next quarter's property taxes, and, if not then paid, bearing interest at the same rate as delinquent taxes.

§ 187-10. Review of other permit applications.

It shall be the duty of all municipal officials reviewing all permit applications involving real property or improvement thereon to determine whether such application involves any activity which should also be the subject of an application for a certificate of appropriateness and, if it should, to inform both the Secretary of the Commission and the applicant.

Chapter 193

LITTERING

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 103.

Solid waste — See Ch. 223.

Peddling and soliciting — See Ch. 204.

Streets and sidewalks — See Ch. 229.

Property maintenance — See Ch. 210.

Weed control — See Ch. 252.

§ 193-1. Short title.

This chapter shall be known and may be cited as the "Antilitter Ordinance of the Borough of Tuckerton."

§ 193-2. Definitions and word usage.

- A. Word usage. When not inconsistent with the context, words used in the present tense include the future; words used in the plural number include the singular number; and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.
- B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:
 - AIRCRAFT — Any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons.
 - AUTHORIZED PRIVATE RECEPTACLE — A litter storage and collection receptacle.
 - BOROUGH — The Borough of Tuckerton, New Jersey.
 - COMMERCIAL HANDBILL — Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature which:

- (1) Advertises for sale any merchandise, product, commodity or thing.
- (2) Directs attention to any business, mercantile or commercial establishment or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales.
- (3) Directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged for the purpose of private gain or profit. The terms of this subsection shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order, provided that nothing contained in this subsection shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition or event of any kind without a license, where such license is or may be required by any law of this state, or under any ordinance of this Borough.
- (4) While containing reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

GARBAGE — Animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

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, debris, rubbish, grass clippings or other lawn or garden waste, newspapers, 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. **[Amended 10-3-2005 by Ord. No. 23-2005]**

LITTER RECEPTACLE — A container suitable for the depositing of litter. **[Added 10-3-2005 by Ord. No. 23-2005]**

NEWSPAPER — Any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation and any newspaper filed and recorded with any recording officer as provided by general law, and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year and sold to the public.

NONCOMMERCIAL HANDBILL — Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

PARK — A park, reservation, playground, boardwalk, beach, recreation center or any other public area in the Borough, owned or used by the Borough and devoted to active or passive recreation,

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

PRIVATE PREMISES — 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, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

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

REFUSE — All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, 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.

§ 193-3. Littering in public places prohibited. [Amended 12-5-1988 by Ord. No. 21-1988]

- A. No person shall throw or deposit litter in or upon any street, sidewalk, beach, boardwalk or other public place or upon any private property within the Borough without complying with the State Sanitary Code for landfills, except in public receptacles, in authorized private receptacles for collection or in official city dumps.
- B. It shall be unlawful to dump or dispose of any household or commercial solid waste or litter in any place not specifically designated for the purpose of solid waste storage or disposal.

§ 193-4. Placement of litter in receptacles to prevent scattering. [Amended 12-5-1988 by Ord. No. 21-1988]

- A. Litter receptacles suitable for the depositing of litter and their servicing are required at the following public places which exist in the municipality:
 - (1) 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.
 - (2) Buildings held out for use by the public.
 - (3) Schools, government buildings and railroad and bus stations.
 - (4) Parks.
 - (5) Drive-in restaurants.

- (6) All street vendor locations.
 - (7) Self-service refreshment areas.
 - (8) Construction sites.
 - (9) Gasoline service station islands.
 - (10) Shopping centers.
 - (11) Parking lots.
 - (12) Campgrounds and trailer parks.
 - (13) Marinas, boat moorage and fueling stations.
 - (14) Boat launching areas.
 - (15) Public and private piers operated for public use.
 - (16) Beaches and bathing areas.
 - (17) At special events to which the public is invited, including sporting events, parades, carnivals, circuses and festivals.
- B. 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.
- C. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

§ 193-5. Sweeping litter into gutters prohibited.

No person shall sweep into or deposit in any gutter, street or other public place within the Borough 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.

§ 193-6. Duty of merchants to keep sidewalks free of litter.

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

§ 193-7. Littering by persons in vehicles prohibited.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the Borough or upon private property.

§ 193-8. Truck loads causing litter.

No person shall drive or move any truck or other vehicle within the Borough unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the Borough, the wheels or tires of which carry into or deposit in any street, alley or other public place mud, dirt, sticky substances, litter or foreign matter of any kind.

§ 193-9. Littering in parks prohibited.

No person shall throw or deposit litter in any park within the Borough, except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

§ 193-10. Littering in bodies of water prohibited.

No person shall throw or deposit litter in any fountain, pond, bay, stream or any other body of water in a park or elsewhere within the Borough.

§ 193-11. Distribution of handbills in public places.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the Borough, nor shall any person hand out or distribute or sell any commercial handbill in any public place; provided, however, that it shall not be unlawful on any sidewalk, street or other public place within the Borough for any person to hand out or distribute such handbill, without charge to the receiver thereof, to any person willing to accept it.

§ 193-12. Placing handbills on vehicles prohibited.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle; provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute, without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

§ 193-13. Depositing handbills on uninhabited or vacant premises prohibited.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

§ 193-14. Distribution of handbills on posted private premises prohibited.

No person shall throw or deposit or distribute any commercial or noncommercial handbill upon any private premises if requested by anyone thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement" or any similar notice indicating in any manner that the occupants of said premises do not desire to be molested or have their right of privacy disturbed or to have any such handbills left upon such premises.

§ 193-15. Distributing handbills at inhabited private premises; exemption.

- A. No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handling or transmitting any such handbill directly to the owner, occupant or other person then present in or upon such private premises; provided, however, that in case of inhabited private premises which are not posted, as provided in this chapter, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations.
- B. There shall be an exemption for mail and newspapers. The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers, as defined herein, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

§ 193-16. Littering from aircraft prohibited; exception.

No person in an aircraft shall throw out, drop or deposit within the Borough any litter, handbill or any other object, except for the dropping of a wreath on Pohatcong Lake on Memorial Day.

§ 193-17. 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 buildings, except as may be authorized or required by law.

§ 193-18. Litter on occupied private property.

No person shall throw or deposit litter on any occupied private property within the Borough, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalks or other public place or upon any private property.

§ 193-19. Owner to maintain premises free of litter.

The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

§ 193-20. Littering on vacant lots prohibited.

No person shall throw or deposit litter on any open or vacant private property within the Borough, whether owned by such person or not.

§ 193-21. Clearing of litter from open private property by Borough; notice.

- A. Notice to remove. The Board of Health is hereby authorized and empowered to notify the owner of any open or vacant private property within the Borough or the agent of such owner to properly dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. Such notice shall be by registered mail, addressed to said owner at his last known address.
- B. Action upon noncompliance. Upon the failure, neglect or refusal of any owner or agent so notified to properly dispose of litter dangerous to the public health, safety or welfare within 10 days after receipt of written notice provided for in Subsection A above, or within 15 days after the date of such notice in the event the same is returned to the Borough Post Office Department because of its inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner or agent, the Board of Health is hereby authorized and empowered to pay for the disposing of such litter or to order its disposal by the Borough.
- C. Charge included in tax bill. When the Borough has effected the removal of such dangerous litter or has paid for its removal, the actual costs thereof, plus accrued interest at the rate of 6% per annum from the date of the completion of the work, if not paid by such owner prior thereto, shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the Borough, and said charge shall be due and payable by said owner at the time of payment of such bill.
- D. Recorded statement constitutes lien. Where the full amount due the Borough is not paid by such owner within 30 days after the disposal of such litter, as provided for in Subsection A and B above, then, and in that case, the Board of Health shall cause to be recorded in the Tax Collector's Office of the Borough a sworn statement showing the cost and expense incurred for the work, the date the work was done and the location of the property on which said work was done. The recordation of such sworn statement shall constitute a lien and privilege on the property, and shall remain in full force and effect for the amount due in principal and interest, plus costs of court, if any, for collection, until final payment has been made. Said costs and expenses shall be collected in the manner fixed by law for the collection of taxes and, further, shall be subject to a delinquent penalty of 8% in the event the same is not paid in full on or before the date the tax bill upon which said charge appears becomes delinquent. Sworn statements recorded in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collectible as provided by law. Said lien may be sold and assigned or foreclosed upon by the Borough in the same manner and to the same extent as a lien for unpaid taxes assessed on said property.

§ 193-22. Violations and penalties. [Amended 10-3-2005 by Ord. No. 23-2005]

Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$1,000 or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

Chapter 196

MOBILE HOME PARKS

GENERAL REFERENCES

Animals — See Ch. 93.

Streets and sidewalks — See Ch. 229.

Building construction — See Ch. 107.

Vehicles and traffic — See Ch. 246.

Fire prevention — See Ch. 163.

Weed control — See Ch. 252.

Property maintenance — See Ch. 210.

Zoning — See Ch. 255.

Solid waste — See Ch. 223.

§ 196-1. Definitions.

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

BUILDING SEWER — That part of the drainage system of a mobile home lot beginning at the inlet of the sewer riser pipe which receives the discharge from the drain outlet of the mobile home and terminating at the sewer line serving the mobile home park, or that part of a horizontal drainage system, beginning five feet outside the inner face of the building wall, which receives the discharge from the building drain and conveys it to the sewer line serving the mobile home park.

DEPENDENT UNIT — A transportable dwelling which does not contain one or more of the following: a flush toilet, bath or shower, or kitchen sink.

MOBILE HOME — A manufactured, transportable year-round single-family dwelling built on one or more chassis and containing a flush toilet, bath or shower and a kitchen sink; designed to be connected to a piped water supply, sewerage facilities and electrical service, and mounted upon a permanent foundation. **[Amended 9-9-1998 by Ord. No. 8-1998]**

MOBILE HOME LOT — A parcel of land designed to accommodate a mobile home, and includes the mobile home stand and the mobile home yard.

MOBILE HOME PARK — A parcel of land which has been so designated and improved that it contains two or more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy.

MOBILE HOME STAND — That part of a mobile home lot which has been reserved exclusively for the placement of a mobile home.

MOBILE HOME YARD — That part of the mobile home lot excluding the mobile home stand.

PARK MANAGEMENT — The owner or his designated agents being administrative officers of the mobile home park.

PERSON — Includes corporations, companies, associations, societies, firms, partnerships and joint-stock companies, as well as individuals.

PUBLIC POTABLE WATER SUPPLY — A municipally or privately owned water supply approved by the New Jersey State Department of Health, under the provisions of Article 1,

Chapter 10 of Title 58 and Article 1, Chapter 11 of Title 58 of the Revised Statutes, which is distributed to consumers through a public water supply system.

PUBLIC WATER SUPPLY SYSTEM — A municipally or privately owned system comprising structures which, operating along or with other structures, result in the derivation, conveyance (or transmission) or distribution of water for potable or domestic purposes to consumers in 20 or more dwellings or properties. This definition does not include a public water treatment plant.

REFUSE — Garbage, combustible and/or noncombustible waste solids.

SANITARY SEWAGE — Any liquid waste containing animal or vegetable matter in suspension or solution or the water-carried wastes resulting from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers or any other source of water-carried waste of human origin or containing putrescible material.

SEMIPUBLIC WATER SUPPLY SYSTEM — A water supply system from which water is supplied for potable or domestic purposes to consumers in more than one but less than 20 dwellings or properties, or from which water from other than a public potable water supply, as defined in these standards, is used or made available for potable or domestic purposes to employees, tenants, members, guests or the public at large in commercial offices, industrial, multiple dwellings or semipublic buildings, such as rooming and boarding houses, hotels, motels, tourist cabins, mobile home parks, restaurants, camps of all types, day and boarding schools, clubhouses, hospitals and other institutions, or is used in connection with the manufacture or handling of ice, dairy products, food or drinks.

SEWER CONNECTION — The connector consisting of all pipes, joints, fittings and appurtenances from the drain outlet of the mobile home to the inlet of the building sewer.

TENANT — Any person who rents or leases a mobile home lot from the park management.

WATER CONNECTION — The connection consisting of all pipes, fittings and appurtenances from the water riser to the water inlet of the distribution system of the mobile home.

WATER SERVICE PIPE — The pipe conveying water from a water main to the water riser on a mobile home lot or to the water distributing system of a building.

§ 196-2. Licenses.

- A. It shall be unlawful for any person to maintain or operate, within the limits of the Borough of Tuckerton, any mobile home park unless such person shall first obtain a license therefor. All mobile home parks in existence upon the effective date of this chapter shall, within 90 days thereafter, or such additional time as may be allowed by the governing body of the Borough of Tuckerton, obtain such license.
- B. Any preliminary approval of plans and applications for a license issued hereunder shall be subject to automatic revocation in the event that the applicant to whom said preliminary approval is granted shall fail to commence construction of the mobile home park for which a license is applied for within 90 days from the date of granting of required approval by the State of New Jersey.

§ 196-3. License fees.

- A. The annual license fee for each mobile home park shall be \$150, and said license fee shall cover the period from January 1 to December 31 of each year. **[Amended 9-22-2003 by Ord. No. 13-2003]**
- B. From the effective date of this chapter, the annual license fee shall be prorated.
- C. The following shall apply to the annual and municipal service fee with the Borough pursuant to N.J.S.A. 54:4-1.6: **[Amended 4-7-1986 by Ord. No. 12-1986; 9-9-1998 by Ord. No. 8-1998]**
- (1) An annual service fee shall be imposed on all manufactured homes installed in a mobile home park within the boundaries of Tuckerton Borough. In setting this fee, the governing body shall take into account the extent to which the taxes are assessed and levied against the land improvements thereto, which together constitute the mobile home park on which the homes are installed, to defray the cost of services provided or paid for by the Borough or provided by any other appropriate taxing authority for lessees of sites in the park. The fee shall be prorated in order to account for vacancies in the park.
 - (2) The municipal service fee shall be collected from each owner of a manufactured home on a monthly basis by the owner of the mobile home park in which the home is installed. The park owner shall issue a receipt to the homeowner upon each collection.
 - (3) The amount of the annual service fee, based on consideration of the factors set forth in N.J.S.A. 54:4-1.6, shall be allocated among owners of mobile homes in all mobile home parks, and set at \$12 per month per each mobile home, regardless of how long during each month a mobile home space has been occupied. **[Amended 9-22-2003 by Ord. No. 13-2003]**
- D. Payment of the application fee shall be made with each application for the annual license. The application and the application fee shall be due no later than January 15 of each year. Any application fee not paid by this time shall be subject to an interest charge at the lawful rate for the period of the delinquency. Payment of the monthly fee shall be made by the park owner to the Tax Collector of the Borough on a quarterly basis; in addition to the quarterly payment, the park owner shall transmit therewith a copy of each receipt issued upon collection of said monthly fee. Said monthly fee shall be payable to the Tax Collector of the Borough on February 1 for the first quarter, May 1 for the second quarter, August 1 for the third quarter and November 1 for the fourth quarter. A resolution may be adopted at the beginning of each calendar year by the governing body of the Borough allowing for a grace period of up to 10 days following the date upon which the same became payable and due. An official of the Borough, as designated by the Mayor, shall upon the request of the Borough Council furnish the Borough Council with the report of the number of trailer spaces occupied in said mobile home park. **[Amended 9-9-1998 by Ord. No. 8-1998]**
- E. Any amounts due which are not paid within the time required shall bear interest thereon at a lawful rate covering the period of delinquency. The individual homeowner shall bear the burden of paying the late payment interest charge for failure to pay the municipal service fee when due and payable, and the park owner shall be charged for failure to transmit fees actually collected when so required. **[Added 9-9-1998 by Ord. No. 8-1998]**

§ 196-4. License applications.

- A. Each application for a mobile home park license shall be filed with and issued by the Mayor and Council. Applications shall be in writing, signed by the applicant, and shall contain the following
- (1) The name and address of the applicant and the name of the owner in fee of the tract, if the fee is vested in some person other than the applicant.
 - (2) In the event that title to the tract for which application for a mobile home park license is made is vested in some person other than the applicant, then a duly verified statement by that person that the applicant is authorized by him to construct or maintain the mobile home park and make the application is required.
 - (3) The location and legal description of the mobile home park and the Tax Map block and lot numbers.
 - (4) A complete plan of the park, prepared by a licensed engineer of New Jersey, showing compliance with § 196-5 of this chapter and showing the following, either existing or as proposed:
 - (a) The extent and area used for mobile home park purposes.
 - (b) Roadways, driveways and drainage.
 - (c) Location of mobile home spaces.
 - (d) Location and number of sanitary conveniences, including toilets, washrooms, laundries and utility rooms.
 - (e) Method and plan of sewage disposal.
 - (f) Method and plan of garbage removal.
 - (g) Plan of water supply.
 - (h) Plan for electrical lighting of mobile homes and the mobile home park, including the roadways and driveways.
 - (5) Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home park.
 - (6) Such further information as may be requested by the Mayor and Council to enable it to determine if the proposed park will comply with all legal requirements.
- B. The application and all accompanying plans and specifications shall be filed in triplicate. The Board of Health, Borough Engineer and the Mayor and Council shall investigate the applicant and inspect the proposed plans and specifications. If the proposed mobile home park will be in compliance with all provisions of this chapter and all other applicable ordinances or statutes, the Mayor and Council shall approve the application by resolution and issue the license upon approval of the New Jersey Department of Health and completion of the park according to the plans.
- C. Licenses issued under the terms of this chapter convey no right to erect any building, to do any plumbing work or to do any electrical work or any other kind of work ordinarily requiring governmental, municipal or other permits.

- D. No more than three licenses for mobile home parks shall be issued and outstanding at any one time, it being hereby determined by the Borough Council that an excess of three mobile home parks would be detrimental to the welfare of the citizens of the Borough of Tuckerton. **[Amended 9-9-1998 by Ord. No. 8-1998]**
- E. Every mobile home park and every building located on any trailer park and every mobile home or trailer, whether located in a mobile home park or for which a temporary permit has been issued by the Borough, shall at all times be subject to examination and inspection within reasonable hours by any officer or agent of the Borough making the inspection in the regular course of his or her duties and responsibilities. **[Added 9-9-1998 by Ord. No. 8-1998]**
- F. Every holder of a license to maintain or operate a mobile home park shall establish and maintain a park registry which shall list in numerical sequence each trailer occupying a trailer space and the name of the owner of the trailer, and if the owner of the trailer is not the occupant thereof, the name of the lessee of each trailer. The park registry shall be kept in an office located in the mobile home park, and it shall be kept current at all times and shall be available at all reasonable hours for inspection by the proper officials of the Borough of Tuckerton. **[Added 9-9-1998 by Ord. No. 8-1998]**
- G. No existing mobile home park in the Borough of Tuckerton shall hereinafter in any way expand the perimeter of said mobile home park, nor shall it add any additional mobile home spaces, nor shall it permit the occupancy of any mobile home spaces beyond the number of mobile homes presently located in said mobile home park, except in strict compliance with this chapter. Any addition of mobile home spaces or of mobile homes to existing spaces in any existing mobile home park shall be construed as an alteration or expansion for which application must be made. **[Added 9-9-1998 by Ord. No. 8-1998]**
- H. Upon the resale of any mobile home, prior to occupancy, a smoke detector certificate shall be required from the Borough of Tuckerton establishing that the mobile home contains properly operating smoke detectors. **[Added 9-9-1998 by Ord. No. 8-1998]**

§ 196-5. Mobile home park plan.

The mobile home park shall conform to the following requirements:

- A. The park shall be minimum of 40 acres and shall be located on a well-drained site, properly graded to ensure rapid drainage and freedom from stagnant pools of water.
- B. Mobile home spaces shall be provided consisting of a minimum of 5,000 square feet for each space clearly defined and numbered. On cul-de-sac, the lot lines shall be placed on radial lines, the minimum included angle shall be 45°, the minimum depth shall be 75 feet; all other lots shall have a minimum frontage of 45 feet.
- C. Mobile homes shall be so harbored on each space that there shall be at least fifteen-foot clearance between mobile homes placed end to end and not less than a twenty-five-foot clearance between the side of any mobile home and the next nearest mobile home. No mobile home shall be located closer than 15 feet from any property line bounding the park or located closer than 15 feet from the near side of any public road. No mobile home shall be located closer than 15 feet from the near side of any park roadway.

- D. Under each mobile home there shall be provided six-inch Type II, Class B gravel, pursuant to the specifications of the New Jersey Department of Transportation.
- E. All mobile home spaces shall abut upon a driveway of not less than 30 feet in width, shall have unobstructed access to a public street, road or highway and shall be well marked in the daytime and shall be lighted so as to permit safe movement of vehicles and pedestrians at night. The following minimum levels of illumination shall be provided:
- (1) All parts of the park road system, 0.1 footcandle.
 - (2) Potentially hazardous locations, such as major street intersections and steps or stepped ramps, 0.3 footcandle.
 - (3) Any roads leading from any park roadway or public road to a central parking area shall be a minimum of 24 feet in width from face of curb to face of curb. There shall be no parking or stopping at any time on these entrance roads. These roads shall conform in cross section and construction with the standard roadway. Standard thirty-inch concrete walks shall be constructed on each side.
- F. All driveways, roads, walks, curbing and drainage constructed and installed in any mobile home park shall in every respect comply with all the requirements and specifications for the construction, improvement, maintenance and repair of roads and streets as prepared by the Borough Engineer and approved by Mayor and Council and on file with the Borough Clerk.
- G. Walkways not less than 30 inches wide shall be hard-surfaced, well-marked in the daytime and lighted at night, as required in Subsection E of this section. Walkways shall have raised rolled curbs to permit easy access of mobile homes from adjoining streets onto concrete runways in mobile home spaces.
- H. Each park shall provide service buildings and other sanitary facilities as hereinafter more particularly described. **[Amended 9-9-1998 by Ord. No. 8-1998]**
- I. No dog, cat or other animal shall be permitted by the owner thereof or the operator of the park to run at large or to commit any nuisance within the limits of any mobile home park.
- J. A minimum of 8% of the total acreage of the mobile home park shall be reserved in one or more places within the mobile home park for playground areas, to be restricted to such use and protected from main highways, parking areas and access roads.
- K. The number of mobile homes permitted in a mobile home court shall not exceed the number of mobile home spaces.
- L. No mobile home shall be inhabited by a greater number of occupants than that for which it was designed to accommodate by the manufacturer.
- M. Each mobile home space shall have a concrete patio of not less than 200 square feet, either open or enclosed.
- N. No automobile or other vehicle shall be parked in any space other than that provided for such purposes on a mobile home space at any time. Two parking spaces shall be provided for each mobile home space.

- O. A planted buffer strip shall be placed along abutting or adjacent property lines to the mobile home park where said adjacent or abutting property is inhabited and used for residential purposes. The buffer strip shall not be less than three feet from the abutting property line or not less than 150 feet measured from the center of the highway or road. Said buffer strip shall consist of appropriate evergreen or deciduous shrubs or trees. Said trees or shrubs shall be not less than four feet in height at the time of planting. In lieu of said planted buffer strip, fencing may be used which in such case shall be installed at any point inside the property line and shall be six feet in height.
- P. All electric, telephone and television service shall be so installed as to be beneath the surface of the ground.
- Q. There shall not be more than 20% of trailers with more than two bedrooms in any stage, expansion or section.
- R. Each mobile home space shall be provided with a mobile home stand of sufficient size to accommodate the mobile home to be placed thereon. Each mobile home stand shall be provided with approved devices for anchoring the mobile home to prevent overturning or uplift. Such devices shall be adequate to withstand winds of hurricane force. **[Added 9-9-1998 by Ord. No. 8-1998⁶²]**

§ 196-6. Water supply and distribution.

- A. General. Each mobile home park shall be supplied with water from an approved public potable water supply, if available. If an approved public potable water supply is not available, a water supply, approved by the local Board of Health, shall be developed in accordance with the provisions of the Standards of Construction of Water Supply Systems for Realty Improvements promulgated by the State Commissioner of Health, in accordance with Chapter 199, P.L. 1954,⁶³ and if said developed water supply is not a public water supply system, as defined herein, it shall be considered a semipublic water supply. Water from semipublic water supplies shall meet the standards of quality fixed by the State Commissioner of Health.
- B. Water supply system. Water systems shall be designed to meet the fire protection requirements of § 196-12 and shall include services to all buildings and all mobile home spaces. The minimum capacity of the system shall be such as may be required by the authority responsible for fire protection and shall not be less than 125 gallons per mobile home space per day. Piping shall be so arranged as to provide six gallons per minute at each mobile home space outlet with a residual pressure of approximately 20 pounds per square inch with 20% of the outlets flowing at the prescribed rate of six gallons per minute. The water system of each mobile home park shall be piped to all buildings and all mobile home spaces.
- C. Cross connection to water supplies. No physical connection may be made between an approved public potable water supply and an unapproved water supply. A semipublic water supply is considered as an unapproved water supply for the purpose of this section of

62. Editor's Note: This ordinance also provided for the repeal of the former section regarding laundry facilities, which section immediately followed this section.

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

this chapter even though it may meet the potable water standards adopted by the State Department of Health.

- D. Water service connections. Individual water service connections provided for direct use by mobile homes shall be so constructed that they will not be damaged by the parking of such mobile homes. The connection shall consist of a riser terminating at least four inches above the ground level, with two three-quarter-inch valved outlets threaded so that a flexible metallic tubing with a screw connection may be attached between the riser and mobile home. The ground surface around the riser pipe shall be graded to divert surface drainage away from the connection.
- E. Drinking fountains. Drinking fountains shall be installed in or near service buildings and in the playground area. The fountains shall be constructed of impervious material with the nozzle protected with a rustproof guard and shall conform to the American Standard Specifications for Drinking Fountains, ASA Z4.2-1942.
- F. An adequate supply of hot water shall be provided at all times in the service buildings for washing and laundry facilities. No common drinking cups shall be permitted anywhere on the premises of the mobile home park.

§ 196-7. Sewerage and storm drainage facilities.

All sewerage and storm drainage facilities shall comply with and meet the requirements of New Jersey State Sanitary Code, Chapter IX, Mobile Home Parks, that all piping for sanitary sewers shall be of cast iron.

§ 196-8. Storage, collection and disposal of refuse.

- A. General. The storage and collection of refuse shall be so managed as to prevent health hazards, rodent harborage, insect breeding, accident hazards or air pollution.
- B. Refuse containers. All refuse shall be stored in durable flytight, watertight and rodentproof containers.
- C. Container location. Containers shall be located either at each mobile home lot or at one or more centralized locations within the mobile home park.
- D. Storage capacity. At least 1.5 gallons of refuse storage capacity per capita per day shall be provided.
- E. Facilities for container location. Each mobile home lot or each centralized location for refuse containers shall be provided with one of the following at the option of the park management:
 - (1) A slab of impervious material large enough to accommodate the number of containers provided.
 - (2) A rack or holder of a type approved by the park management providing at least six inches of clear space beneath or a cart providing at least four inches of clear space beneath.
 - (3) A properly protected container in an underground storage installation.

- F. Collection. Refuse shall be collected at least once weekly.
- G. Refuse disposal. Refuse disposal shall be effected in accordance with the provisions of Chapter VIII of the State Sanitary Code.

§ 196-9. Insect, rodent and weed control.

A. Insects.

- (1) Mobile home parks and mobile home lots shall be kept free from articles which may hold water and provide temporary breeding places for mosquitoes. Permanent mosquito control measures such as draining and filling depressions in which water may collect shall be taken by the park management, together with such supplemental larvicidal measures as need indicates.
- (2) Fly breeding shall be controlled by eliminating the insanitary practices which provide breeding places. Refuse containers shall be repaired or replaced when so damaged that they leak or their lids do not fit in a flytight manner. The area surrounding the refuse container shall not be permitted to become littered with garbage nor saturated with waste liquid from garbage. All containers shall be maintained in a clean and sanitary condition.
- (3) Insecticidal measures shall be applied if necessary.

B. Rodents.

- (1) All buildings within the mobile home park shall be ratproofed with special emphasis on those in which food is stored or served.
- (2) Items in storage shall be maintained in such a manner as to eliminate the possibility of rodent harborage.

C. Weeds. The growth of brush, weeds and grass shall be controlled as a means toward elimination of ticks and chiggers.⁶⁴

§ 196-10. Electricity.

- A. General. In the absence of applicable municipal ordinances, statutes or rules and regulations, the provisions of Subsections B and D hereinbelow stated shall prevail.
- B. Power. Every mobile home park shall be equipped with electric power.
- C. Approval. Electrical systems and equipment installed in mobile home parks shall be approved by the underwriters or other recognized agency having jurisdiction.
- D. Protection. All metal parts of a mobile home shall be adequately grounded.

§ 196-11. Fuel, flammable liquids and gases.

- A. Storage and handling of fuel oil and flammable liquids. In the absence of applicable municipal ordinances, statutes or rules and regulations, the handling and storage of

64. Editor's Note: See Ch.252, Weed Control.

gasoline, fuel oil or other flammable liquids shall be in compliance with the pertinent standards of the National Board of Fire Underwriters (Pamphlet No. 30).

- B. Storage and handling of liquefied petroleum gases. The handling and storage of liquefied petroleum gases shall be in compliance with the applicable rules and regulations of the New Jersey State Department of Law and Public Safety, Division of State Police.
- C. Racks. Fuel-oil racks shall be of noncombustible material.

§ 196-12. Fire protection.⁶⁵

- A. The owner of every mobile home shall equip said mobile home at all times with one fire extinguisher with an underwriters' rating of BC10, in good working order. No open fires shall be permitted at any place which would endanger life or property. No fires shall be left unattended at any time. Mobile home areas shall be kept free of combustible refuse.
- B. The water supply system of each mobile home park shall be equipped with two-inch frost-protected risers with one-and-one-half-inch capped hose connections spaced at intervals not more than 300 feet from any building or mobile home space.

§ 196-13. Management.

- A. In every mobile home park there shall be an office established which may be either in a mobile home or permanent building which shall be the office of the person in charge of said park. A copy of the park license and of this chapter shall be posted therein and the park register, as hereinafter referred to in this section, shall at all times be kept in said office.
- B. It is hereby made the duty of the attendant or the person in charge of the office, together with the licensee, to:
 - (1) Keep at all times a register containing a record of all mobile home owners and occupants located within the park. Said register shall be kept available for inspection at all times by state, federal and Borough law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register records shall not be destroyed for a period of three years following the date of registration. The register shall contain the following information:
 - (a) Names and addresses of all mobile home owners and occupants.
 - (b) Dates of entrance and departure.
 - (c) License numbers and owners of all mobile homes and towing or other automobiles.
 - (d) States issuing such licenses.
 - (e) Make, model and year of all trailer coaches and automobiles.
 - (f) Place of last location and length of stay.
 - (2) Maintain the park in a clean, orderly and sanitary condition at all times.

65. Editor's Note: See Ch. 163, Fire Prevention.

- (3) See that the provisions of this chapter are complied with and enforced and report promptly to the proper authorities any violation of this chapter or any other violation of law which may come to his attention.
- (4) Report to the Health Officer all cases of persons or animals affected or suspected of being affected with any communicable disease.
- (5) Prevent the running loose of dogs, cats or other animals or pets.
- (6) Prohibit the use of any mobile home by a number of occupants greater than that for which it is designed to accommodate by the manufacturer.

§ 196-14. Revocation of license.

The Mayor and Council may revoke any license to operate and maintain a mobile home park upon the violation of any of the provisions of this chapter. Such revocation can be made only after a hearing is given to the licensee, of which hearing the said licensee shall be given at least 10 days' notice, together with specifications of the said violation or violations, and the dates when the same occurred.

§ 196-15. Location outside park.

- A. It shall be unlawful within the limits of the Borough of Tuckerton for any person to maintain, occupy or park any mobile home on any street, alley or highway or other public place within the Borough of Tuckerton except as provided in this chapter.
- B. Emergency or temporary stopping or parking is permitted on any street, alley or highway for not longer than two hours subject to any other and further prohibitions, regulations or limitations, if any, imposed by the traffic and parking statutes, regulations or ordinances for that street, alley or highway.
- C. No person shall occupy any mobile home, trailer or automobile trailer on the premises of any occupied dwelling or on any lot which is not part of the premises of any occupied dwelling, either of which is situated outside an approved mobile home park. **[Amended 9-9-1998 by Ord. No. 8-1998]**

§ 196-16. Nonconforming mobile home parks.

The lawful use of a mobile home park existing at the time of adoption of this chapter, although such mobile home park does not conform to the provisions hereof, may be continued; provided, however:

- A. If the use as a mobile home park is discontinued for a period of three months, any future use of said lands thereafter shall be in full and complete conformity with the provisions of this chapter.
- B. All such nonconforming mobile home parks shall pay a licensing fee as herein provided.
- C. A nonconforming mobile home park which, prior to the date of adoption of this chapter, has been granted approval to increase its facilities to provide additional mobile home facilities and mobile home spaces by the Planning Board of the Borough of Tuckerton may so increase its facilities, pursuant to such approval granted, notwithstanding the terms and conditions of this chapter; however, any further increase in the facilities of such

nonconforming mobile home park subsequent to the date of the adoption of this chapter shall be made and conducted pursuant to the terms and requirements of this chapter, as applied to such increased portion of said mobile home park.

- D. Any mobile home park owner may apply for a variance in conformance with the provisions and procedures more particularly set forth in the Zoning Ordinance⁶⁶ of the Borough of Tuckerton.

§ 196-17. Nonconforming mobile homes.

No mobile home shall be located anywhere in the Borough of Tuckerton unless located in a licensed mobile home park. Any mobile home legally located on a private parcel or lot prior to the adoption of this chapter shall be considered a nonconforming mobile home and shall not be removed or replaced without the consent of the Mayor and Council. Wherever any such mobile home remains uninhabited, or in the event the same shall be removed from its original location for a period of three months, said mobile home shall not be permitted to remain upon the premises nor shall the same be permitted to be relocated upon said premises.

§ 196-18. Single mobile home on private property.

- A. The locating or maintaining of a single mobile home, as defined in § 196-1, is hereby prohibited on any property located within the Borough of Tuckerton, other than in a properly licensed mobile home park, from the date of the final passage of this chapter, with the exception of all single mobile homes which have already been licensed by the Borough of Tuckerton.
- B. In the event that an owner of private property within the Borough of Tuckerton has already been issued a mobile home license for the location or maintenance of a single mobile home upon his, her or its land, a license for the continued use of such right and privilege can be obtained, provided that an annual license shall first be procured from the Borough Clerk by compliance with the following requirements:
- (1) An application for such renewal license shall be made, in writing, to the Borough Clerk not later than January 1 of each year, which application shall set forth and name all such applicants and the exact location where said mobile home is to be located.
 - (2) Said license fee for renewal shall be the sum of \$25. Said license shall expire on December 31 of each year.
 - (3) The holder of any such license as aforesaid shall abide by all rules and regulations of the Board of Health and any ordinances of said Board and shall maintain said mobile home in a sanitary condition at all times.
 - (4) In the event that the holder of a single mobile home license on private property should fail to renew said license, all future rights for the renewal of said license shall be forfeited.

66. Editor's Note: See Ch. 255, Zoning.

§ 196-19. Enforcement. [Amended 12-19-1994 by Ord. No. 21-1994]

During construction of the mobile home park, the Borough Engineer shall be responsible for ensuring compliance with the conditions of this chapter. Upon the licensing of any mobile home park, the Code Enforcement Officer of the Borough of Tuckerton shall be responsible for ensuring complete compliance with the conditions of this chapter.

§ 196-20. Violations and penalties.

- A. Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$500 or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.
- B. The Municipal Court shall also have the power to suspend the license of any violator pending the elimination of the violation. The penalties set forth in this section are, in addition to any revocation proceedings, as set forth in any other sections of this chapter.

Chapter 199**PARENTAL RESPONSIBILITY****GENERAL REFERENCES**

Curfew — See Ch. 138.

Peace and good order — See Ch. 201.

§ 199-1. Responsibility for minors.

The parents or guardian of any minor under the age of 18 years and living with said parents or guardian shall be responsible for the payment for willful or malicious damage to property caused by any such minor in the Borough of Tuckerton.

§ 199-2. Determination of liability.

The finding by the Tuckerton Municipal Court that said damage to property was willfully or maliciously caused by said minor shall be sufficient to determine the liability upon such parent or guardian, and the court may then fix the amount and method of payment of compensation to be paid by such parent or guardian.

§ 199-3. Violations and penalties.

Failure to make such payment or payments as fixed by the Municipal Court shall be deemed to be a violation of this chapter and, upon conviction thereof, shall be punishable by a fine not to exceed \$200 or by imprisonment in the county jail for a period not to exceed 90 days, or both.

Chapter 201

PEACE AND GOOD ORDER

GENERAL REFERENCES

Curfew — See Ch. 138.

Peddling and soliciting — See Ch. 204.

Parental responsibility — See Ch. 199.

ARTICLE I

Indecent Exposure**[Adopted 8-5-1963 by Ord. No. 142]****§ 201-1. Public nudity and indecent exposure prohibited.**

No person, male or female, shall appear or travel on any street, avenue, highway, road, beach or waterway located in the Borough or appear in any public place, store or place of business in the Borough of Tuckerton in a state of nudity or in an indecent or lewd dress or garment, or to make any indecent or unnecessary exposure of his or her person.

§ 201-2. Violations and penalties. [Amended 10-3-2005 by Ord. No. 19-2005]

Any person who violates any section or provision of this article shall be subject, upon conviction thereof for each and every violation, to a fine of not more than \$500 or be imprisoned in the Ocean County Jail for a period not to exceed 90 days, or both, in the discretion of the Borough Municipal Judge.

ARTICLE II
Disorderly Conduct
[Adopted 5-1-1967 by Ord. No. 2-1967]

§ 201-3. Certain activities deemed disorderly conduct.

Any person who commits any of the following acts in the Borough of Tuckerton shall be deemed to have committed the offense of disorderly conduct:

- A. Uses loud, offensive, disorderly, threatening, abusive or insulting language, or who conducts himself or behaves in any offensive, disorderly, threatening, abusive or insulting manner.
- B. Acts in such a manner as to annoy, disturb, interfere with, obstruct or be offensive to others.
- C. Congregates with others on a street and refuses to move on when ordered by the police.
- D. By his actions causes a crowd to collect, except when lawfully addressing such a crowd.
- E. Shouts or makes a noise either outside or inside a building during the nighttime to the annoyance or disturbance of any considerable number of persons.
- F. Interferes with any person in any place by jostling against such person or unnecessarily crowding him or by placing a hand in the proximity of such person's pocket, pocketbook or handbag.
- G. Stations himself on the streets or follows pedestrians for the purpose of soliciting alms or solicits alms on the streets unlawfully.
- H. Stands on sidewalks or street corners and makes insulting remarks to or about passing pedestrians or annoys such pedestrians.
- I. Idly remains or loiters, without legitimate business or purpose, on the sidewalks or public streets of the Borough of Tuckerton after having been notified to move away therefrom by any officer or member of the police force.
- J. Stands, walks or in any way is upon a public area within the Borough of Tuckerton with an opened can, bottle or container of any kind of any alcoholic beverage whatsoever, except, however, the lawful congregation at a function held on public grounds where the consumption of alcoholic beverages is properly authorized. **[Added 9-8-1976 by Ord. No. 6-1976]**
- K. Makes, creates or permits any unreasonably loud, disturbing or unnecessary noise. **[Added 12-7-1987 by Ord. No. 18-1987]**
- L. Makes, creates or permits any noise of such character, intensity or duration as to be detrimental to the life, health or welfare of any individual or which either steadily or intermittently annoys, disturbs, injures or endangers the comfort, repose, peace or safety of any individual. **[Added 12-7-1987 by Ord. No. 18-1987]**

§ 201-4. Disorderly conduct prohibited.

No person shall revel, quarrel, brawl or otherwise misbehave in a disorderly manner to the disturbance or annoyance of the peaceable inhabitants of the Borough or be guilty of any other disorderly conduct in or on the streets, sidewalks or other public places.

§ 201-5. Violations and penalties. [Amended 12-7-1987 by Ord. No. 18-1987]

Any minor violating the provisions of §§ 201-3 and 201-4 of this article shall be disorderly in accordance with juvenile court law and procedure. Any other person, not a minor, who shall violate the provisions of §§ 201-3 and 201-4 of this article shall, upon conviction thereof, be subject to a fine not to exceed \$1,000 or imprisonment in the county jail for a term not to exceed 90 days, or both.

ARTICLE III

Loitering**[Adopted 6-16-1975 by Ord. No. 13-1975]****§ 201-6. Definitions.**

For the purposes of this article, the following terms shall have the meanings indicated:

LOITERING — Remaining idle in essentially one location and shall include the concepts of spending time idly, loafing or walking about aimlessly and shall also include the colloquial expression "hanging around."

PARENT or GUARDIAN — Any adult person having the care or custody of a minor, whether by reason of blood relationship, the order of any court or otherwise.

PUBLIC PLACE — Any place to which the public has access and shall include any street, highway, road, alley or sidewalk. It shall also include the front or the neighborhood of any store, shop, restaurant, tavern or other place of business and public grounds, areas and parks, as well as parking lots or other vacant private property not owned by or under the control of the person charged with violating this article or, in the case of a minor, not owned or under the control of his parent or guardian.

§ 201-7. Certain types of loitering prohibited.

No person shall loiter in a public place in such manner as to:

- A. Create or cause to be created a danger of a breach of the peace.
- B. Create or cause to be created any disturbance or annoyance to the comfort and repose of any person.
- C. Obstruct the free passage of pedestrians or vehicles.
- D. Obstruct, molest or interfere with any person lawfully in any public place, as defined in § 201-6. This subsection shall include the making of unsolicited remarks of an offensive, disgusting or insulting nature, or which are calculated to annoy or disturb the person to, or in whose hearing, they are made.

§ 201-8. Discretion of police officer.

Whenever any police officer shall, in the exercise of reasonable judgment, decide that the presence of any person in any public place is causing or is likely to cause any of the conditions enumerated in § 201-7, he may, if he deems it necessary for the preservation of the public peace and safety, order that person to leave that place. Any person who shall refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this article.

§ 201-9. Loitering by minors.

No parent or guardian of a minor under the age of 18 years shall knowingly permit that minor to loiter in violation of this article.

§ 201-10. Notice of violation.

Whenever any minor under the age of 18 years is charged with a violation of this article, his parent or guardian shall be notified of this fact by the Chief of Police or any other person designated by him to give such notice.

§ 201-11. Presumption of violation.

If at any time within 30 days following the giving of notice, as provided in § 201-10, the minor to whom such notice relates again violates this article, it shall be presumed in the absence of evidence to the contrary that the minor did so with the knowledge and permission of his parent or guardian.

§ 201-12. Violations and penalties.

Any person violating any of the provisions of this article shall, upon conviction, be punished by a fine not exceeding \$500 or by imprisonment not exceeding 90 days, or both, in the discretion of the court.

ARTICLE IV
Property Offenses
[Adopted 11-7-2005 by Ord. No. 26-2005]

§ 201-13. Definitions.

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

DESECRATE — Defacing, damaging or polluting.

KNOWINGLY — A person that acts knowingly with respect to the nature of his conduct or the attendant circumstances if he is aware that his conduct is of that nature, or that such circumstances exist or he is aware of a high probability of their existence. A person acts knowingly with respect to a result of his conduct if he is aware that he is practically certain that his conduct will cause such a result. "Knowing," "with knowledge" or equivalent terms have the same meaning.

PUBLIC PLACE — Any place to which the general public has access and a right to resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.

PURPOSELY — A person acts purposely with respect to the nature of his conduct or a result thereof if it is his conscious object to engage in conduct of that nature or to cause such a result. A person acts purposely with respect to attendant circumstances if he is aware of the existence of such circumstances or he believes or hopes that they exist. "With purpose," "designed," "with design" or equivalent terms have the same meaning.

RECKLESSLY — A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial or unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation. "Recklessness," "with recklessness" or equivalent terms have the same meaning.

§ 201-14. Property damage.

No person shall purposely or recklessly tamper with or damage the property of another.

§ 201-15. Public property damage.

No person shall purposely desecrate any public monument, insignia, symbol, structure or place of worship or burial, sidewalk, curbing or streetscape.

§ 201-16. Damage to plants and trees.

No person shall knowingly or recklessly damage or injure any tree, bush, shrub, plant, crop or other living vegetation on the lands of another.

§ 201-17. Graffiti.

No person shall purposely or recklessly draw, paint or make any mark or inscription on public, private, real or personal property without permission of the owner.

§ 201-18. Violations and penalties.

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of not more than \$1,000, by imprisonment for a term not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service as determined in the discretion of the Municipal Court Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

ARTICLE V
Smoking Prohibited
[Adopted 8-19-2014 by Ord. No. 6-2014]

§ 201-19. Purpose.

The purpose of this article is to protect the health, safety and welfare of the general public pursuant to N.J.S.A. 40:48-1 et seq., 26:3D-46 et seq.,⁶⁷ and 2C:33-13 by prohibiting smoking in certain areas of the Borough.

§ 201-20. Definitions.

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

PARKS AND RECREATION FACILITIES — Includes all public parks, playgrounds, ball fields, playing fields, recreational areas and recreational facilities that are publicly owned or leased by the Borough of Tuckerton, all areas adjacent to such parks and recreation facilities, including, but not limited to, any seating areas, parking areas, paths, walkways, driveways, or drive aisles.

PERSON — Any individual, partnership, cooperative association, private corporation personal representative, receiver, trustee, assignee or any other legal entity.

SMOKING — The burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or any other matter or substance which contains tobacco or any other matter that can be smoked.

§ 201-21. Smoking prohibited.

Smoking and/or the carrying of a lighted cigarette, cigar, pipe or other combustible substance, in any matter or any form, shall be prohibited at all times, in and on all Borough parks and recreation facilities.

§ 201-22. Signs.

"No smoking" or "smoke free" signs, or the international "no smoking" symbol (a picture of a burning cigarette inside a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in all areas regulated by this article. The color of such signs, when not of the international type, shall have letters that are distinct, contrasting to the background and easily read, indicating that smoking is prohibited. The sign shall also indicate that violators are subject to a fine.

§ 201-23. Enforcement.

The provisions of this article shall be enforceable by a police officer as well as by any other individual who observes a violation. Any person seeking to enforce the provisions of this article shall be authorized to file a complaint in the Municipal Court of the Borough of Tuckerton.

§ 201-24. Violations and penalties.

67. Editor's Note: N.J.S.A. 26:3D-46 through 26:3D-54 were repealed by L.2005, c. 383, § 11, effective 4-15-2006.

- A. It should be unlawful for any person to smoke in any area where smoking is prohibited under this article.
- B. Unless a greater fine is permitted under N.J.S.A. 26:3D-56 et seq., for smoking in specific areas defined therein, in which case such higher level of fine shall be utilized, any person who smokes in an area in which smoking is prohibited shall be guilty of a disorderly persons offense and subject to a maximum fine of \$200 for each violation pursuant to N.J.S.A. 2C:33-13.
- C. Any person who violates any provision of this article shall be subject to a fine of not less than \$250 for the first offense, \$500 for the second offense and \$1,000 for each subsequent offense. Any municipal employee found in violation of this article may also be subject to discipline in accordance with the provisions of the Borough of Tuckerton's policies and procedures.
- D. Any person found guilty of defacing, tampering with or removing "no smoking" or "smoking" signs which are required by this article shall be guilty of a disorderly persons offense and subject to a maximum fine of \$200, plus the cost of replacing the sign.
- E. Any juvenile adjudicated to have violated the provisions of this article shall be subject to such penalties, fines or other discipline as may be imposed upon an adult pursuant to this article.

ARTICLE VI

Consumption and Possession of Alcoholic Beverages by Underage Persons on Private Property**[Adopted 8-19-2014 by Ord. No. 7-2014]****§ 201-25. Purpose.**

The purpose of this article is to prohibit the consumption and possession of alcoholic beverages on private property by persons under the legal age to purchase alcoholic beverages in accordance with the provisions of P.L. 2000, c. 33.⁶⁸

§ 201-26. Definitions.

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

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

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

§ 201-27. Violations and penalties; postponement or suspension of driving privileges.

- A. Any person under the legal age who, without legal authority, knowingly possesses or knowingly consumes any alcoholic beverage on private property shall be punished by a fine of \$250 for a first offense and \$350 for any subsequent offense. The court may, in addition to the fine authorized for this offense, suspend or postpone for six months the driving privilege of the defendant.
- B. 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 this article. If a person at the time of the imposition of a sentence 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.
- C. 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 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.
- D. 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

68. Editor's Note: See N.J.S.A. 40:48-1.2.

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.

- E. If the person convicted under this article is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the nonresident driving privileges of the person based on the age of the person and submit to the Division the required report. The court shall not collect the license of a nonresident convicted under this article. Upon receipt of a report by the court, the Division shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

§ 201-28. Exceptions.

- A. This article does not prohibit an underaged 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 beverages.
- B. This article does not prohibit 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 Revised Statutes or while actively engaged in the preparation of food while enrolled in a culinary arts or hotel management program at a county vocational school or postsecondary educational institution; however, no ordinance enacted pursuant to N.J.S.A. 40:48-1.2 shall be construed to preclude the imposition of a penalty under this article, 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.

ARTICLE VII
**Unified Electronic Reporting System for Dealers in Precious Metals and Other
Secondhand Goods**
[Adopted 11-16-2015 by Ord. No. 16-2015]

§ 201-29. Purpose and intent.

The purpose and intent of this article is to assist law enforcement officials and victims of crime in recovering stolen precious metals and other secondhand goods by requiring minimum identification, reporting, maintenance and distribution criteria for licensed dealers in these goods. No person shall use, exercise, or carry on the business, trade, or occupation of the buying, selling, or pawning of precious metals or other secondhand goods without complying with the requirements of this article in the exact manner described herein.

§ 201-30. Definitions.

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

ACCEPTABLE IDENTIFICATION — A current valid New Jersey driver's license or identification card, a current valid photo driver's license issued by another United States state, a valid United States passport, or other verifiable United States government issued identification, which will be recorded on the receipt retained by the dealer and subsequently forwarded to the local police department on request.

BOROUGH CLERK — The statutory officer whose duties are defined in N.J.S.A. 40A:9-133 and may refer to the duly appointed Clerk of the "city," "town," "township," "village," or "borough."

DEALER — Any person, partnership, limited-liability company, corporation, or other entity who, either wholly or in part, engages in or operates any of the following trades or businesses: the buying for purposes of resale of precious metals, jewelry, or other secondhand goods as defined herein; pawnbrokers as defined herein; and itinerant businesses as defined herein. For the purposes of this article, transient buyers, as defined herein, are subject to the same licensing and reporting requirements as any other dealers.

ITINERANT BUSINESS — A dealer who conducts business intermittently within the municipality or at varying locations.

PAWNBROKER — Any person, partnership, association or corporation lending money on deposit or pledge of personal property, other than chooses in action, securities, or printed evidences of indebtedness; purchasing personal property on condition of selling it back at a stipulated price; or doing business as furniture storage warehousemen and lending money on goods, wares or merchandise pledged or deposited as collateral security.

PRECIOUS METALS — Gold, silver, platinum, palladium, and their alloys as defined in N.J.S.A. 51:5-1 et seq. and N.J.S.A. 51:6-1 et seq.

PUBLIC — Individuals and retail sellers, not to include wholesale transactions or transactions between other merchants.

REPORTABLE TRANSACTION — Every transaction conducted between a dealer and a member of the public in which precious metals, jewelry, or any other secondhand goods, as defined herein, are purchased or pawned.

SECONDHAND GOODS — Used goods such as antiques, gold, silver, platinum, or other precious metals, jewelry, coins, gemstones, gift cards, GPS devices, computers, computer hardware and software, television sets, radios, record or stereo sets, electronic devices, musical instruments, sporting goods, automotive equipment, collectibles, game cartridges, and other electronically recorded material, firearms, cameras and camera equipment, video equipment, and other valuable articles. For the purposes of this article, secondhand goods shall not include goods transacted in the following manner:

- A. Judicial sales or sales by executors or administrators;
- B. Occasional or auction sales of household goods sold from private homes;
- C. Auctions of real estate;
- D. The occasional sale, purchase, or exchange of coins or stamps by a person at his permanent residence or in any municipally owned building who is engaged in the hobby of collecting coins or stamps and who does not solicit the sale, purchase, or exchange of such coins or stamps to or from the general public by billboard, sign, handbill, newspaper, magazine, radio, television, or other form of printed or electronic advertising.

SELLER — A member of the public who sells or pawns used goods, such as precious metal, jewelry, or other secondhand goods to a dealer.

TRANSIENT BUYER — A dealer, as defined herein, who has not been in a registered retail business continuously for at least six months at any address in the municipality where the dealer is required to register or who intends to close out or discontinue all retail business within six months.

§ 201-31. License required for dealers.

No person, partnership, limited-liability company, corporation, or other entity shall engage in the business of buying, selling, or pawning of precious metals or other secondhand goods, as defined above, within the jurisdiction of the municipality, without having first obtained a license therefor from the Borough Clerk, which license shall bear a number issued by the Borough Clerk. The application for a license to the Borough Clerk shall set forth the name, date of birth, and address of the dealer, whether or not he or she is a citizen of the United States, and whether or not he or she has ever been convicted of any crime(s), disorderly persons offense(s), or municipal ordinance violation(s), and the date(s) thereof. Advertising in any print or electronic media or by sign that any of those articles or secondhand goods referred to in § 201-30 above are being bought in any location within the municipality shall constitute engaging in business as a dealer of secondhand goods for purposes of this article. No person, partnership, limited-liability company, corporation or other entity shall place or cause to be placed, any advertisement for purchase of such articles or goods without stating in the advertising the license number issued to a person or entity by the municipality. In any print advertisement, the license number shall appear in type no smaller than eight point in the lower-right-hand corner of the advertisement. In any advertisement in electronic media, the license number shall be visually or audibly stated. Failure to state or indicate the license number shall be a violation of this article and shall be subject to the penalties established in § 201-37.

§ 201-32. Application process for dealers; approval or denial.

- A. Upon receipt of an application completed pursuant to this article, the Borough Clerk shall refer such application to the Chief of Police, who shall make an investigation of the prospective licensee, pursuant to this article, for the purpose of determining the suitability of the applicant for licensing. The investigation shall include, but shall not be limited to, the following:
- (1) The experience of the applicant in the business of purchase and sale of those articles or goods referred to in § 201-30 above, although nothing in this section shall be construed to warrant denial of a license solely on the basis of lack of experience;
 - (2) The reputation of the applicant for fair dealing in the community, which shall be made among credible sources, which sources shall be disclosed to the applicant in the event of a denial of any license;
 - (3) Any criminal record of the applicant, including any past convictions for any crime(s), disorderly persons offense(s), or municipal ordinance violation(s) within this or any other jurisdiction. The Chief of Police may, as part of the application process, require a fingerprint criminal background check through the Federal Bureau of Investigation, Criminal Justice Information Services Division, which may require an additional fee from the applicant;
 - (4) The type of operation contemplated to be conducted by the applicant, particularly whether the business is to be operated from a fixed location, whether it is to be conducted from a location primarily devoted to the purchase and sale of precious metal or other secondhand goods, and other factors bearing on whether the licensed business will be of a fixed and permanent nature. This section shall not be construed to require denial of any license solely on the grounds that the business is not from a fixed location or that the applicant is a transient buyer or itinerant business; however, applicants who fall under the category of a transient buyer or itinerant business must state with specificity on the license application the business address where transaction records required by § 201-34D of this article will be stored as well as the location where purchased goods will be retained during the mandatory inspection period required under § 201-34A.
- B. The Chief of Police shall complete any investigation pursuant to this article within 30 days of the submission of the application to the Borough Clerk, fully completed by the applicant. If a criminal record check has been requested within the thirty-day period and has not been received by the Chief of Police within that period, the Chief of Police may, if all other factors are satisfactory, recommend a conditional issuance of the license subject to the finding regarding criminal record.
- C. The Chief of Police shall, upon completion of the investigation, recommend "grant" or "denial" of the license to the Borough Clerk, who shall grant or deny the license. Any recommendation of the Chief of Police shall be in writing and, in the case of a recommendation of denial, shall state fully and specifically the reasons for said recommendation. If the Borough Clerk accepts the recommendation of the Chief of Police to deny any license, the applicant shall be notified, in writing, within 10 days of such denial, and the Clerk shall forward to the applicant a statement of the reason or reasons for such denial.
- D. Grounds for recommending denial of license may include reliable information indicating that the applicant has, in the past, engaged in fraudulent or deceptive business practices

in a business identical to or similar to a dealer in secondhand goods. A license may be denied if the investigation reveals a conviction of the applicant or any of its principal officers or employees of any crime(s), disorderly persons offense(s) in which deceit or misrepresentation is an element; or any conviction of any crime(s) or disorderly persons offenses involving theft or the receiving of stolen goods, regardless of whether the applicant was a principal, accessory before the fact, after the fact, or a co-conspirator; or any prior municipal ordinance violation(s) by the applicant or any of its principal officers or employees in this or any other jurisdiction. A license may be denied if the applicant fails to demonstrate an ability to satisfactorily comply with the electronic reporting requirements specified in § 201-33, the retention and inspection requirements of § 201-34, or any other portion of this article. Upon receipt of the recommendation of the Chief of Police, the Borough Clerk shall issue or deny the license accordingly, contingent upon the receipt of a bond as required by § 201-36 of this article.

- E. Whenever any application for a permit is denied, the applicant shall be entitled to a hearing before a three-person panel appointed by the Chief of Police, at which time the applicant shall be permitted to introduce such evidence as may be deemed relevant to such denial. Any applicant exercising the right to appeal must file a written notice of appeal within 10 days of receiving written notice of denial of a license to act as a dealer of secondhand goods.
- F. No license shall be assignable by the dealer.

§ 201-33. Identification of seller; recordkeeping requirements for dealers.

For every reportable transaction between a dealer and the public, the dealer shall be required to do as follows:

- A. Require of each person selling or pawning precious metals or other secondhand goods acceptable identification as defined above in § 201-30.
- B. Require each seller to execute a declaration of ownership, which shall contain the following certification: "My signature confirms that I am the sole legal owner of and am legally authorized to sell the goods being sold. By signing below I certify that I did not obtain and do not possess the identified goods through unlawful means. I am the full age of 18 years and the identification presented is valid and correct."
- C. Record and issue to each person selling or pawning such goods on a sequentially numbered receipt:
 - (1) The name, address, and telephone number of the purchaser, including the Clerk or employee of the licensee making the purchase;
 - (2) The name, address, date of birth, and telephone number of the seller or sellers;
 - (3) A photographed recording of the seller in a format acceptable to the Chief of Police, along with a physical description of the seller, including height and weight (approximate), hair color, eye color, facial hair, if any, etc.;
 - (4) A photographed recording of the seller's presented acceptable identification, as set forth in § 201-30, in a format acceptable by the Chief of Police;

- (5) A photographed recording of all items sold in a format acceptable by the Chief of Police. When photographing, all items must be positioned in a manner that makes them readily and easily identifiable. Items should not be grouped together when photographing or imaging. Each item should have its own photograph;
 - (6) The receipt number;
 - (7) A detailed, legible description of the item(s) and the manufacturer and model of the item(s), if known; in the case of jewelry, the descriptions must include style, length, color, design, and stones, if any; any identifying marks, including numbers, dates, sizes, shapes, initials, names, monograms, social security numbers engraved thereon, serial numbers, series numbers, or any other information, which sets apart the particular object from others of like kind;
 - (8) The price paid for the purchase or pawn of the item(s);
 - (9) If precious metals, the net weight in terms of pounds Troy, pennyweight (Troy) or kilograms/grams; fineness in terms of karats for gold, and sterling or coin for silver, in accordance with N.J.S.A. 51:5-1, 51:6-1 et seq.;
 - (10) The time and date of the transaction.
- D. The information outlined in Subsection C above must additionally be electronically documented through the use of an electronic database system authorized by the Chief of Police. Installation and training in this software will be made mandatory as of the effective date of this article, and licensing will be conditional upon compliance with proper use of the system as described herein. These records shall be subject to the inspection of any authorized police officer or any sworn law enforcement officer acting in the performance of their duty as set forth in Subsection F below. Through the use of applicably required computer equipment, and using the electronic format approved by the Chief of Police, every dealer shall enter all reportable transactions into the electronic database by the end of the close of business on the same date as the purchase or receipt of property for pawn or consignment. The information entered must contain all pertinent information outlined in Subsection C above.
- E. In the event of a database failure, or dealer's computer equipment malfunction, all transaction information is required to be submitted on paper forms approved by the Chief of Police within 24 hours from the date of purchase. In the event that paper forms are used, the dealer is responsible to enter all transaction information set forth in Subsection C above into the database as soon as possible upon the dealer's equipment being repaired or replaced, or the database coming back into service. Failure by the dealer to properly maintain computer equipment in a reasonable fashion or failure by the dealer to replace faulty computer equipment may result in the dealer being cited for a violation of this article, and subsequently being subject to the penalties for doing so including revocation of the dealer's license as described in § 201-34.
- F. It shall be the requisite duty of every dealer, and of every person in the dealer's employ, to admit to the premises during business hours any member of the Police Department to examine any database, book, ledger, or any other record on the premises relating to the reportable transactions of precious metals or other secondhand goods, as well as the articles purchased or received and, where necessary, relinquish custody of those articles

as provided in § 201-34. Itinerant businesses and transient buyers will be responsible for notifying the Chief of Police of the address where these records and articles will be stored.

§ 201-34. Retention; revocation; other restrictions.

- A. All precious metals and other secondhand goods purchased, received for pawn, or received for consignment as described above, are to be made available for inspection by the Chief of Police or designee thereof at the designated business address for a period of at least 14 calendar days from the date the transaction information is actually reported to the Chief of Police in the approved manner described above in § 201-33, except for jewelry, which must be maintained for at least 14 business days or for the statutory period provided in N.J.S.A. 2C:21-36(d). All precious metals or other secondhand goods subject to inspection must remain in the same condition as when purchased or received for pawn and shall not be sold, disposed of, changed, modified, or melted by the dealer until the seven-day retention period has expired. Itinerant businesses and transient buyers will be responsible for notifying the Chief of Police of the location where the purchased item(s) are being held.
- B. Upon probable cause that goods held by a dealer are stolen, and providing that the seller signed the mandatory statement required by § 201-33B upon the sale of those goods, a law enforcement officer with jurisdiction should charge the seller with theft by deception under N.J.S.A. 2C:20-4 on behalf of the dealer, who shall be considered the victim of the offense for the purposes of N.J.S.A. 2C:43-3. The officer shall seize the goods, provide the dealer with a receipt, and issue a criminal complaint against the seller for theft by deception and any other criminal charges for which the officer has probable cause that the seller has committed. If convicted of theft by deception and if so found by an order of a court of valid jurisdiction, the seller will be responsible for providing restitution to the dealer under N.J.S.A. 2C:44-2 for the amount paid by the dealer to the seller for the stolen goods.
- C. If market conditions would create a hardship on the dealer by holding precious metals or other secondhand goods for such period, the dealer may present the property to the Chief of Police in order that it may be photographed and, if deemed necessary by the Chief of Police, an investigation may be implemented. The Chief of Police shall have the authority to grant the dealer a waiver of the requirement under this section.
- D. In addition to all other reporting requirements, every dealer shall maintain, for at least five years, a written record of all purchases of precious metals and other secondhand goods in the form prescribed in § 201-33C.
- E. No dealer shall purchase any item covered by this article from any person under the age of 18 or in the absence of providing prior notification of such purchase to the Chief of Police or business designee identifying the individual from whom such purchase is to be made and the item to be purchased.
- F. Suspension. The Chief of Police or a designee thereof is hereby empowered to temporarily suspend, for cause, any dealer's license and rights to operate thereunder. This penalty shall be in addition to any fines and penalties the dealer may incur pursuant to § 201-37 of this article.
 - (1) Grounds for suspension. The following shall constitute grounds for suspension: violation of any provisions of this article, including failure to comply with any training or fees associated with the electronic database software system in use by

the municipality; violation of any other statute, regulation, or local ordinance; or any other illegal, improper, or fraudulent activity.

- (2) Procedure for suspension. Upon determination that appropriate grounds exist and that a suspension is warranted, the Chief of Police or a designee thereof shall issue a written notice of suspension of license to the offending dealer and to the Borough Clerk, which shall set forth the grounds for the suspension and notify the dealer of his or her right to appeal pursuant to Subsection H. A temporary suspension shall issue immediately, pending the outcome of any appeal taken. Suspended dealers must immediately cease engaging in the business of purchasing for resale, receiving for pawn, and/or selling of precious metals and/or other secondhand goods in the municipality until reinstatement.
 - (3) Reinstatement. Suspended dealers may be reinstated only when the grounds leading to the suspension have, in the determination of the Chief of Police or the Chief's designee, been cured, corrected, or appropriately rectified; or if reinstatement is deemed appropriate by the three-person panel appointed by the Chief of Police, upon the timely filing of an appeal as provided in Subsection H.
- G. Revocation. A license issued under this article may be revoked by the Borough Clerk upon written recommendation from the Chief of Police or the Chief's designee that the dealer is no longer qualified, capable or competent to comply with the requirements of this article. This penalty shall be in addition to any fines and penalties the dealer may incur under § 201-37.
- (1) Grounds for revocation. The following shall constitute grounds for revocation: a third violation under this article; a second violation under this article less than one year after an earlier violation under this article; conviction for a criminal offense within this or any jurisdiction; or multiple violations of any other regulations or local ordinances within this or any jurisdiction.
 - (2) Procedure for revocation. Upon a determination that appropriate grounds exist and that a revocation is warranted, the Chief of Police or the Chief's designee shall so report to the Borough Clerk in writing. A temporary suspension will immediately and automatically issue, if one is not already in effect, pending the outcome of the charge. A three-person panel, appointed by the Chief of Police, shall review the stated grounds for revocation, and the panel shall issue an appropriate disposition of either suspension, revocation, or reinstatement. If the panel determines that revocation is the appropriate disposition, it shall set forth the grounds for the same in writing in the form of a notice of revocation, which shall be provided to the dealer. The notice shall advise the dealer of the right to appeal. If the panel determines that suspension is the appropriate disposition, it shall provide the dealer with a notice of suspension that shall advise the dealer of the right to appeal. Following revocation, the dealer must relinquish his or her license and must immediately and indefinitely cease operating as a dealer of precious metals or other secondhand goods within the municipality.
- H. Appeal. Any applicant wishing to appeal an issuance of a suspension or revocation shall be entitled to a hearing before a three-person panel, appointed by the Chief of Police, at which time the applicant shall be permitted to introduce such evidence as may be deemed relevant to such suspension or revocation. Any applicant exercising the right to appeal must

file a written notice of appeal within 10 days of receiving written notice of revocation or suspension of license.

- I. A dealer shall have the right to change the location of the licensed business, provided that he or she notifies the Borough Clerk, in writing, of the street address of said new location.

§ 201-35. Bond.

Each dealer covered under this article shall deliver a bond to the Borough Clerk executed by the applicant as principal and executed by a surety company authorized to do business under the laws of the State of New Jersey as surety. The bond shall be subject to review and approval by the Borough Attorney, as defined in N.J.S.A. 40A:9-139, and shall be in the penal sum of \$10,000, conditioned for the due and proper observance of, and compliance with, the provisions and requirements of all ordinances of the municipality in force or which may be adopted respecting the conduct of this business, and conditioned also that the bond shall be and remain for the benefit of any person or persons who shall have received judgment against the dealer licensed under this article, which damage shall be established by a judgment of a court of proper jurisdiction. Said bond shall contain the following language: "The obligation of this bond shall, in addition to the [party municipality], be and remain for the benefit of any person who shall obtain a judgment against obligor as a result of damage sustained in operation pursuant to any license granted under this article." Said bond shall be kept for a minimum of one year from the date of issuance of license and must be renewed annually along with the license.

§ 201-36. Fees; period of license validity.

A nonrefundable fee for initial application and license for a pawnbroker or a dealer in precious metals or other secondhand goods, as covered under this article, is \$300. The annual renewal fee for a license is \$250. These fees are separate from, and in addition to, any fees the dealer must pay in relation to the mandatory electronic database system designated by the Chief of Police, as provided by § 201-33D of this article. Payments are to be made in the manner directed by the Borough Clerk. A license is valid for a one-year period from the date of its issuance.

§ 201-37. Violations and penalties.

Violation of any provision of this article by any dealer shall, upon conviction thereof, be punished by a fine not in excess of the limitations of N.J.S.A. 40:49-5 or by a term of imprisonment or a period of community service not exceeding 90 days, in addition to a suspension or revocation of operating license as provided in § 201-34F and G above. Each and every violation shall be considered a separate violation. Each violation shall result in an additional suspension period. Any person who is found guilty of violating the provisions of this article within one year of the date of a previous violation, and who was fined for the previous violation, may be sentenced by the court to an additional fine as a repeat offender and, in addition, may be subject to revocation proceedings as provided in § 201-34G. The additional fine imposed as a repeat offender shall not be less than the minimum or exceed the maximum fine provided herein, and the same shall be calculated separately from the fine imposed for the violation of this article.

§ 201-38. Time limit for conformance; repealer; severability.

- A. Any person, partnership, limited-liability company, corporation, or other entity engaging in the business of a pawnbroker, or a dealer in precious metals or other secondhand goods

shall conform to the provisions of this article within 90 days following the effective date of this article.

- B. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.
- C. Nothing contained in this article is intended to replace any preexisting statutory requirements governing pawnbrokers, as in N.J.S.A. 45:22-1 et seq., the sale of precious metals as in N.J.S.A. 51:6A-1 et seq., the sale of secondhand jewelry as in N.J.S.A. 2C:21-36 et seq., or any other statutory provision regarding any subject matter discussed herein.
- D. If any section, subsection, sentence, clause, phrase, or portion of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

ARTICLE VIII

**United Electronic Reporting System for Dealers in Scrap Metal
[Adopted 11-16-2015 by Ord. No. 17-2015]****§ 201-39. Purpose and intent.**

- A. The purpose and intent of this article is to assist law enforcement officials and victims of crime in recovering scrap metal by requiring minimum identification, reporting, maintenance, and distribution criteria for licensed dealers in these goods.
- B. No person shall use, exercise, or carry on the business, trade, or occupation of the buying, selling, or pawning of scrap metal without complying with the requirements of this article in the exact manner described herein.

§ 201-40. Definitions.

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

ACCEPTABLE IDENTIFICATION — A current valid New Jersey driver's license or identification card, a current valid photo driver's license issued by another United States state, a valid United States passport, or other verifiable United States government issued identification, which will be recorded on the receipt retained by the dealer and subsequently forwarded to the local police department on request.

BOROUGH CLERK — The statutory officer whose duties are defined in N.J.S.A. 40A:9-133 and may refer to the duly appointed clerk of the "city," "town," "township," "village," or "borough."

DEALER — Any person, partnership, limited-liability company, corporation, or other entity who, either wholly or in part, engages in or operates a scrap metal business involving the buying and/or selling of scrap metal as defined herein, including itinerant businesses, and transient buyers as defined herein.

ITINERANT BUSINESS — Any scrap metal dealer who conducts business intermittently within the municipality or at varying locations.

PUBLIC — Individuals and retail sellers, not to include wholesale transactions or transactions between other merchants.

REPORTABLE TRANSACTION — Every transaction conducted between a dealer and a member of the public in which scrap metal is purchased or pawned.

SCRAP METAL — Used, discarded, or previously owned items that consist predominantly of ferrous metals, aluminum, brass, copper, lead, chromium, tin, nickel, or alloys.

SCRAP METAL BUSINESS — A commercial establishment, which, as one of its principal business purposes, purchases scrap metal for purposes of resale or processing, including transient buyers of scrap metal and itinerant businesses, as defined herein.

SELLER — A member of the public who sells scrap metal to a dealer.

TRANSIENT BUYER — An operator of a scrap metal business, as defined herein, who has not been in the scrap metal business continuously for at least six months at any address in the municipality where the dealer is required to register or who intends to close out or discontinue the scrap metal business within six months.

§ 201-41. License required for dealers.

No person, partnership, limited-liability company, corporation, or other entity shall engage in a scrap metal business, as defined above, within the jurisdiction of the municipality, without having first obtained a license therefor from the Municipal Clerk, which license shall bear a number issued by the Municipal Clerk. The application for a license to the Municipal Clerk shall set forth the name, date of birth, and address of the dealer, whether or not he or she is a citizen of the United States, and whether or not he or she has ever been convicted of any crime(s), disorderly persons offense(s), or municipal ordinance violation(s), and the date(s) thereof. Advertising in any print or electronic media or by sign regarding the purchase of scrap metal at any location within the municipality shall constitute engaging in business as a dealer of scrap metal within the jurisdiction of the municipality for purposes of this article. No person, partnership, limited-liability company, corporation or other entity shall place or cause to be placed any advertisement for purchase of such item(s) without stating in the advertising the license number issued to a person or entity by the municipality. In any print advertisement, the license number shall appear in type no smaller than eight point in the lower-right-hand corner of the advertisement. In any advertisement in electronic media, the license number shall be visually or audibly stated. Failure to state or indicate the license number shall be a violation of this article and shall be subject to the penalties established in § 201-47.

§ 201-42. Application process for dealers; approval or denial.

- A. Upon receipt of an application completed pursuant to this article, the Municipal Clerk shall refer such application to the Chief of Police, who shall make an investigation of the prospective licensee, pursuant to this article, for the purpose of determining the suitability of the applicant for licensing. The investigation shall include, but shall not be limited to, the following:
- (1) The experience of the applicant in the business of purchase and sale of scrap metal, although nothing in this section shall be construed to warrant denial of a license solely on the basis of lack of experience;
 - (2) The reputation of the applicant for fair dealing in the community, which shall be made among credible sources, which sources shall be disclosed to the applicant in the event of a denial of any license;
 - (3) Any criminal record of the applicant, including any past convictions for any crime(s), disorderly persons offense(s), or municipal ordinance violation(s) within this or any other jurisdiction. The Chief of Police may, as part of the application process, require a fingerprint criminal background check through the Federal Bureau of Investigation, Criminal Justice Information Services Division, which may require an additional fee from the applicant.
 - (4) The type of operation contemplated to be conducted by the applicant, particularly whether the business is to be operated from a fixed location, whether it is to be conducted from a location primarily devoted to the purchase and sale of scrap metal, and other factors bearing on whether the licensed business will be of a fixed and permanent nature. This section shall not be construed to require denial of any license solely on the grounds that the business is not from a fixed location or that the applicant is a transient buyer or itinerant business; however, applicants who fall under the category of a transient buyer or itinerant business must state, with specificity on

the license application, the business address where transaction records required by § 201-44D of this article will be stored, as well as the location where scrap metal goods purchased will be retained during the mandatory inspection period required under § 201-44D.

- B. The Chief of Police shall complete any investigation pursuant to this article within 30 days of the submission of the application to the Municipal Clerk, fully completed by the applicant. If a criminal record check has been requested within the thirty-day period and has not been received by the Chief of Police within that period, the Chief of Police may, if all other factors are satisfactory, recommend a conditional issuance of the license, subject to the finding regarding criminal record.
- C. The Chief of Police shall, upon completion of the investigation, recommend "grant" or "denial" of the license to the Municipal Clerk, who shall grant or deny the license. Any recommendation of the Chief of Police shall be in writing and, in the case of a recommendation of denial, shall state fully and specifically the reasons for said recommendation. If the Municipal Clerk accepts the recommendation of the Chief of Police to deny any license, the applicant shall be notified in writing within 10 days of such denial and the Clerk shall forward to the applicant a statement of the reason or reasons for such denial.
- D. Grounds for recommending denial of license may include reliable information indicating that the applicant has, in the past, engaged in fraudulent or deceptive business practices in a business identical to or similar to a scrap metal business. A license may be denied if the investigation reveals a conviction of the applicant or any of its principal officers or employees of any crime(s), disorderly persons offense(s) in which deceit or misrepresentation is an element; or any conviction of any crime(s), disorderly persons offense involving theft or the receiving of stolen goods, regardless of whether the applicant was a principal, accessory before the fact, after the fact, or a co-conspirator; or any prior municipal ordinance violation(s) by the applicant or any of its principal officers or employees in this or any other jurisdiction. A license may be denied if the applicant fails to demonstrate an ability to satisfactorily comply with the electronic reporting requirements specified in § 201-33, the retention and inspection requirements of § 201-44, or any other portion of this article. Upon receipt of the recommendation of the Chief of Police, the Municipal Clerk shall issue or deny the license accordingly, contingent upon the receipt of a bond as required by § 201-46 of this article.
- E. Whenever any application for a permit is denied, the applicant shall be entitled to a hearing before a three-person panel appointed by the Chief of Police, at which time the applicant shall be permitted to introduce such evidence as may be deemed relevant to such denial. Any applicant exercising the right to appeal must file a written notice of appeal within 10 days of receiving written notice of denial of a license to act as a scrap metal business.
- F. No license shall be assignable by the dealer.

§ 201-43. Identification of seller; recordkeeping requirements for dealers.

For every reportable transaction between a dealer and the public, the dealer shall be required to do as follows:

- A. Require of each member of the public selling scrap metal acceptable identification as defined above in § 201-40.
- B. Require each seller to execute a declaration of ownership, which shall contain the following certification: "My signature confirms that I am the sole legal owner of and am legally authorized to sell the goods being sold. By signing below I certify that I did not obtain and do not possess the identified goods through unlawful means. I am the full age of 18 years and the identification presented is valid and correct."
- C. Record and issue to each person selling scrap metal on a sequentially numbered receipt:
- (1) The name, address, and telephone number of the purchaser, including the clerk or employee of the licensee making the purchase;
 - (2) The name, address, date of birth, and telephone number of the seller or sellers;
 - (3) A photographed recording of the seller in a format acceptable to the Chief of Police, along with a physical description of the seller, including height and weight (approximate), hair color, eye color, facial hair, if any, etc.;
 - (4) A photographed recording of the seller's presented acceptable identification, as set forth in § 201-40 in a format acceptable to the Chief of Police;
 - (5) A photographed recording of all items sold in a format acceptable to the Chief of Police;
 - (6) The receipt number;
 - (7) A full description of the item(s) purchased, including but not limited to the manufacturer, type, amount, form, model, any identifying marks, numbers, dates, sizes, shapes, initials, monograms, and serial numbers;
 - (8) The price paid for the item(s);
 - (9) The make, model and license plate of the motor vehicle delivering the scrap metal;
 - (10) The time and date of the transaction.
- D. The information outlined in Subsection C above must additionally be documented through the use of an electronic database software system authorized by the Chief of Police. Installation and training in this software will be made mandatory as of the effective date of this article and licensing will be conditional upon compliance with proper use of the system as described herein. These records shall be subject to the inspection of any authorized police officer or any sworn law enforcement officer acting in the performance of their duty as set forth in Subsection F below. Through the use of applicably required computer equipment, and using the electronic format approved by the Chief of Police, every dealer shall enter all reportable transactions into the electronic database by the end of the close of business on the same date as the purchase. The information entered must contain all pertinent information outlined in Subsection C above.
- E. In the event of a database failure, or dealer's computer equipment malfunction, all transaction information is required to be submitted on paper forms approved by the Chief of Police within 24 hours from the date of purchase. In the event that paper forms are used, the dealer is responsible to enter all transaction information set forth in Subsection

C above into the database as soon as possible upon the dealer's equipment being repaired or replaced, or the database coming back into service. Failure by the dealer to properly maintain computer equipment in a reasonable fashion or failure by the dealer to replace faulty computer equipment may result in the dealer being cited for a violation of this article and subsequently being subject to the penalties for doing so, including revocation of the dealer's license as described in § 201-44.

- F. It shall be the requisite duty of every dealer, and of every person in the dealer's employ, to admit to the premises during business hours any member of the Police Department to examine any database, book, ledger, or any other record on the premises relating to the reportable transactions of scrap metal, as well as the articles purchased and, where necessary, relinquish custody of those articles as provided in § 201-44. Itinerant businesses and transient buyers will be responsible for notifying the Chief of Police of the address where records and articles will be stored.
- G. For all reportable transactions between a dealer and a member of the public, the dealer may only accept delivery of scrap metal for purchase by motor vehicle and the license plate of the motor vehicle must be recorded as provided in Subsection C above.
- H. No scrap metal business shall, except as provided in Subsection I below, purchase:
- (1) Any metal marked with identification of a telephone, cable, electric, water, other public utility, or other government entity;
 - (2) Any utility access or water meter cover;
 - (3) Any street light pole or fixture;
 - (4) Any road or bridge guard rail;
 - (5) Any highway or street sign, traffic directional or control sign, or light signal;
 - (6) Any metal beer keg that is clearly marked as being the property of the beer manufacturer;
 - (7) Any historical marker, grave marker, or burial vase;
 - (8) Any central air conditioner evaporator coils or condensers or catalytic converters that are not attached to a vehicle; or
 - (9) Any metal bleachers or benches.
- I. The provisions of Subsection H shall not apply to purchases of scrap metal from entities who manage such metal in the ordinary course of business. These entities include manufacturing, industrial, government, contractor, individual, or other commercial vendors or scrap metal businesses that generate or purchase or process scrap metal in the ordinary course of business.

§ 201-44. Retention; suspension and revocation; other restrictions.

- A. All scrap metal purchased by a dealer in a reportable transaction are to be made available for inspection by the Chief of Police or designee thereof at the designated business address for a period of at least 14 calendar days from the date the transaction information is actually reported to the Chief of Police in the approved manner described above in § 201-43. All

scrap metal subject to inspection must remain in the same condition as when purchased and shall not be sold, disposed of, changed, modified, or melted by the dealer until the fourteen-day retention period has expired. Itinerant businesses and transient buyers will be responsible for notifying the Chief of Police of the location where the purchased scrap metal is being held.

- B. Upon probable cause that goods held by a dealer are stolen, and providing that the seller signed the mandatory statement required by § 201-43B upon the sale of those goods, a law enforcement officer with jurisdiction should charge the seller with theft by deception under N.J.S.A. 2C:20-4 on behalf of the dealer, who shall be considered the victim of the offense for the purposes of N.J.S.A. 2C:43-3. The officer shall seize the goods, provide the dealer with a receipt, and issue a criminal complaint against the seller for theft by deception and any other criminal charges for which the officer has probable cause that the seller has committed. If convicted of theft by deception and if so found by an order of a court of valid jurisdiction, the seller will be responsible for providing restitution to the dealer under N.J.S.A. 2C:44-2 for the amount paid by the dealer to the seller for the stolen goods.
- C. If market conditions would create a hardship on the dealer by holding scrap metal for such period, the dealer may present the property to the Chief of Police in order that it may be photographed and, if deemed necessary by the Chief of Police, an investigation may be implemented. The Chief of Police shall have the authority to grant the dealer a waiver of the requirement under this section.
- D. In addition to all other reporting requirements, every dealer shall maintain for at least five years a written record of all purchases of scrap metal in the manner prescribed in § 201-43C.
- E. No dealer shall purchase any item covered by this article from any person under the age of 18 or in the absence of providing prior notification of such purchase to the Chief of Police or business designee identifying the individual from whom such purchase is to be made and the item to be purchased.
- F. Suspension. The Chief of Police or a designee thereof is hereby empowered to temporarily suspend for cause any dealer's license and rights to operate thereunder. This penalty shall be in addition to any fines and penalties the dealer may incur pursuant to § 201-47 of this article.
 - (1) Grounds for suspension. The following shall constitute grounds for suspension: violation of any provisions of this article, including failure to comply with any training or fees associated with the electronic database software system in use by the municipality; violation of any other statute, regulation, or local ordinance; or any other illegal, improper, or fraudulent activity.
 - (2) Procedure for suspension. Upon determination that appropriate grounds exist and that a suspension is warranted, the Chief of Police or a designee thereof shall issue a written notice of suspension of license to the offending dealer and to the Municipal Clerk, which shall set forth the grounds for the suspension and notify the dealer of his or her right to appeal, pursuant to Subsection H. A temporary suspension shall issue immediately, pending the outcome of any appeal taken. Suspended dealers must immediately cease all purchasing and/or selling of scrap metal in the municipality until reinstatement.

- (3) Reinstatement. Suspended dealers may be reinstated only when the grounds leading to the suspension have, in the determination of the Chief of Police or the Chief's designee, been cured, corrected, or appropriately rectified; or if reinstatement is deemed appropriate by the three-person panel appointed by the Chief of Police, upon the timely filing of an appeal as provided in Subsection H.
- G. Revocation. A license issued under this article may be revoked by the Municipal Clerk upon written recommendation from the Chief of Police or the Chief's designee that the dealer is no longer qualified, capable or competent to comply with the requirements of this article. This penalty shall be in addition to any fines and penalties the dealer may incur under § 201-47.
- (1) Grounds for revocation. The following shall constitute grounds for revocation: a third violation under this article; a second violation under this article less than one year after an earlier violation under this article; conviction for a criminal offense within this or any jurisdiction; or multiple violations of any regulations or local ordinances within this or any jurisdiction.
 - (2) Procedure for revocation. Upon a determination that appropriate grounds exist and that a revocation is warranted, the Chief of Police or the Chief's designee shall so report to the Municipal Clerk in writing. A temporary suspension will immediately and automatically issue, if one is not already in effect, pending the outcome of the charge. A three-person panel appointed by the Chief of Police shall review the stated grounds for revocation and the panel shall issue an appropriate disposition of either suspension, revocation, or reinstatement. If the panel determines that revocation is the appropriate disposition, it shall set forth the grounds for the same, in writing, in the form of a notice of revocation, which shall be provided to the dealer. The notice shall advise the dealer of the right to appeal. If the panel determines that suspension is the appropriate disposition, it shall provide the dealer with a notice of suspension that shall advise the dealer of the right to appeal. Following revocation, the dealer must relinquish his or her license and must immediately and indefinitely cease operating a scrap metal business within the municipality.
- H. Appeal. Any applicant wishing to appeal an issuance of a suspension or revocation shall be entitled to a hearing before a three-person panel, appointed by the Chief of Police, at which time the applicant shall be permitted to introduce such evidence as may be deemed relevant to such suspension or revocation. Any applicant exercising the right to appeal must file a written notice of appeal within 10 days of receiving written notice of revocation or suspension of license.
- I. A dealer shall have the right to change the location of the licensed business, provided that he or she notifies the Municipal Clerk, in writing, of the street address of said new location.

§ 201-45. Bond.

Each dealer covered under this article shall deliver a bond to the Municipal Clerk executed by the applicant as principal and executed by a surety company authorized to do business under the laws of the State of New Jersey as surety. The bond shall be subject to review and approval by the Municipal Attorney, as defined in N.J.S.A. 40A:9-139, and shall be in the penal sum of \$10,000, conditioned for the due and proper observance of and compliance with the provisions and requirements of all ordinances of the municipality in force or which may be adopted respecting

the conduct of this business and conditioned also that the bond shall be and remain for the benefit of any person or persons who shall have received judgment against the dealer licensed under this article, which damage shall be established by a judgment of a court of proper jurisdiction. Said bond shall contain the following language: "The obligation of this bond shall, in addition to the [party municipality], be and remain for the benefit of any person who shall obtain a judgment against obligor as a result of damage sustained in operation pursuant to any license granted under this article." Said bond shall be kept for a minimum of one year from the date of issuance of license and must be renewed annually along with the license.

§ 201-46. Fees; period of license validity.

A nonrefundable fee for initial application and license for an operator of a scrap metal business, as covered under this article, is \$300. The annual renewal fee for a license is \$250. These fees are separate from, and in addition to, any fees the dealer will be required to pay in relation to the mandatory electronic database system designated by the Chief of Police, as provided by § 201-43D of this article. Payments are to be made in the manner directed by the Municipal Clerk. A license is valid for a one-year period from the date of its issuance.

§ 201-47. Violations and penalties.

Violation of any provision of this article by any dealer shall, upon conviction thereof, be punished by a fine not in excess of the limitations of N.J.S.A. 40:49-5 or by a term of imprisonment or a period of community service not exceeding 90 days, in addition to a suspension or revocation of operating license as provided in § 201-44F and G above. Each and every violation shall be considered a separate violation. Each violation shall result in an additional suspension period. Any person who is found guilty of violating the provisions of this article within one year of the date of a previous violation and who was fined for the previous violation may be sentenced by the court to an additional fine as a repeat offender and, in addition, may be subject to revocation proceedings as provided in § 201-44G. The additional fine imposed as a repeat offender shall not be less than the minimum or exceed the maximum fine provided herein, and the same shall be calculated separately from the fine imposed for the violation of this article.

§ 201-48. Time limit for conformance; repealer; severability.

- A. Any person, partnership, limited-liability company, corporation, or other entity engaging in the scrap metal business shall conform to the provisions of this article within 90 days following the effective date of this article.
- B. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.
- C. Nothing contained in this article is intended to replace any preexisting statutory requirements governing scrap metal businesses, as in N.J.S.A. 45:28-1 et seq., or any other statutory provision regarding any subject matter discussed herein.
- D. If any section, subsection, sentence, clause, phrase, or portion of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Chapter 204

PEDDLING AND SOLICITING

GENERAL REFERENCES

Handbills — See Ch. 193.

ARTICLE I
General Provisions

[Adopted 6-16-1975 by Ord. No. 14-1975; amended in its entirety 9-20-1982 by Ord. No. 3-1982]

§ 204-1. Definitions.

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

CHARITABLE — Includes the words "patriotic," "philanthropic," "social service," "welfare," "benevolent," "educational," "civic" and "fraternal," either actual or purported.

CHIEF OF POLICE — Includes the Chief of Police or the commanding officer in charge of the Tuckerton Police Department in the absence of the Chief of Police.

CONTRIBUTIONS — Includes the words "alms," "food," "clothing," "money," "subscriptions," "property" and "donation" under the guise of a loan or money or property.

ITINERANT SALESMAN AND VENDOR — Any person, firm or corporation, whether as owner, agent, consignee or employee, who engages in the business of selling and delivering goods, wares and merchandise within the municipality and who, in furtherance of such purpose, temporarily hires, leases, uses or occupies any building, structure, motor vehicle, tent or any street, alley or other place within the municipality for the exhibition, offer for sale or sale of such goods, wares and merchandise of any description whatsoever. For the purpose of this article, the term "itinerant salesman and vendor" shall include transient merchants, hawkers, peddlers and salesmen and their agents, servants, employees or representatives, who do not have or own any retail shop or permanent place for said business within the municipality, provided that such definition shall not be construed so as to include residential garage or yard sales.**[Amended 6-2-1986 by Ord. No. 17-1986]**

PERSON — Any individual, firm, association, corporation, partnership, society or organization, or any agent, employee or representative thereof.

RELIGIOUS and RELIGION — Does not include the word "charitable" as herein defined, but shall be given their commonly accepted definitions.

SOLICIT and SOLICITATION — The request, directly or indirectly, for money, credit, property, financial assistance or other thing of value on the representation that such money, credit, property, financial assistance or other thing of value will be used for a charitable or religious purpose.

§ 204-2. Permit required.

It shall be unlawful for any person, as an itinerant salesman or vendor, to sell, offer for sale or cause to be sold or offered for sale within the corporate limits of the Borough of Tuckerton any goods, wares or merchandise of any kind whatsoever or to solicit funds, subscriptions or contributions, except as herein particularly allowed, without first having applied for and obtained a permit for such purpose.

§ 204-3. Exceptions.

This article is intended to particularly exclude wholesalers, holders of special privileges and all the persons exempted by operation of law.

§ 204-4. Application for permit.

- A. An application for a permit as required in § 204-2 hereof shall be made to the Chief of Police upon forms provided by the Borough of Tuckerton. Such application shall be sworn to and filed with said Chief of Police and shall contain any and all information which the Chief of Police may deem reasonable and necessary pertaining to the applicant and to the goods, wares and merchandise intended to be sold or offered for sale or to the organization or institution for which any solicitation is to be made, and shall include the name and address or headquarters or place of business of the person or persons applying for the permit, and if said applicant is not an individual, then the names and addresses of the applicant's principal officers and managers, a description of the goods, wares and merchandise to be sold or the purpose for which the solicitation is being made and, if the application is for a permit to solicit, the name and address of the person or persons who will be in direct charge of conducting the solicitation, which person or persons shall be resident in the Borough of Tuckerton, and the names of all the promoters connected or to be connected with the proposed solicitation, the sales or solicitation method or methods to be used and, if solicitation, the time when such solicitation shall be made, giving the dates for the beginning and ending of such solicitation. In addition, the applicant shall submit two letters of recommendation to the Chief of Police concerning the applicant's moral character.
- B. At the time of filing the application, a fee of \$50 shall be paid to the Borough Clerk to cover the cost of the investigation of the facts stated therein.

§ 204-5. Investigation of applicant; issuance or denial of permit.

- A. Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.
- B. If as a result of such investigation the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and return said application to the Borough Clerk, who shall notify the applicant that his application is disapproved and that no permit and license will be issued.
- C. If as a result of such investigation the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return said permit, along with the application, to the Borough Clerk who shall, upon payment of the prescribed license fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such soliciting or canvassing. The Clerk shall keep a permanent record of all licenses issued.

§ 204-6. Issuance and display of badges and ribbons.

- A. The Borough Clerk shall issue to each licensee at the time of delivery of his license a badge which shall contain the words "licensed solicitor" or "peddler," the period for which the

license is issued and the number of the license, in letters and figures easily discernible from a distance of 10 feet. Such badge shall, during the time such licensee is engaged in soliciting, be worn constantly by the licensee on the front of his outer garment in such a way as to be conspicuous.

- B. In the case of solicitation, the charitable or religious organization shall supply its agents, representatives or employees with a badge or ribbon containing the name of such organization and the name of said agent, representative or employee; said badge or ribbon shall be worn and conspicuously displayed on the front of the clothing of such agent, representative or employee. Said badge or ribbon shall be of sufficient size to be easily discernible from a distance of 10 feet.

§ 204-7. Permit fees; expiration of permit; hours of sale.

- A. For each permit to sell any goods, wares or merchandise, the applicant shall pay to the Borough of Tuckerton the sum of \$15, and said permit shall expire December 31 next ensuing the date of issuance.
- B. For each permit to solicit funds or subscriptions for any duly-established and recognized charitable or religious organization or institution, the applicant shall not be required to pay, but such permit shall expire not more than 40 days next ensuing the date of issuance.
- C. No such permit shall be effective for more than one person and one vehicle, but duplicate permits may be issued in like manner for an additional fee of \$15 for each additional person who will sell any goods, wares or merchandise, and an additional \$15 for each additional vehicle being used in the sale of said goods, wares or merchandise. No rebate shall be allowed from any fee herein specified for a term less than one year.
- D. No selling or soliciting shall be permitted except between the hours of 9:00 a.m. and 5:00 p.m. from October 1 through April 30, inclusive, and between the hours of 9:00 a.m. and 7:00 p.m. from May 1 through September 30, inclusive, provided that home deliveries of milk, bread and the like shall not be circumscribed hereby; provided, further, that trucks peddling coffee, doughnuts and similar items to work sites shall not be limited to the hours herein provided. Any local service organization located in the Borough of Tuckerton or in the surrounding municipalities may be exempted from the time limitations set forth herein by making application to the Borough Council requesting such an exemption, setting forth the proposed hours for selling or soliciting and setting forth the reasons therefor. Upon majority vote of the Borough Council, said local service organization shall be permitted to sell or solicit within the Borough of Tuckerton in accordance with the time limits prescribed by the Borough Council.

§ 204-8. Time limit for grant or denial of permit; appeals.

An application for a permit shall be granted or denied within five days from the date that said application is submitted to the Chief of Police, and in the event of denial, the Borough Clerk shall notify the applicant by certified mail, setting forth the reasons for denial. Within five days thereafter the applicant may file with the Borough Council a written request for a hearing on said application, together with written exceptions to the findings of fact upon which the Chief of Police based his denial of the application. On the filing of such a request, the Borough Council shall fix a time and place for a hearing and shall notify the applicant thereof, which hearing shall be held within 10 days after the request is filed. Within 10 days after the conclusion of the

hearing, the Borough Council shall make its decision whether to issue or sustain the denial of said permit.

§ 204-9. Suspension or revocation of license.

Any permit which may have been issued may be revoked and canceled by the Chief of Police on a showing that any of the provisions of this article have been violated or for other good cause. Upon learning of the alleged violation of any provisions of this article, or for other good cause, the Chief of Police shall immediately suspend the permit and give the holder thereof written notice by certified mail of a hearing to be held by him within five days of such suspension to determine whether or not the permit should be revoked and canceled. The notice shall contain a statement of the facts upon which the Chief of Police has acted in suspending the permit. If, after such hearing, the Chief of Police finds that the article has been violated or other good cause exists, he shall, within five days after the hearing, revoke the permit and give the holder thereof written notice of said revocation and the reasons therefor; or in the absence of such finding, the holder shall be notified within five days in writing of the termination of the suspension of the permit. In addition, any permit which may have been issued may be revoked and canceled for a violation of said article or on good cause shown on a majority vote of the Borough Council at any regular or special meeting thereof after five days' written notice to the permit holder and upon affording said holder an opportunity to be heard with respect to the reasons for such revocation and cancellation.

§ 204-10. Violations and penalties.

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of not more than \$500 or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

ARTICLE II

**Charitable Solicitations on Roadways
[Adopted 8-3-2015 by Ord. No. 12-2015⁶⁹]****§ 204-11. Solicitation permitted.**

The Borough of Tuckerton shall permit the Borough Volunteer Fire Department to solicit contributions in roadways situate in the Borough of Tuckerton.

§ 204-12. Application permit.

If the Tuckerton Volunteer Fire Department desires to solicit contributions in roadways situate in the Borough of Tuckerton, it shall file an application for a permit with the Tuckerton Borough Clerk on a form supplied by the Borough Clerk specifying the following information:

- A. Name of applicant organization;
- B. Address of applicant organization;
- C. Telephone number of applicant organization;
- D. Contact person of applicant organization;
- E. Specific location or location of proposed charitable solicitation;
- F. Dates and times of proposed charitable solicitation;
- G. If said request pertains to a location or locations on any county highway, or intersection of a county highway, said application shall include a copy of an authorization from the Ocean County Board of Chosen Freeholders to permit said charitable solicitation;
- H. If said request pertains to a location or locations on any state highway, or intersection of a state highway, said application shall include a copy of an authorization from the Commissioner of the Department of Transportation of the State of New Jersey to permit said charitable solicitation; and
- I. Identify the manner in which the motorist solicitation will be conducted and the procedures to be used to ensure the safety of the members of the public who will be traveling the roadways situate in the Borough of Tuckerton.

§ 204-13. Review of application by Borough Council; issuance of permit.

Upon the filing of a complete application in accordance with the provisions of this article, the Borough Clerk shall present same to the Borough Council at the next regular meeting of the Tuckerton Borough Council or as soon thereafter as the matter may be reached for its review and consideration, after which the Borough Council shall grant or deny the applicant's request. In the event the Borough Council grants the applicant's request, the Borough Clerk shall issue a permit to the applicant which shall be subject to the representations contained in the applicant's application and any conditions imposed by the Borough Council.

69. Editor's Note: This ordinance was adopted as Ch. 170, but was redesignated to maintain the organization of the Code.

§ 204-14. Solicitation by minors prohibited.

In no event shall any permitted entity requesting authorization from the Borough Council for said charitable solicitation use any individual under the age of 18 years of age to perform any function or task associated with said charitable solicitation in any roadway.

§ 204-15. Compliance with state regulations.

The permitted entity shall comply with all of the terms and conditions of N.J.S.A. 39:4-60, as amended by P.L. 1997, Chapter 82, approved April 30, 1997.

§ 204-16. Violations and penalties.

Any person or organization who shall violate any of the provisions of this article shall pay, upon conviction, a penalty not to exceed \$100.

§ 204-17. Borough liability.

Notwithstanding any provision of law to the contrary, the Borough of Tuckerton shall not be liable in any civil action for damages for property damage or personal injury resulting from a motor vehicle accident arising from or out of or in the course of roadway solicitations for the purpose of soliciting contributions, conducted by charitable organizations as defined pursuant to N.J.S.A. 45:1:7A-20.

Chapter 210

PROPERTY MAINTENANCE

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 103.

Littering — See Ch.193.

Unfit buildings — See Ch.115.

Solid waste — See Ch. 223.

Bulkhead maintenance — See Ch. 118, Art. II.

Weed control — See Ch. 252.

ARTICLE I

Storage on Property

[Adopted 6-16-1975 by Ord. No. 15-1975; amended in its entirety 6-7-1999 by Ord. No. 6-1999]

§ 210-1. Purpose.

The purpose of this article is to secure the citizens and residents of the Borough of Tuckerton from fire, panic and other dangers; to promote the health and the general welfare; to conserve the value of property; and to keep the Borough of Tuckerton free of any matter which would be unsightly or objectionable or which would tend to detract from the aesthetic appearance of the municipality.

§ 210-2. Definitions.

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

COLLECT — To gather, accumulate or bring together into one body or place.

DEBRIS — The trash, rubbish or waste from demolition work, construction work, renovations or ruins.

GARAGE — A building, structure or space within a dwelling house which provides for the storage of motor vehicles and in which no occupation, business or service for profit is carried on.

GATHER — To collect, accumulate or bring together into one body or place.

JUNK — Any worn-out, cast-off or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some use.

LEAVE — To allow or cause to remain unremoved any article or material.

MAINTAIN — To continue to keep possession of any article or material.

MOTOR VEHICLE — Includes all vehicles propelled otherwise than by muscular power.

PARK — To remain standing or halted in a fixed position.

PRIVATE LANDS — Any lands and premises which are not open to the public.

PUBLIC LANDS — Any lands and premises, the possession and use of which are vested in the public.

RUBBISH — Any article or material which is rejected, refused, useless or worthless.

STORE — To gather, accumulate, collect or bring together into one body and keep in one place.

TRASH — Any kitchen waste, food waste, including condemned foods, animal or vegetable matter, offal, decaying and decomposing matter, ashes, wastepaper and paper products, tin cans, bottles, rags, glass, leaves, grass, yard cuttings, branches, discarded trees or shrubs or old household items, such as beds, springs, mattresses, chairs, tables, stoves, refrigerators, items of furniture and other customary household waste.

WASTE MATERIAL — Any article or material which is not fit for its intended use.

§ 210-3. Storage and collection of certain articles prohibited.

It shall be unlawful for any person or persons, firm or corporation to allow to gather, store, maintain or collect on any private or public lands and premises within the Borough any debris, junk, trash, rubbish, waste material or any other articles deemed to be unsightly, objectionable or which tend to detract from the aesthetic appearance of the surrounding area.

§ 210-4. Storage of motor vehicles.

- A. Storage prohibited. No person shall store or permit to be stored upon any lands within the Borough any motor vehicle which does not have attached thereto registration plates authorizing the operation of the vehicle upon the public streets and highways, unless the motor vehicle is garaged. For the purpose of this section, "store" and "stored" shall mean keeping a motor vehicle upon any lands for a period of more than 60 days.
- B. Service stations. A service station operating within the Borough may store motor vehicles for a period not to exceed one year after the expiration of the motor vehicle registration of the vehicles, provided that vehicles so stored are registered with the Police Department.

§ 210-5. Administration and enforcement.

The provisions of this article shall be administered and enforced by the Code Enforcement Officer of the Borough of Tuckerton. It shall be the duty of the Code Enforcement Officer to receive and investigate any and all complaints which are reported, in writing, either by the Mayor and Borough Council or by the general public. The Code Enforcement Officer shall, in writing, order the abating or remedying of any condition found to exist in violation of any provisions or requirements of this article.

§ 210-6. Right of entry.

The Code Enforcement Officer shall have the right to enter on or upon any lands and premises during the daytime in the course of his duties.

§ 210-7. Notice of violation.

When written notice of a violation has been served by the Code Enforcement Officer upon the person or persons, firm or corporation in possession of said lands and premises, such violation shall be discontinued immediately.

§ 210-8. Extension of time for remedying violation.

If the person or persons, firm or corporation violating the provisions of this article genuinely intends to abate or remedy the prohibited condition existing on the lands and premises, the Code Enforcement Officer, in his discretion, may grant an extension of 10 days in which the prohibited condition may be abated or remedied. The extension of time shall be given to the person or persons, firm or corporation in writing, setting forth the date upon which the prohibited condition must be abated or remedied.

§ 210-9. Violations and penalties.

Any person or persons, firm or corporation who or which shall violate this article or any of its provisions shall, upon conviction, be punished either by imprisonment in the county jail for a term not exceeding 90 days or by a fine not exceeding \$1,000, or both, in the discretion of the court. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this article.

ARTICLE II

Fences**[Adopted 4-20-1992 by Ord. No. 5-1992]****§ 210-10. Permit; regulations.**

- A. Permit required. No fence shall be constructed, erected, relocated or replaced without the issuance of a fence permit from the Borough Code Enforcement Official. A fee of \$50 shall be charged at the time of application, and a survey of the property in question in a form acceptable to the Code Enforcement Official must be presented showing the location and type of fencing proposed to be erected. **[Amended 2-16-2016 by Ord. No. 5-2016]**
- B. Location requirements.
- (1) Fences shall be permitted accessory in all zoning districts in the Borough.
 - (2) All fences shall be erected and located at least six inches inside of the property line of the property upon which they are to be placed; except that a fence may be erected and located fewer than six inches from the property line with the express written consent of the affected adjoining property owner, which shall be memorialized in a boundary line agreement with an attached survey, which shall be recorded in the Ocean County Clerk's Office and a copy provided to the Code Enforcement Official. **[Amended 2-16-2016 by Ord. No. 5-2016]**
 - (3) No fence shall encroach upon any public right-of-way, public easement, public property or private property other than the property which it is intended to serve.
 - (4) No fences shall be erected or located between buildings or properties in such a manner so as to impair or impede emergency vehicles or operations.
- C. Height restrictions. **[Amended 9-5-2001 by Ord. No. 17-2001]**
- (1) Open fencing, having consistent density of no greater than 50% (so as to allow 50% of light and view through), shall not exceed six feet in height when erected and located in the rear or side yards at or behind the front building line, nor four feet in height when erected and located in the side or front yards forward of the front building line. All other more solid fencing shall not exceed six feet in height and shall not be permitted to be erected or located forward of the front building line. **[Amended 5-2-2016 by Ord. No. 10-2016]**
 - (2) All fences erected or located in residential zoning districts upon property adjoining or abutting a lagoon, creek, waterway, bay or other body of water shall consist of open fencing having consistent density of not greater than 45% (so as to allow 55% of light and view through), not more than five feet in height when erected and located in the rear or side yards at or behind the front building line nor four feet in height when erected and located in the side or front yards forward of the front building line.
 - (3) On corner properties, fences forward of the building lines on both intersecting streets shall have a fifty-percent density, shall not exceed four feet in height and shall meet the requirements of § 210-10E. **[Amended 5-2-2016 by Ord. No. 10-2016]**
- D. Structural limitations.

- (1) All fences shall be constructed with the face or finish side toward the exterior of the property, with the structural supports toward the interior of the fence and property upon which it is constructed.
 - (2) No fence shall be constructed with barbed wire, canvass cloth, sharp points, electrified parts or any other dangerous or hazardous members, nor shall any fence be constructed of collapsible or expandable material.
 - (3) Fences shall be constructed in a proper manner so as to permit the free flow of natural drainage, without blocking, obstructing, damming or ponding surface water on any contiguous or adjoining area.
 - (4) Every fence shall be maintained in a safe, sound and upright condition. If any fence or portion of fence is not being so maintained, the owner shall be notified, in writing, to repair or remove such fence within 30 days of the date of the written notice.
 - (5) No fence shall be permanently attached to an existing structure, but rather all fences must be terminated at a post.
- E. Visibility at intersections. No solid fence, wall, hedge or other structure or planting more than 2 1/2 feet in height shall be erected or located within the triangular area formed by the intersecting street lines and a straight line adjoining said street lines at points which are 25 feet distant from the point of intersection measured along said street lines.
- F. Variance. Any interested party seeking relief from the requirements of this section may apply for a variance therefrom in accordance with the land use procedures established by this Code and the Municipal Land Use Law.⁷⁰

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

ARTICLE III
International Property Maintenance Code
[Adopted 11-17-2008 by Ord. No. 11-2008]

§ 210-11. through § 210-14. (Reserved)

§ 210-15. Adoption of code by reference.

The applicable provisions of the International Property Maintenance Code, 2006 edition, as published by the International Code Council, and all terms contained therein, except such portions as are hereinafter deleted, modified, changed or amended, are hereby adopted and incorporated as fully as if they were set forth at length herein.

§ 210-16. Amendments to Code.

The following sections of the International Property Maintenance Code, 2006 edition, are hereby revised:

- A. Section 101.1. Insert "Borough of Tuckerton," replacing "[Name of Jurisdiction]."
- B. Section 102.3. Delete all text and insert: "A repair, renovation, alteration, reconstruction, change of use, and addition to all existing buildings and structures and their service equipment shall be done in accordance with the procedures and provisions of the Land Use and Building ordinances of the Borough of Tuckerton. Any building or portion thereof that has not been occupied shall not be considered existing, and all requirements for new construction in Land Use and Building ordinances of the Borough of Tuckerton shall apply."
- C. Section 103.5 shall be revised to insert: "the Borough Code of the Borough of Tuckerton," replacing "APPROPRIATE SCHEDULE."
- D. Section 108.1, regarding unsafe structures, shall be revised to insert at the end of the paragraph: "No provision of this Code shall be more restrictive or in conflict with the provisions of New Jersey Administrative Code 5:23-2.32, Unsafe structures."
- E. Section 201.3. Delete all text after "Terms defined in other codes" and insert: "Where terms are not defined in this code and are defined in the appropriate subcode as adopted and amended by New Jersey Administrative Code (N.J.A.C.) 5:23-3, or the rehabilitation subcode as adopted in New Jersey Administrative Code 5:23-6, or Borough Code of the Borough of Tuckerton, such terms shall have the meanings ascribed to them as stated in those codes."
- F. Section 302.4 shall be revised to insert "10 inches," replacing "height in inches."
- G. Section 304.14 shall be revised to insert "May 1 to October 1," replacing "[DATE]" in two locations.
- H. Section 401.3 shall be revised to delete "International Building Code" and insert "building subcode as adopted and amended by New Jersey Administrative Code 5:23-3.14."
- I. Section 505.1 shall be revised to delete "International Plumbing Code" and insert "plumbing subcode as adopted and amended by N.J.A.C. 5:23-3.15."

- J. Section 602.2 shall be revised to delete "the winter outdoor design temperature for the locality indicated in Appendix D of the International Plumbing Code" and insert "the exterior design conditions indicated in Table 301.1 of the Energy Subcode as adopted and amended by the New Jersey Administrative Code 5:23-3.18."
- K. Section 602.3 shall be revised to insert "October 1" and "May 1," replacing [DATE] in two locations.
- L. Section 602.3, Exception 1, shall be revised to delete "The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code" and insert "The exterior design conditions shall be indicated in Table 301.1 of the Energy Subcode as adopted and amended by the New Jersey Administrative Code 5:23-3.18."
- M. Section 602.4 shall be revised to insert "October 1" and "May 1," replacing [DATE] in two locations.
- N. Section 604.2 shall be revised to delete "ICC Electrical Code" and insert "electrical subcode as adopted and amended by New Jersey Administrative Code 5:23-3.16."
- O. Section 702.1 shall be revised to delete "International Fire Code" and insert "fire subcode and the building subcode as adopted and amended by New Jersey Administrative Code 5:23-3.17 and New Jersey Administrative Code 5:23-3.14 and the Uniform Fire Code as adopted by New Jersey Administrative Code 5:70."
- P. Section 702.2 shall be revised to delete "International Fire Code" and insert "fire subcode and the building subcode as adopted and amended by New Jersey Administrative Code 5:23-3.17 and New Jersey Administrative Code 5:23-3.14 and the Uniform Fire Code as adopted by New Jersey Administrative Code 5:70."
- Q. Section 702.3 shall be revised to delete "International Fire Code" and insert "fire subcode as adopted and amended by New Jersey Administrative Code 5:23-3.14."
- R. Section 704.1 shall be revised to delete "International Fire Code" and insert "fire subcode as adopted and amended by New Jersey Administrative Code 5:23-3.14."
- S. Section 704.2 shall be revised to delete "International Fire Code" and insert "fire subcode as adopted and amended by New Jersey Administrative Code 5:23-3.17."

§ 210-17. Fire safety requirements.

A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Appropriate fire access, defined as an area 23 feet wide by 15 feet high, shall be maintained in the exterior premises of all properties. Said fire access shall take into account all natural and unnatural potential obstructions, including but not limited to tree limbs, utility wires and lighting fixtures. Said access is necessary to provide geometry suitable for circulation by a Township fire vehicle, such as a B-40 vehicle, as contained within the AASHTO design manual.

§ 210-18. Copies of code on file.

Three copies of the printed code have been placed on file in the office of the Borough Clerk for the use and examination of the public.

§ 210-19. Violations and penalties.

- A. Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of not more than \$1,250, by imprisonment for a term not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.
- B. The violation of any provision of this article shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 214

RENTAL PROPERTY

GENERAL REFERENCES

Mobile home parks — See Ch. 196.

Peace and good order — See Ch. 201.

ARTICLE I

Seasonal Rental Dwellings**[Adopted 9-18-2000 by Ord. No. 14-2000]****§ 214-1. Purpose.**

To preserve the peace and tranquility of the Borough of Tuckerton for its permanent residents, and to maintain its viability as a vacation spot not only for citizens of this state, but also for persons and families from far and near whom the beauties and pleasures of the Borough of Tuckerton have historically attracted, it is necessary and desirable that the Borough of Tuckerton have adequate means to curb and discourage those occasional excesses arising from irresponsible seasonal rentals. Accordingly, it is the purpose of this article to enable the Borough of Tuckerton to take effective action to assure that excesses, when they occur, shall not be repeated, and that landlords offering seasonal rentals be held to sufficient standards of responsibility.

§ 214-2. Definitions.

For the purpose of this article, the terms used herein are defined as follows:

HEARING OFFICER — A person designated pursuant to § 214-5A to hear and determine proceedings under this article.

LANDLORD — The person or persons who own or purport to own any building in which there is rented or offered for rent housing space for living or dwelling under either a written or oral lease, including but not limited to any building subject to the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-12 et seq., and owner-occupied two-unit premises. In the case of a mobile home park, "landlord" shall mean the owner of an individual dwelling unit within the mobile home park.

SEASONAL RENTAL — Any rental of residential accommodations for a term of less than one year and including any part of the period extending from May 15 to September 15.

SUBSTANTIATED COMPLAINT — A complaint which may form the basis for proceedings in accordance with this article.

§ 214-3. Complaints.

If in any one year three complaints, on separate occasions, of disorderly, indecent, tumultuous or riotous conduct upon or in proximity to any seasonal rental premises, and attributable to the acts or incitements of any of the tenants of those premises, have been substantiated by prosecution and conviction in any court of competent jurisdiction, the Mayor and Borough Council, or any officer or employee of the Borough of Tuckerton designated by the Mayor and Borough Council for this purpose, may institute proceedings to require the landlord of those premises to post a bond against the consequences of future incidents of the same character in accordance with the provisions of this article.

§ 214-4. Notice requirements.

The Mayor and Borough Council, or person designated pursuant to § 214-3 of this article, shall cause to be served upon the landlord, in person or by registered mail to the address appearing on the tax records of the municipality, notice advising of the institution of such proceedings, together with particulars of the substantiated complaints upon which those proceedings are

based, and of the time and place at which a hearing will be held in the matter, which shall be in the Municipal Building, Municipal Court, or other public place within the Borough of Tuckerton, and which shall be no sooner than 30 days from the date upon which the notice is served or mailed.

§ 214-5. Hearings.

- A. Hearings and decisions held and made under this article are to be conducted and decided by a licensed attorney of the State of New Jersey who shall not be an owner or lessee of any real property within the Borough of Tuckerton nor hold any interest in the assets of or profits arising from the ownership or lease of such property.
- B. At the hearing convened pursuant to § 214-4 of this article, the hearing officer shall give full hearing to both the complaint on behalf of the Borough of Tuckerton and to any evidence in contradiction or mitigation that the landlord, if present or represented and offering such evidence, may present. At the conclusion of the hearing, the hearing officer shall determine whether the landlord shall be required to post a bond in accordance with the terms of this article.

§ 214-6. Posting of bond required.

- A. Any bond required to be posted shall be in accordance with the judgment of the hearing officer, in light of the nature and extent of the offenses indicated in the substantiated complaints upon which the proceedings are based, to be adequate in the case of subsequent offenses to make reparation for:
 - (1) Damages likely to be caused to public or private property and for damages consequent upon disruption of the affected residents' rights of fair use and quiet possession of their premises;
 - (2) Securing the payment of fines and penalties likely to be levied for such offenses;
 - (3) Compensating the municipality for the cost of repressing and prosecuting such incidents of disorderly behavior.
- B. No such bond shall be in an amount less than \$500 nor more than \$5,000.

§ 214-7. Enforcement of bond.

The Borough of Tuckerton may enforce the bond required by action in the Superior Court and shall be entitled to an injunction prohibiting the landlord from making or renewing any lease of the affected premises for residential purposes until that bond or equivalent security, in satisfactory form and amount, has been deposited with the Borough of Tuckerton.

§ 214-8. Term of bond.

A bond or other security deposited in compliance with § 214-6 of this article shall remain in full force and effect for a period of two years. Upon the lapse of the specified period, the landlord shall be entitled to the discharge thereof unless prior thereto further proceedings leading to a forfeiture or partial forfeiture of the bond or other security shall have been had under § 214-9 of this article, in which case, the security shall be renewed in an amount and for a period that shall be specified by the Hearing Officer.

§ 214-9. Extension; forfeiture; increase in bond amount.

- A. If a substantiated complaint is recorded against the property in question during the period for which a landlord is required to give security pursuant to this article, the Mayor and Borough Council, or its designee, may institute proceedings against the landlord for the forfeiture or partial forfeiture of the security, for an extension of the period for which such security is required as provided for in § 214-8 of this article, for an increase in the amount of security required or for any or all of those purposes.
- B. Any forfeiture or partial forfeiture of security shall be determined by the hearing officer solely in accordance with the amount deemed necessary to provide for the compensatory purposes set forth in § 214-6 of this article. Any decision by the hearing officer to increase the amount or extend the period of the required security shall be determined in light of the same factors set forth in § 214-6 of this article and shall be taken only to the extent that the nature of the substantiated complaint or complaints out of which proceedings arise under this article indicates the appropriateness of such change in order to carry out the purpose of this article effectually. The decision of the hearing officer in such circumstances shall be enforceable in the same manner as provided for in § 214-7 of this article.

Chapter 217
SEWER SYSTEM

GENERAL REFERENCES

Hazardous wastes — See Ch. 176.

Water and sewers — See Ch. 249.

Solid waste — See Ch. 223.

ARTICLE I

Improper Disposal of Waste**[Adopted 10-3-2005 by Ord. No. 21-2005]****§ 217-1. Purpose.**

To prohibit the spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system (MS4) operated by the Borough of Tuckerton so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 217-2. Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

DOMESTIC SEWAGE — Waste and wastewater from humans or household operations.

ILLICIT CONNECTION — Any physical or nonphysical connection that discharges domestic sewage, noncontact cooling water, process wastewater, or other industrial waste (other than stormwater) to the municipal separate storm sewer system operated by the Borough of Tuckerton, unless that discharge is authorized under a NJPDES permit other than the Tier A Municipal Stormwater General Permit (NPPDES Permit Number NJ0141852). Nonphysical connections may include, but are not limited to, leaks, flows, or overflows into the municipal separate storm sewer system.

INDUSTRIAL WASTE — Nondomestic waste, including but not limited to those pollutants regulated under Section 307(a), (b), or (c) of the Federal Clean Water Act [33 U.S.C. § 1317(a), (b), or (c)].

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Borough of Tuckerton or other public body and is designed and used for collecting and conveying stormwater.

NJPDES PERMIT — A permit issued by the New Jersey Department of Environmental Protection to implement the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A.

NONCONTACT COOLING WATER — Water used to reduce temperature for the purpose of cooling. Such waters do not come into direct contact with any raw material, intermediate product (other than heat) or finished product. Noncontact cooling water may, however, contain algaecides, or biocides to control fouling of equipment such as heat exchangers, and/or corrosion inhibitors.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

PROCESS WASTEWATER — Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate

product, finished product, by-product, or water product. Process wastewater includes, but is not limited to, leachate and cooling water other than noncontact cooling water.

STORMWATER — Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

§ 217-3. Prohibited conduct.

- A. The spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system operated by the Borough of Tuckerton is prohibited. The spilling, dumping, or disposal of materials other than stormwater in such a manner as to cause the discharge of pollutants to the municipal separate storm sewer system is also prohibited.
- B. No person shall discharge or cause to be discharged through an illicit connection to the municipal separate storm sewer system operated by the Borough of Tuckerton any domestic sewage, noncontact cooling water, process wastewater, or other industrial waste (other than stormwater).

§ 217-4. Exceptions to prohibition.

- A. Waterline flushing and discharges from potable water sources.
- B. Uncontaminated groundwater (e.g., infiltration, crawl space or basement sump pumps, foundation or footing drains, rising groundwaters).
- C. Air-conditioning condensate (excluding contact and noncontact cooling water).
- D. Irrigation water (including landscape and lawn watering runoff).
- E. Flows from springs, riparian habitats and wetlands, water reservoir discharges and diverted stream flows.
- F. Residential car washing water, and residential swimming pool discharges.
- G. Sidewalk, driveway and street wash water.
- H. Flows from fire-fighting activities.
- I. Flows from rinsing of the following equipment with clean water:
 - (1) Beach maintenance equipment immediately following its use for its intended purposes; and
 - (2) Equipment used in the application of salt and deicing materials immediately following salt and deicing material applications. Prior to rinsing with clean water, all residual salt and deicing materials must be removed from equipment and vehicles to the maximum extent practicable using dry cleaning methods (e.g., shoveling and sweeping). Recovered materials are to be returned to storage for reuse or properly discarded.

- (3) Rinsing of equipment, as noted in the above situation is limited to exterior, undercarriage, and exposed parts and does not apply to engines or other enclosed machinery.

§ 217-5. Enforcement.

The article shall be enforced by the Police Department and/or Code Enforcement Officer of the Borough of Tuckerton.

§ 217-6. Violations and penalties.

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of not more than \$1,000 or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

Chapter 220

SITE PLAN REVIEW

GENERAL REFERENCES

Planning Board — See Ch. 45; Art. I.

Streets and sidewalks excavations — See Ch. 229, Art. III.

Building construction — See Ch. 107.

Subdivision of land — See Ch. 231.

Uniform construction codes — See Ch. 132.

Zoning — See Ch. 255.

Landmarks preservation — See Ch. 187.

§ 220-1. Purpose of site development plans.

Site development plans shall be so designed as to enhance the general appearance of the Borough of Tuckerton; to promote the harmonious use of the land; to lessen congestion in the street; to ensure safety from fire, panic and other dangers; to promote health, morals and general welfare; to provide adequate light and air; to prevent the overcrowding of land and buildings; and to encourage development and designs consistent with the purpose of the Zoning Ordinance of the Borough of Tuckerton.⁷¹

§ 220-2. Application for site plan approval; exceptions.

- A. Before application to the Building Inspector for a building permit for the construction of a building or alteration of an existing building other than a one-family dwelling and a two-family dwelling, an application shall be made to the Planning Board for site plan approval. No building permit shall be issued by the Building Inspector unless and until site plan approval shall first have been granted by the Planning Board.
- B. Prior to the issuance of any building permit or certificate of occupancy, as the case may be, for any new building, addition to or alteration of an existing building, except for single- and two-family residences, or any change of use or a use variance obtained for any nonresidential use, a site plan shall be submitted to the Planning Board for its review and approval. Any site plan approval issued by the Planning Board shall be valid for a two-year period unless an extension is granted by the Planning Board. No changes shall be made in any site plan approved by the Planning Board without approval of the change by said Board.
- C. Site plan approval shall not be required for business, commercial or industrial use building renovations and/or alterations when the Building Construction Official determines that said renovations or alterations: **[Added 5-4-1992 by Ord. No. 9-1992]**
 - (1) Will not result in an increase of the existing gross floor area of the building by more than 1,000 square feet. **[Amended 7-6-2015 by Ord. No. 9-2015]**
 - (2) Will not increase the intensity or type of use of the building.

71. Editor's Note: See Ch. 255, Zoning.

- (3) Will not increase the number of required off-street parking spaces.
 - (4) Will conform to the maximum and minimum building standards as set forth by ordinance.
- D. Notwithstanding Subsection C above, any exterior business, commercial or industrial use building renovations or alterations of any existing landmark or building within any historic district shall require obtainment of a certificate of appropriateness from the Landmark Advisory Commission. **[Added 5-4-1992 by Ord. No. 9-1992]**

§ 220-3. Review by other agencies; variances.

- A. Any site plan relating to a proposed use which would also require action of the Board of Adjustment or governing body shall first be submitted to the Planning Board for its review and approval, as set forth in this chapter. If the Planning Board finds that the site plan meets all the requirements except for any necessary variance or variances, it may approve said site plan subject to the approval of the Board of Adjustment or governing body.
- B. The Planning Board may, with its approval, express its nonbinding opinion as to whether the variance or variances would be compatible with the zone plan and Zoning Ordinance or be detrimental to the health, welfare or safety of the Borough of Tuckerton. No site plan approval shall be construed to obviate or waive any requirement contained in this chapter.

§ 220-4. Time limit for action. [Amended 4-7-1980 by Ord. No. 2-1980]

The Planning Board shall act on any site plan submitted to it for its review within 45 days after filing of a complete application with the Secretary of the Planning Board; provided, however, that such time can be further extended with the applicant's consent. A definition of a complete application is set forth in Section 3 of P.L. 1975, c. 291, as amended.⁷² The administrative officer, for purposes of determining when an application is complete, shall be the Borough Engineer.

§ 220-5. Site plan requirements.

- A. Each site plan submitted to the Planning Board for approval shall have the following information shown thereon or be annexed thereto:
 - (1) The site plan shall be drawn at a scale of at least one inch equals 30 feet; provided, however, that where this scale would result in an unduly large map, the Planning Board may permit a smaller scale.
 - (2) Place for the signature of the Chairman and Secretary of the Planning Board.
 - (3) Name and title of applicant, owner and person preparing the map.
 - (4) Place for the signature of the Borough Engineer.
 - (5) Tax Map, lot and block number.
 - (6) Date, scale and north sign.

72. Editor's Note: See N.J.S.A. 40:55D-3.

- (7) Zone in which the property in question falls, and the zone dividing lines through, abutting or near the property.
- (8) The entire property in question even though only a portion of said property is involved in the site plan; provided, however, that where it is physically impossible to show the entire property on one sheet, a key map is permitted.
- (9) All abutting streets and property lines and location and setbacks of buildings on abutting lots, including fences, parking areas and access drives.
- (10) Front, side and rear setback dimensions.
- (11) All lot line dimensions.
- (12) Rights-of-way, easements and all other interests in lands, if any, and identify or explain those which are required to be deeded to the Borough.
- (13) The principal buildings and all accessory buildings, with dimensions, including the height, number of stories and first floor elevation.
- (14) Type of paving, curbs, sidewalks, parking space layouts and loading areas, with dimensions.
- (15) Location and construction details of catch basins and all storm drainage facilities, existing as well as proposed.
- (16) Location, size and type of all proposed landscaping, including shade trees both on the lot and along the public right-of-way. In addition, design details of fences, walls, guardrails and similar facilities shall be furnished. Plans for landscaping and landscape structures must accompany the application but may be on a separate plan to be approved by the Planning Board.
- (17) Location and type of all proposed lighting.
- (18) Location, size and general description of all proposed signs, including both business signs and those relating to off-street parking or loading areas.
- (19) Location, size and general descriptions of outside lighting.
- (20) A feasibility report from the Tuckerton Municipal Utilities Authority.
- (21) The horizontal and vertical alignment on the site plan shall be shown in sufficient detail that the plan could serve for construction layout for the various site features.
- (22) Size, height, location and arrangement of all proposed buildings and structures, including an architect's rendering of such building showing elevation views.
- (23) Proposed circulation, including access streets, aisles and lanes, parking spaces, loading areas, loading berths or docks, pedestrian walks and all related facilities for the movement and storage of goods, vehicles and persons on the site and for access and egress to and from the site.
- (24) Landscaped areas, fencing, signs and open spaces as well as the buffer areas which shall be provided for the purpose of isolating the activities conducted on the site from adjoining residentially zoned areas, if any.

- (25) All other proposed construction on the site.
- (26) Approximate location and description of all buildings, streets, alleys, highways, streams and other topographical features within the lot and within 200 feet of any boundary of said lot.
- (27) A statement indicating the number of square feet of enclosed building space and a design of the area provided for the parking of motor vehicles.
- (28) A written description of the proposed operations in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, fire hazards or safety hazards.
- (29) The proposed number of shifts to be worked and maximum number of employees on each shift and/or the hours of operation for a commercial use, where applicable.
- (30) In the event that any applicant for site plan approval seeks to utilize a trailer or trailers on a temporary basis in connection with construction of the project at issue, said trailer(s) must be identified on the site plan. No such trailer(s) may be permitted on a permanent basis. The location and duration of the existence of said trailer(s) must be approved in conjunction with site plan approval. No such trailer(s) may be approved for a period longer than 90 days or as the Board approves. In the event that it is necessary for such temporary construction trailer(s) to be located on the site for a period greater than 90 days or for such period as the Board has approved, then the applicant must return to the Planning or Zoning Board for an extension. No extension greater than 90 days can be granted. In the event that it is necessary that a construction trailer or trailers be located on the site for a period greater than the original 90 days or such period as the Board has approved, and the ninety-day extension, then use variance approval must be obtained from the Zoning Board of Adjustment. Under no circumstances may any such trailer be used as a living unit. **[Added 12-21-1998 by Ord. No. 16-1998]**

§ 220-6. Performance standards.

- A. In acting upon any site plan submitted to it, the Planning Board shall ascertain that all of the terms, conditions, standards and requirements of this chapter are met. The Board shall consider how the site plan will affect congestion in the streets; safety from fire, panic and other dangers; health, morals or the general welfare; adequate light and air; the overcrowding of land or buildings; undue concentration of population; conservation of the value of property; and whether the proposed use will be conducive to the orderly development of the site in question as well as the general area in which it is located.
- B. The following performance procedures shall be followed:
 - (1) Said plan shall provide for adequate water supply, waste and sewage disposal facilities, and written approval of the State of New Jersey Department of Environmental Protection, where required, shall be furnished with said plan.
 - (2) Adequate access and off-street parking and loading facilities for employees and visitors as required elsewhere herein shall be provided.

- (3) Suitable fencing, where necessary for health and safety, or screening and landscaping and such additional buffer areas as may be required in order to maintain the character and good appearance of the neighborhood shall be provided.
- (4) No operation shall be permitted or be carried on in such a manner as to endanger life or property or cause or be likely to cause fire, explosion, radiation and similar hazards or produce objectionable smoke, heat, glare, vibration or noise irrespective of whether the same is confined within the property covered under the site plan or beyond any property lines thereof.
- (5) The storage of all raw materials, fuels, finished products, machinery and equipment, including company-owned or -operated trucks and motor vehicles that are not within an entirely closed building, shall be limited to side or rear yards, provided that the same are adequately screened so as not to be visible from the street or from adjoining residential properties. If the same cannot be adequately screened, then the foregoing shall be maintained within a closed building.
- (6) The emission of noxious, toxic or corrosive fuel, gases or odors of the exhaust of waste into the air or dust or other substances is hereby prohibited.
- (7) Off-street parking areas shall be either portland cement paved or bituminous concrete paved on a minimum six-inch gravel base.
- (8) All utilities shall be placed underground.
- (9) Screening strips/buffers. **[Added 12-17-2007 by Ord. No. 15-2007]**
 - (a) Screening strip/buffer areas are required along all lot lines and street lines which separate a nonresidential use from either an existing residential use or a residential zoning district.
 - (b) If a residential use is proposed next to a commercial use, then the residential use shall provide the appropriate buffer. Where a residential use on a single lot is proposed bordering a nonresidential use, the single lot shall provide a ten-foot-wide buffer.
 - (c) Buffer areas shall be developed in an aesthetic manner for the primary purposes of screening views and reducing noise perception beyond the lot. Buffer widths shall be measured horizontally and perpendicularly to lot and street lines. No structure, activity, storage of materials, or parking of vehicles shall be permitted in a buffer area. The standards for the location and design of buffer areas are intended to provide flexibility in order to provide effective buffers. The location and design of buffers shall consider the use of the portion of the property being screened, the distance between the use and the adjoining property line, differences in elevations, the type of buffer, such as dense planting, existing woods, a wall or a fence, buffer height, buffer width, and other combinations of man-made and natural features. The buffer shall be designed, planted, graded, landscaped and developed with the general guideline that the closer a use or activity is to a property line, or the more intense the use, the more effective the buffer area must be in obscuring light and vision and reducing noise beyond the lot.

- (d) When buffers are required, building setbacks shall be measured from the buffer line.
- (e) All buffer areas shall be planted and maintained with either grass or ground cover, together with a screen of live shrubs or scattered planting of live trees, shrubs, or other plant material meeting the following requirements:
 - [1] The preservation of all natural wooded tracts shall be an integral part of all site plans and may be calculated as part of the required buffer area, provided the growth is of a density and the area has sufficient width to serve the purpose of a buffer. Where additional plantings are necessary to establish an appropriate tone for an effective buffer, the plantings may be required;
 - [2] Plant materials used in screen planting shall be at least three feet in height when planted and be of such density as will obscure, throughout the full course of the year, the glare of automobile headlights emitted from the premises. Such strips shall consist of, but not be limited to, dense evergreen growth or other approved plantings or, in the absence of natural evergreen growth, densely planted evergreens from the ground to a height of not less than eight feet. The buffer must provide year-round screening. In instances where new planting is required to provide said screen, such planting shall attain a height of not less than five feet after one growing season and not less than eight feet after three growing seasons;
 - [3] The screen planting shall be so placed that at maturity it will not be closer than three feet to any street or property line (where possible);
 - [4] Trees shall be at least five feet in height and 1 1/2 inches in diameter, measured at six inches above the ground, when planted and be of species common to the area, be of nursery stock, and be free of insects and disease;
 - [5] Screening strips shall be at all times properly maintained so as not to become unsightly. Any plant material which does not live shall be replaced within one year or one growing season;
 - [6] Screen plantings and landscaping shall be broken at points of vehicular and pedestrian ingress and egress to assure a clear sight triangle at all street and driveway intersections.
- (f) Wherever this chapter imposes a landscaping or seeding requirement, natural vegetation may be substituted in all areas where it exists and has attained a height of at least six feet. The landscaping and seeding requirement shall still apply, however, in all areas not so covered.
- (g) A buffer zone shall be provided in conjunction with any nonresidential use abutting a lot zoned for residential purposes or occupied by a residential use. Such buffer requirements shall apply to every property line that abuts a residentially zoned or used lot. The minimum width of such buffer zone shall be 30 feet.

- (h) A screening strip shall be required between land which is zoned for multifamily use and which is adjacent to a single-family residential use or zone. In addition, any special use in any residential zone shall provide a screening strip along any property line that adjoins a single-family residential use or zone.

§ 220-6.1. Sidewalk and curbing requirements. [Added 8-21-2006 by Ord. No. 11-2006]

Notwithstanding any provision to the contrary, curbs and sidewalks shall be required along all street frontages as a condition relating to any minor subdivision, major subdivision, minor site plan or major site plan approval granted by the Land Use Board in accordance with the requirements of § 231-29.1 of the Borough Code of the Borough of Tuckerton.

§ 220-7. Application requirements; fees. [Amended 10-19-1987 by Ord. No. 9-1987]

- A. Twelve copies of each application and all supporting documents for site plan review shall be filed with the Secretary of the Planning Board at least 35 days prior to a scheduled public meeting of the Planning Board.
- B. At the time of filing the application for site plan approval, the applicant shall pay to the Borough of Tuckerton all fees required pursuant to Chapter 45 of the Borough Code.
- C. After the site plan has been approved, but before a building permit is issued, the applicant shall pay to the Borough of Tuckerton an engineering inspection fee of 6% of the estimated cost of installing all required site improvements as estimated by the applicant and approved by the Borough Engineer.
- D. Exemption from payment of fees. In accordance with N.J.S.A. 40:55D-8, any philanthropic, fraternal and religious nonprofit organization holding a tax exempt status under the Federal Internal Revenue Code of 1954 is hereby exempt from the payment of any fees charged under this chapter by virtue of the provisions of N.J.S.A. 40:55D-1 et seq.

§ 220-8. Completion of improvements; violations.

- A. Prior to the issuance of a certificate of occupancy, all improvements as shown on the approved site plan shall have been completed. When, by reason of adverse weather conditions or other reasonable conditions, completion of certain improvements would cause an undue delay, there shall be required the posting of a cash performance guaranty sufficient in amount to cover the cost of all such uncompleted improvements as estimated by the Borough Engineer, assuring the installation of such uncompleted improvements within six months of the posting of the performance guaranty. The amount of the performance guaranty shall not be in excess of 100% of the cost of uncompleted improvements as estimated by the Borough Engineer. The performance guaranty shall be in the form of a certified check, drawn on a bank which is a member of the federal reserve system and payable to the Borough of Tuckerton, or in such form as may be approved by the Borough Attorney as to form and execution. A temporary certificate of occupancy shall be issued for the duration of the cash performance bond.
- B. Failure to comply with any of the conditions of site plan approval subsequent to the receipt of a building permit and certificate of occupancy, as the case may be, shall be construed to be a violation of this chapter and shall be grounds for the revocation of any building permit or certificate of occupancy, as the case may be. If the Building Inspector or Zoning

Officer finds that any conditions of site plan approval have not been met, he shall give the applicant 30 days' written notice to comply with said conditions. Failure to comply within this thirty-day period shall result in the revocation of the building permit or certificate of occupancy, as the case may be. Such violations may also be prosecuted under § 255-70 of the Code of the Borough of Tuckerton.

§ 220-9. Acceptance of improvements. [Added 2-16-2016 by Ord. No. 1-2016]

Upon completion of all required site plan and subdivision improvements, the developer may request the Borough to accept the improvements for maintenance and release all performance guarantees in accordance with the following procedure:

- A. Request for acceptance of improvements and release of performance guarantee shall be made in writing to the Borough Council with a copy sent to the Borough Engineer. Accompanying said request shall be a statement from the developer's engineer that he has inspected all improvements and that, in his opinion, they are in satisfactory condition to be accepted by the Borough.
- B. Upon notice request for acceptance, the Borough Engineer shall make or cause to be made a final inspection of the improvements. Those improvements not in acceptable condition shall be reported to the developer, in writing, for correction, repair or replacement. Upon receipt from the developer's engineer of a report that the necessary corrections, repair or replacements have been accomplished, the Borough Engineer shall reinspect the improvements.
- C. Prior to the Borough Engineer making his final report and recommendation to the Borough Council, the developer will supply as-built plans, signed and sealed by a licensed New Jersey professional engineer/surveyor showing surface grading, including major lot grading, building finished floor grades and curb and gutter grades, together with the horizontal and vertical location of underground facilities. Manholes, inlets, street trees and other such appurtenances, together with sidewalks and curbs, shall be shown in true location and grade. The as-built plans shall be submitted on reproducible media.
- D. The developer shall furnish a maintenance bond in a form acceptable to the Borough in the amount of 15% of the total improvement cost estimate for a period of two years.

§ 220-10. Action by Borough Council. [Added 2-16-2016 by Ord. No. 1-2016]

After all of the requirements of § 220-9 have been complied with, the Borough Council may accept the improvements for maintenance and release the performance bonds.

Chapter 223

SOLID WASTE

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 103.

Property maintenance — See Ch. 210.

Junkyards — See Ch. 183.

Streets and sidewalks — See Ch. 229.

Littering — See Ch. 193.

ARTICLE I
Garbage Collection
[Adopted 6-16-1975 by Ord. No. 10-1975]

§ 223-1. Compliance with provisions required.

It shall be unlawful for the occupant of any dwelling house, store or other building to place or cause or suffer to be placed upon any street, sidewalk, gutter, areaway or public place any ashes, rubbish, offal or garbage except in compliance with the provisions of this article.

§ 223-2. Definitions.

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

ASHES — The residue from the burning of coal or other fuel and shall include accumulations of dirt or floor sweepings made up mostly of noncombustible materials.

CART — Trash receptacle or container supplied by the Borough or purchased in accordance with the procedures as provided in this article and which contains a serial number which corresponds with the property address from which ashes, refuse, garbage and offal is collected. [Added 10-3-2005 by Ord. No. 25-2005]

GARBAGE and OFFAL — The refuse of animal or vegetable matter which has been intended to be used for man or beast.

RUBBISH — Combustible debris, such as paper, cardboard, rags, mattresses, discarded wearing apparel, furniture, carpets, rubber and, when tied in bundles, grass cuttings, plant trimmings and leaves. It shall also include bottles, broken glass, crockery, tin cans and scrap metal. It shall not include earth, sand, lumber, brick, brickbats, stone, plaster or debris of a similar substance that accumulates incidental to building construction, nor shall it include trade wastes.

§ 223-3. Scavenging prohibited.

It shall be unlawful for any unauthorized person to remove garbage, offal, swill or other like substance from the streets or sidewalks of the Borough.

§ 223-4. Rules and regulations. [Admended 10-5-1987 by Ord. No. 8-1987; 5-18-1992 by Ord. No. 10-1992; 10-3-2005 by Ord. No. 25-2005]

The following regulations shall govern the collection and removal of ashes, refuse, garbage and offal:

- A. The occupant of any dwelling house, store or other building shall place the materials described in this article for collection in an appropriate place on the curb in front of such dwelling house, store or other building after separation in appropriate separate carts. The owner of the said dwelling house, store or other building shall be jointly and concurrently responsible for the compliance with the terms of this article by all occupants of the same.
- B. Carts shall be supplied by the Borough of Tuckerton in the manner as provided herein and shall be the only container(s) or receptacle(s) used for the collection and removal of ashes, refuse, garbage and offal.

- C. Each residence or household shall be issued one cart of either thirty-five-gallon, sixty-five-gallon or ninety-five-gallon capacity. Additional carts may be purchased from the Borough, subject to availability, in accordance with the provisions as established herein, subject to a limit of three carts per household or residence. Homeowners shall be responsible for the replacement of lost or damaged carts. Carts may be purchased from the Construction Office in accordance with a fee schedule established by resolution of the governing body.
- D. Each cart shall remain the property of the Borough of Tuckerton and shall remain located at the property for which it has been issued even after change of ownership.
- E. No cart shall be issued to an address that is under construction or demolition until a certificate of occupancy is issued by the Construction Official.
- F. A resale or rental changeover certificate of occupancy will not be issued until the issuing authority has confirmation that a Borough-issued cart is on the premises.
- G. Carts shall not exceed the following capacities:
- (1) Thirty-five gallons: 100 pounds.
 - (2) Sixty-five gallons: 200 pounds.
 - (3) Ninety-five gallons: 300 pounds.
- Carts exceeding the above established weight capacities will not be picked up for collection.
- H. All carts must be placed at curbside for collection prior to 7:00 a.m., local time, of the day said materials are to be collected in the particular district.
- I. All carts must be placed at curbside in accordance with the manufacturer's instructions or specifications which shall be included with the issuance of every cart.
- J. When the specified collection day falls on a holiday, collection will be the following day.
- K. All carts must be removed from the curb within 24 hours after collection.
- L. Any household materials described in this article for collection not placed in a cart issued in accordance with this article will not be picked up for collection.
- M. Grass clippings may be placed in Borough-issued carts. Grass clippings may not be disposed of in plastic bags or in containers other than Borough-issued carts.
- N. Carts shall not be placed in curbside storage cribs, bins or other storage facility but placed at curbside in a manner so as not to interfere with the operation of the automated waste collection system.
- O. Each cart shall contain a serial number issued by the Borough which corresponds to the address of the property from which refuse, garbage and offal is to be collected. No other writings, markings, stickers or inscriptions of any kind shall be permitted on Borough-issued carts.

§ 223-5. Days of collection.

The Sanitation Committee shall determine the days of the week when collections shall be made and public notice shall be given to the Borough residents.

§ 223-6. Violations and penalties. [Amended 10-5-1987 by Ord. No. 8-1987]

Any person violating any provision of this article shall, upon conviction thereof, be subject to a fine not exceeding \$1,000 or imprisonment for a term not exceeding 90 days, or both, in the discretion of the court. Each and every day that such violation shall continue shall be a further and separate offense under the terms of this article, subject to the penalties herein prescribed.

ARTICLE IA
Refuse Containers and Dumpsters
[Adopted 9-7-2010 by Ord. No. 22-2010]

§ 223-6.1. Purpose.

The purpose of this article is to require dumpsters and other refuse containers that are outdoors or exposed to stormwater to be covered at all times and to prohibit the spilling, dumping, leaking, or otherwise discharge of liquids, semi-liquids or solids from the containers to the municipal separate storm sewer system and/or the waters of the state so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 223-6.2. Definitions.

For the purpose of this article, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Borough of Tuckerton or other public body, and is designed and used for collecting and conveying stormwater.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

REFUSE CONTAINER — Any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.

STORMWATER — Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow-removal equipment.

WATERS OF THE STATE — The ocean and its estuaries, all springs, streams 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.

§ 223-6.3. Covering of containers and dumpsters; prevention of leaks and discharges.

Any person who controls, whether owned, leased, or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing. Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semi-liquids or solids to the municipal separate storm sewer system.

§ 223-6.4. Exceptions.

The standards of this article do not apply to:

- A. Permitted temporary demolition containers;
- B. Litter receptacles (other than dumpsters or other bulk containers);

- C. Individual homeowner trash and recycling containers;
- D. Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit;
- E. Large bulky items (e.g., furniture, bound carpet and padding, white goods) placed curbside for pickup.

§ 223-6.5. Enforcement.

This article shall be enforced by the Code Enforcement Officer of the Borough.

§ 223-6.6. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this article shall be subject to a fine not to exceed \$1,000 for each storm drain inlet that is not retrofitted to meet the design standard.

ARTICLE II
Recycling
[Adopted 9-21-2009 by Ord. No. 9-2009⁷³]

§ 223-7. Definitions.

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

ALUMINUM CANS — Empty all-aluminum beverage and food containers.

BOTTLE — A container with the neck narrower than the body of the container.

CARDBOARD — Brown corrugated boxes. It shall not include chipboard.

COMMINGLED — A combining of nonputrescible source-separated recyclable materials for the purpose of recycling; not including five-gallon buckets.

DESIGNATED RECYCLABLE MATERIALS — Those materials designated within the Ocean County District Solid Waste Management Plan to be source separated for the purpose of recycling. These materials include, but are not limited to: newspapers, mixed paper, cardboard, glass containers, aluminum cans, ferrous containers, plastic beverage containers (PET and HDPE, where the neck is smaller than the body of the container), auto batteries, motor oil, white goods, tires, leaves, stumps, tree trunks and brush.

DUAL STREAM —

A. COMMINGLED — All plastic bottles, aluminum and steel cans.

B. PAPER — Magazines, catalogues, junk mail, used writing paper, newsprint, cardboard, office and school paper; no chipboard or pizza boxes.

ELECTRONIC WASTE — A computer central processing unit and associated hardware, including keyboards, modems, printers, scanners and fax machines; a cathode ray tube, a cathode ray tube device, a flat panel display or similar video display device with a screen that is greater than four inches measured diagonally and that contains one or more circuit boards, including a television, and cell phones.

FERROUS CONTAINERS — Empty steel or tin food or beverage containers.

GLASS CONTAINERS — Bottles and jars made of clear, green or brown glass. Expressly excluded are noncontainer glass, plate glass, blue glass, porcelain and ceramic products.

HDPE — Clear and colored plastic bottles made of high-density polyethylene.

INSTITUTIONAL ESTABLISHMENTS — Those facilities that house or serve groups of people, including but not limited to hospitals, schools, nursing homes, libraries and governmental offices.

LEAVES — All foliage from trees and shrubs.

MIXED PAPER — Wastepaper of various kinds, including magazines, junk mail, used writing paper, used office paper, and used school papers. It shall not include chipboard.

MULTIFAMILY DWELLING — Any building or structure or complex of buildings in which three or more dwelling units are owner-occupied or rented or leased or offered for rental or lease

73. Editor's Note: This ordinance also repealed former Art. II, Recycling, adopted 7-21-2008 by Ord. No. 8-2008.

for residential purposes (See N.J.S.A. 13:1E-99.13a.) and shall include hotels, motels, or other guesthouses serving transient or seasonal guests as those terms are defined under Subsection (j) of Section 3 of the Hotel and Multiple Dwelling Law, P.L. 1967, c. 76 (N.J.S.A. 55:13A-1 et seq.).

MUNICIPAL RECYCLING COORDINATOR — The person or persons appointed by the municipal governing body and who shall be authorized to, among other things, enforce the provisions of this article, and any rules and regulations which may be promulgated hereunder.

MUNICIPAL SOLID WASTE (MSW) STREAM — All solid waste generated at residential, commercial, and institutional establishments within the boundaries of the Borough of Tuckerton.

NEWSPAPERS — Paper of the type commonly referred to as "newsprint."

OIL — Oil and liquid petroleum products.

PERSON — Every owner, lessee and occupant of a residence or commercial or institutional establishment within the boundaries of the Borough of Tuckerton.

PET — A plastic bottle made from polyethylene terephthalate; plastic soda bottles.

RECYCLABLE MATERIAL — Those materials which would otherwise become solid waste, and which may be collected, separated, or processed and returned to the economic mainstream in the form of raw materials or products.

RECYCLING FACILITY — A facility designed and operated solely for receiving, storing, processing and transferring source-separated, nonputrescible or source-separated commingled nonputrescible metal, glass, paper, plastic containers and corrugated and other cardboard or other recyclable materials approved by the New Jersey Department of Environmental Protection.

SINGLE STREAM — The combination of commingled and paper listed above in one container. Do not include plastic bags, food waste, paper towels, paper napkins, pizza boxes, egg cartons, aluminum foil, plastic cups and utensils. No plastic other than bottles; no juice boxes or bags; no garbage.

SOLID WASTE — Garbage, refuse and other discarded solid material normally collected by a municipal or private hauler.

SOURCE-SEPARATED RECYCLABLE MATERIALS — Recyclable materials which are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling.

SOURCE SEPARATION — The process by which recyclable materials are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling.

§ 223-8. Source separation required; exemptions.

- A. Mandatory source separation. It shall be mandatory for all persons who are owners, tenants, or occupants of residential and nonresidential premises, which shall include but not be limited to retail and other commercial locations, as well as government, schools and other institutional locations within the Borough of Tuckerton, to separate designated recyclable materials from all solid waste. Designated recyclable materials shall be deposited separate and apart from other solid waste generated by the owners, tenants, or occupants of such premises and shall be placed separately at the curb in a manner and on such days and times as may be hereinafter established by regulations promulgated by the Borough of Tuckerton or a department within the Borough of Tuckerton.

- B. Exemptions. Pursuant to N.J.S.A. 13:1E-99.16(d), the governing body of the Borough of Tuckerton may exempt persons occupying commercial or institutional premises within its municipal boundaries from the source-separation requirements of this article which requires persons generating municipal solid waste within its municipal boundaries to source separate from the municipal solid waste stream the specified recyclable materials if those person have otherwise provided for the recycling of all designated recyclable materials. To be eligible for an exemption pursuant to this article, a commercial or institutional generator of solid waste shall file an application for exemption with the municipal Recycling Coordinator on forms to be provided for this purpose. The form shall include, at a minimum, the following information: the name of the commercial or institutional entity; the street address location and lot and block designation; the name, official title and phone number of the person making application on behalf of the commercial or institutional entity; the name, address, official contact person and telephone number of the facility which provides the service of recycling those designated recyclable materials, and a certification that the designated recyclable materials will be recycled, and that, at least on an annual basis, said recycling service provider or commercial/institutional generator shall provide written documentation to the municipal Recycling Coordinator of the total number of tons collected and recycled for each designated material. The exemption shall need to be renewed annually, with a new application for exemption as set forth above.

§ 223-9. Collection of recyclable materials.

The collection of recyclable material shall be in the manner prescribed as follows:

- A. All containers containing recyclable materials shall be placed, prior to collection, between the curb and the sidewalk or, in the absence of curb and sidewalk, as near to the street as not to constitute a danger, where such receptacles shall be readily accessible to the collector without providing obstruction to pedestrians. The owner or occupant of the premises shall keep all receptacles clean and in safe handling condition. Receptacles or other items to be disposed of shall be placed as noted above no more than 24 hours immediately preceding the day of collection. After collection, any containers shall be removed from the curbside by no later than 24 hours after the day of collection.
- B. The Borough Public Works Yard shall accept recycling at its site, for residents who cannot meet the time constraints for putting out the material the day prior set forth above.
- C. All receptacles or dumpsters shall be maintained in accordance with the Health Code of the Borough of Tuckerton and kept in a clean and in a safe manner.
- D. All containers, including those in flood-prone areas, shall be secured to prevent spillage from flooding, wind or other natural causes.

§ 223-10. Residential compliance requirements.

The owner or occupant of any property shall be responsible for compliance with this article. For multifamily units, the management or owner is responsible for setting up and maintaining the recycling system, including collection of recyclable materials, in accordance with guidelines or regulations established by the appropriate municipal office. Violations and penalty notices will be directed to the owner or management in those instances where the violator is not easily

identifiable. The management shall issue notification and collection rules to new tenants when they arrive and every six months during their occupancy.

§ 223-11. Nonresidential compliance requirements.

- A. All commercial and institutional generators of solid waste shall be required to comply with the provisions of this article.
- B. The arrangement for collection of designated recyclables hereunder shall be the responsibility of the commercial, institutional or industrial property owner or his/her designee, unless the municipality provides for the collection of designated recyclable materials. All commercial, institutional or industrial properties which provide outdoor litter receptacles and disposal service for their contents shall also provide receptacles for designated recyclable materials, for those materials commonly deposited, in the location of the litter receptacle, and shall provide for separate recycling service for their contents.
- C. Every business, institution, or industrial facility shall report on an annual basis to the Recycling Coordinator, on such forms as may be prescribed, on recycling activities at its premises, including the amount of recycled material, by material type, collected and recycled and the vendor or vendors providing recycling service.
- D. All food service establishments, as defined in the Health Code, shall, in addition to compliance with all other recycling requirements, be required to recycle grease and/or cooking oil created in the processing of food or food products, and maintain such records as may be prescribed for inspection by any code or enforcement officer.

§ 223-12. New developments of multifamily residential units or commercial, institutional or industrial properties (pursuant to N.J.S.A. 13:1E-99.13a and 99.16c).

- A. Any application to the Land Use Board of the Borough of Tuckerton for subdivision, site plan approval or other application for development for the construction of multifamily dwellings of three or more units, single-family developments of 50 or more units or any commercial, institutional, or industrial development for the utilization of 1,000 square feet or more of land, must include a recycling plan. This plan must contain, at a minimum, the following:
 - (1) A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development;
 - (2) A detailed description of all containers or dumpsters to be used for solid waste and recyclables generated at the proposed development; and
 - (3) Locations documented on the application's site plan that provide for convenient recycling opportunities for all owners, tenants, and occupants. The recycling area shall be of sufficient size, convenient location and contain other attributes (signage, lighting, fencing, etc.) as may be determined by the municipal Recycling Coordinator.
- B. Prior to the issuance of a certificate of occupancy by the Borough, the owner of any new multifamily housing or commercial, institutional, or industrial development must supply a copy of a duly executed contract with a hauling company for the purposes of collection and recycling of source-separated recyclable materials in those instances where the municipality does not otherwise provide this service.

- C. Provision shall be made for the indoor, or enclosed outdoor, storage and pickup of solid waste, to be approved by the Borough.

§ 223-12.1. Collection of solid waste mixed with recyclable materials prohibited.

- A. It shall be unlawful for solid waste collectors to collect solid waste that is mixed with or contains visible signs of designated recyclable materials. It is also unlawful for solid waste collectors to remove for disposal those bags or containers of solid waste which visibly display a warning notice sticker or some other device indicating that the load of solid waste contains designated recyclable materials.
- B. It shall be the responsibility of the resident or occupant to properly segregate the uncollected solid waste for proper disposal or recycling. Allowing such unseparated solid waste and recyclables to accumulate will be considered a violation of this article and the local sanitary code.
- C. Once placed in the location identified by this article or any rules or regulations promulgated pursuant to this article for collection, no person, other than those authorized by the municipality, shall tamper with, collect, remove, or otherwise handle designated recyclable materials.

§ 223-12.2. Collection by unauthorized persons prohibited.

- A. Recyclable material as described herein shall be the property of the Borough of Tuckerton once placed on the curbside or brought to a dropoff center.
- B. It shall be a violation of this article for any person to pick up or cause to be picked up any recyclable materials, as defined herein, without the prior written authorization of the Borough. Each such collection in violation hereof shall constitute a separate and distinct offense punishable as hereinafter provided.

§ 223-12.3. Enforcement.

The Code Enforcement Officer, the Police Department, the Recycling Coordinator, the Zoning Officer, the Public Works Superintendent and the Ocean County Department of Health are hereby individually and severally empowered to enforce the provisions of this article. An inspection may consist of sorting through containers and opening of solid waste bags to detect, by sound or sight, the presence of any recyclable material.

§ 223-12.4. Violations and penalties.

- A. Any person, corporation, occupant, or entity that violates or fails to comply with any provision of this article or any of the rules and regulations promulgated hereunder shall, upon conviction thereof, be punishable by a fine of not more than \$2,000, imprisonment in the county jail for a term not exceeding 90 days, and/or a period of community service not exceeding 90 days. Each day for which a violation of this article occurs shall be considered a separate offense.
- B. Fines levied and collected pursuant to the provisions of this article shall be immediately deposited into the Municipal Recycling Trust Fund (or equivalent). Monies in the Municipal Recycling Trust Fund shall be used for the expenses of the municipal recycling program.

§ 223-12.5. through § 223-12.9. (Reserved)

ARTICLE IIA
Debris Recovery Plan
[Adopted 7-21-2008 by Ord. No. 8-2008]

§ 223-12.10. Definitions.

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

COVERED PROJECT — A construction, renovation or demolition project for which a building permit or a demolition permit is required and for which a dumpster or roll-off container shall be placed on premises for the purpose of placement of solid waste materials.

§ 223-12.11. Construction, renovation and demolition debris recovery plan required.

A debris recovery plan shall be filed with the Municipal Recycling Coordinator prior to the commencement of any activity for which municipal approval as further identified above is required. The debris recovery plan shall identify the types and estimated quantities of construction and demolition debris to be generated from the project, how each material will be managed, and the name of each facility or service provider that the entity will use to manage each material. The plan shall further detail how the applicant shall ensure that a minimum of 50% of the materials to be generated will be separated and recycled.

§ 223-12.12. Review of plan.

- A. **Approval:** A debris recovery plan shall be reviewed by the Municipal Recycling Coordinator and approved if it provides for all of the information required by this article. An approved debris recovery plan shall be marked "Approved" and returned to the owner of the entity which submitted the plan.
- B. **Denial:** A debris recovery plan shall not be approved if it does not provide all of the information required by this article. If a debris recovery plan is not approved, the owner of the entity which submitted the plan shall be notified, in writing, that the plan has been rejected, including the reasons for the rejection. In order to obtain the building or demolition permit sought, the owner of the entity which will carry out the construction, renovation or demolition project shall make the required changes and resubmit the debris recovery plan to the Municipal Recycling Coordinator.

§ 223-12.13. Diversion requirement adjustment.

- A. **Application:** If the owner of an entity carrying out a covered project experiences circumstances that make it infeasible to comply with the diversion requirement cited in this article, the owner of the entity may apply for an adjustment. The owner shall indicate, in writing, why it is infeasible to divert 50% of the materials being generated from the covered project and specify what percentage of diversion could be achieved. Increased costs to the owner of the entity carrying out the covered project will not be an acceptable justification for an adjustment.
- B. **Review:** The Municipal Recycling Coordinator shall review the information supplied by the owner. If warranted, the Municipal Recycling Coordinator shall attempt to contact the owner to discuss possible ways of meeting the diversion requirement.

- C. Granting of an adjustment: If the Municipal Recycling Coordinator determines that it is infeasible for the entity carrying out a covered project to divert 50% of the generated construction and demolition debris from the covered project, the percent of diversion required shall be adjusted. The owner shall be notified, in writing, of the adjusted diversion requirement. The owner of the entity carrying out the covered project shall be required to divert the percent of construction and demolition debris required by the adjustment.
- D. Denial of adjustment: If the Municipal Recycling Coordinator determines that it is feasible for the owner of an entity carrying out a covered project to meet the diversion requirement cited in this article, the owner shall be notified, in writing, of the denial of the diversion requirement adjustment.

§ 223-12.14. Reporting requirements.

Documentation: Upon completion of the covered project, but before the final inspection, the owner of the entity carrying out a covered project shall submit to the Municipal Recycling Coordinator, in person or by certified mail, the documentation required to demonstrate that the applicant has met the diversion requirement. The required documentation shall include the following:

- A. A completed debris recovery report, signed by the owner of the entity carrying out a covered project, indicating the quantity of each material generated during the covered project diverted or disposed;
- B. Receipts from all facilities or service providers utilized to divert and dispose materials generated during the covered project; and
- C. Any additional information that the owner of the entity carrying out the covered project believes is relevant to determining compliance with the diversion requirement.

§ 223-12.15. Compliance with diversion requirement.

The Municipal Recycling Coordinator shall review the information submitted pursuant to this article and determine whether the owner of the entity carrying out the covered project has complied, or failed to comply, with the diversion requirement. The determination regarding compliance will be provided, in writing, to the owner of the entity carrying out the covered project.

§ 223-12.16. Appeal.

An owner of the entity carrying out the covered project may appeal a determination of failure to comply under this article to the governing body within 30 days of the decision or determination. The appeal shall be in writing and shall state the facts and basis for the appeal. A decision by the governing body shall be final.

§ 223-12.17. Enforcement.

The Code Enforcement Officer, the Police Department, the Recycling Coordinator, the Zoning Officer, the Public Works Superintendent and the Ocean County Department of Health are hereby individually and severally empowered to enforce the provisions of this article. The respective enforcing official may, in his or her discretion, post warning stickers for a first

offense. An inspection may consist of dumping and opening of solid waste bags or containers to detect, by sound or sight, the presence of any recyclable material.

§ 223-12.18. Violations and penalties.

Any person, corporation, occupant or entity that violates or fails to comply with any provision of this article or any of the rules and regulations promulgated hereunder shall, upon conviction thereof, be punishable by a fine not less than \$250 nor more than \$1,000.

ARTICLE III
Containerized Yard Waste
[Adopted 10-3-2005 by Ord. No. 24-2005]

§ 223-13. Purpose.

To establish requirements for the proper handling of yard waste in the Borough of Tuckerton so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 223-14. Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

CONTAINERIZED — The placement of yard waste in a trash can, bucket, bag or other vessel, such as to prevent the yard waste from spilling or blowing out into the street and coming into contact with stormwater.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

STREET — Any street, avenue, boulevard, road, parkway, viaduct, drive, or other way, which is an existing state, county, or municipal roadway, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas, and other areas within the street lines.

YARD WASTE — Leaves and grass clippings.

§ 223-15. Prohibited conduct.

The owner or occupant of any property, or any employee or contractor of such owner or occupant engaged to provide lawn care or landscaping services, shall not sweep, rake, blow or otherwise place yard waste, unless the yard waste is containerized, in the street. If yard waste that is not containerized is placed in the street, the party responsible for placement of yard waste must remove the yard waste from the street or said party shall be deemed in violation of this article.

§ 223-16. Enforcement.

The provisions of this article shall be enforced by the Police Department or Code Enforcement Officer of the Borough of Tuckerton.

§ 223-17. Violations and penalties.

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of not more than \$1,000 or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the Judge. The continuation of such violation for each successive day shall constitute a separate

offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

Chapter 226**STORAGE TANKS, UNDERGROUND****GENERAL REFERENCES**

Hazardous wastes — See Ch. 176.

Location of certain tanks under streets and sidewalks — See Ch. 229, Art. I.

§ 226-1. Testing for leakage required.

The owner or occupant of any land within the Borough upon which there is installed or located any underground tank, with a storage capacity in excess of 600 gallons, used for the storage or holding of any liquid substance, defined in § 226-2, shall cause said tank and all connecting piping to be tested for leakage no later than one year from the effective date of this chapter and thereafter at least once every two years.

§ 226-2. Applicability.

This chapter shall apply to the storage of all liquid substances toxic to the public water supply, and shall include, but shall not be limited to, gasoline, oil, kerosene, crankcase drainage, acids, petrochemicals, pesticides, and all other hydrocarbons and hazardous chemical substances not recommended for human consumption.

§ 226-3. Finding of leakage.

In the event the result of any such tests reveal a leakage, the owner or occupant of the land upon which said tank is located shall remove all of the liquid in said tank and shall cease to operate said tank until the tank is either replaced or repaired to correct the leakage. Any tank which must be repaired to correct a leakage shall not be put into operation until a further test of said tank, after the repairs are made, reveals that there are no leaks. Proof that said tank has no leaks shall be submitted in the form of a certification or affidavit setting forth the dates of the tests and the results thereof, to the Board of Health. The Board of Health may, in the event there is reason to believe there is a leak in any underground tank, order that a test be made of that tank forthwith. Any underground tank determined to be leaking shall and is hereby declared to be a nuisance to the Borough health and water supply.

§ 226-4. License to maintain or operate tank.

- A. All owners or occupants of any land within the Borough of Tuckerton, upon which there is installed or located any underground tank as defined in this chapter, shall be required to obtain a license for the privilege of maintaining or operating said tank.
- B. Said license shall be issued by the Borough of Tuckerton Board of Health only upon compliance with the terms and conditions of this chapter and upon payment of an application fee of \$15 per tank.
- C. Said license shall be nontransferable and shall be conspicuously displayed on the premises or be produced upon request to the enforcing authority, which shall be the Borough of Tuckerton Board of Health. Failure to comply with the terms and conditions of this chapter

shall be grounds for the revocation of said license and will prohibit said owner or occupant of any land within the Borough of Tuckerton to maintain or operate said underground tank.

- D. Said license application shall set forth the size and exact location of the subject tank, the exact substance it contains and the date of original installation to the best of the licensee's knowledge. Said license shall automatically terminate upon any change in the contents of said tank unless the holder of said license shall provide the Borough of Tuckerton with an exact description of the new substance it contains.

§ 226-5. New installations.

- A. Location. Excavation for underground storage tanks shall be made with due care to avoid undermining the foundation of existing structures. Underground tanks or tanks under buildings shall be so located with respect to existing building foundations and supports that the loads carried by the latter cannot be transmitted to the tank. The distance from any part of a tank storing toxic substances to the nearest wall of any basement, pit or property line shall be not less than one foot.
- B. Construction of tank. All storage tanks shall be of steel or fiberglass construction in accordance with the requirements of the National Board of Fire Underwriters (Underwriter Laboratories) thoroughly coated on the outside with a suitable corrosion-resistant material.
- C. Method of installation. An underground tank shall be set on a firm foundation and surrounded with at least six inches of noncorrosive inert materials such as clean sand, earth or gravel, well tamped in place. The tank shall be placed in a hole with care, since dropping or rolling the tank into the hole can break a weld, puncture or damage the tank metal, or scrape off the protective coating. A tank shall be covered with a minimum of two feet of earth, or shall be covered with not less than one foot of earth on top of which shall be placed a slab of reinforced concrete not less than four inches thick. When underground tanks are, or are likely to be subjected to traffic, they shall be protected against damage from vehicles passing over them by at least three feet of earth or 18 inches of well tamped earth plus six inches of reinforced concrete or eight inches of asphaltic concrete. When asphaltic or reinforced concrete paving is used as part of the protection, it shall extend at least one foot horizontally beyond the outside of the tank in all directions. Installation shall fully comply with existing building and construction standards as set forth by the Borough of Tuckerton.
- D. Testing. No new tanks for the storage of substances covered under this chapter shall be installed or operated unless the tanks are certified or tested for nonleakage in accordance with this chapter and said certification or affidavit, as set forth in § 226-3, has been submitted to the Board of Health, showing that there are no leaks in said tank.
- E. Installation permit fee. There shall be a fee of \$25 for a permit to construct or install each new underground storage tank in accordance with the provisions of this chapter. **[Amended 12-4-1989 by Ord. No. 21-1989]**

§ 226-6. Tanks abandoned or taken out of service.

- A. Underground tanks taken out of service or abandoned shall be safeguarded or disposed of in a safe manner. All abandoned tanks and connecting pipelines shall be completely drained of their contents and a certified report setting forth the tank size, location, date of abandonment and method used for placing the abandoned tank in a safe condition, shall be

submitted to the Board of Health within 10 days of the date of abandonment. Abandoned tanks shall either be removed from their location or shall be filled with sand so as to prevent the unauthorized disposal of any liquid substance as set forth in § 226-2 of this chapter.

- B. When tanks are temporarily taken out of service for a period of more than 30 days, a certified report shall be submitted to the Board of Health setting forth the planned temporary abandonment and proposed safeguarding procedures. No temporary abandonment shall exceed the period of six months. Any owner or occupant of any land upon which an abandoned tank is located who fails to comply with these safeguarding procedures shall immediately remove said tank at their own expense. No abandoned tank shall be returned to service without first being tested for leakage in accordance with this chapter.
- C. Removal permit fee. There shall be a fee of \$25 for a permit for the removal or taking out of service of each underground storage tank in accordance with the provisions of this chapter. **[Added 12-4-1989 by Ord. No. 21-1989]**

§ 226-7. Keeping of records.

Accurate daily inventory records shall be maintained and reconciled on all underground storage tanks for indication of possible leakage of tanks or piping. The records shall be kept at the premises, available for inspection by the enforcing authority, and shall include, as a minimum, records showing, by product, daily reconciliation between sales, use, receipts and inventory on hand. If there is more than one system consisting of a tank(s) serving a separate pump(s) or dispenser(s) for any product, a reconciliation shall be maintained separately for each tank system. The Borough of Tuckerton Board of Health shall make periodic inspections of underground storage tanks such as to require compliance with this chapter.

Chapter 229

STREETS AND SIDEWALKS

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 103.

Solid waste — See Ch. 223.

Building construction — See Ch. 107.

Underground storage tanks — See Ch. 226.

Uniform construction codes — See Ch.132.

Subdivision of land — See Ch. 231.

ARTICLE I

Tanks⁷⁴**[Adopted 5-29-1914 by Ord. No. 34]****§ 229-1. Certain tanks under public streets and sidewalks prohibited.**

It shall be unlawful to maintain, place or construct any tank or receptacle intended to contain gasoline, benzene, kerosene or alcohol under any of the public streets or sidewalks of the Borough of Tuckerton.

§ 229-2. Violations and penalties. [Amended 10-3-2005 by Ord. No. 19-2005]

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of not more than \$500 or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the Judge. Every day said tank shall remain or be maintained shall be considered a separate violation, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

74. Editor's Note: See also Ch. 226, Storage Tanks, Underground.

ARTICLE II

Merchandise Displays**[Adopted 7-17-1967 by Ord. No. 5-1967]****§ 229-3. Definitions.**

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

SIDEWALK — Any portion of the street between the curblin and the adjacent property line intended for the use of pedestrians.

§ 229-4. Displays and sales on public sidewalks prohibited.

It shall be unlawful for any person, firm or corporation to display goods, wares, newspapers, periodicals, magazines or merchandise of any kind or to conduct the sale or delivery of the same upon any public sidewalk in the Borough of Tuckerton.

§ 229-5. Violations and penalties. [Amended 10-3-2005 by Ord. No. 19-2005]

Any person, firm or corporation violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of not more than \$500 or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

ARTICLE III

Excavations

[Adopted 12-7-1970 by Ord. No. 8; amended in its entirety 12-29-1986 by Ord. No. 31-1986]

§ 229-6. Excavation permit required.

No person, firm, partnership, corporation, utility, quasi-public body or other entity shall open, dig or excavate or direct or cause any employee, agent or contractor of such person, firm, partnership, corporation, utility, quasi-public body or other entity to open or make any excavation or disruption of the surface of any street, highway, road or thoroughfare of the Borough of Tuckerton until a written permit for such opening, excavation or other surface disruption has been duly issued by the Superintendent of Public Works of the Borough of Tuckerton or his designee (secretary of the Office of the Construction Code Official); provided, however, that in the event of any emergency wherein a sewer, main, conduit or utility in or under any street breaks, bursts or otherwise is in such condition as to immediately endanger the property, life, health or safety of any individual, the person owning or controlling such sewer, main, conduit or utility, without first applying for and obtaining an excavation permit hereunder, shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of property, life, health and safety of individuals. However, such person owning or controlling such facilities shall in such event apply for an excavation permit not later than the end of the next succeeding day during which the Borough Clerk's office is open for business and shall not proceed with permanent repairs without having first obtained the necessary permit hereunder. In the event of such emergency situation, the person owning or controlling such facility shall immediately notify the Police Department of the existence, nature and location of such emergency condition.

§ 229-7. Permit application procedures.

A. Application submissions. Application for all permits to excavate, open or dig trenches or otherwise disrupt or break the surface of any public road, highway, street or thoroughfare of the Borough of Tuckerton shall be made on the forms provided by the Tuckerton Borough Department of Public Works and submitted to Superintendent of the Department of Public Works. Accompanying all applications shall be the following:

- (1) A clearly, legibly drawn plan or sketch delineating the exact location of the street opening. The sketch plan shall include the following information:
 - (a) The length and width of the opening.
 - (b) Location of the existing Borough storm drainage systems and appurtenances within a one-hundred-foot radius of the opening.
 - (c) Location of all curbing, sidewalk and other municipal improvements within a one-hundred-foot radius of the trench or road opening limits.
 - (d) Where depths of trenches or excavations are such that shoring, sheeting or other means of stabilizing or bracing the trench opening are necessary, detailed plans bearing the seal and signature of a New Jersey licensed professional engineer.

- (2) A certificate of liability insurance indemnifying and holding harmless the Borough of Tuckerton from any liability arising from the street opening or trench or restoration thereof.
 - (3) A performance guaranty conforming to the requirements set forth in this article.
 - (4) An application form fully completed as to all items thereon.
 - (5) An application fee in the amount prescribed in this article.
 - (6) In the case of trench openings in which traffic detours are required or in which the trench will remain open for periods longer than one day or overnight, a detailed barricade, warning device and detour plan conforming with all applicable requirements of the Manual on Uniform Traffic Control Devices shall be provided. The plan shall be reviewed and be subject to the approval of the Superintendent of Public Works and Tuckerton Borough Police Department.
 - (7) A written schedule of operations indicating the anticipated dates of street openings and excavations and restoration work.
- B. Permittee. The permit shall be issued jointly in the name of the contractor actually performing the work of the street opening and the person, firm, partnership, utility, corporation or other entity for whom the work is to be performed. It shall be understood that the Borough of Tuckerton shall hold jointly and severally liable and responsible both the contractor actually performing the work and the entity for whom the work is performed regarding all restoration, maintenance of traffic, protection of public safety, repair of defective trench or excavation restoration in the road surface and all else related to the trench or excavation and restoration thereof.
- C. Permit. No street opening or any other work within the right-of-way of a public road, street, highway or thoroughfare of the Borough of Tuckerton shall commence until a written permit has been duly issued in accordance with this article. A copy of the permit shall be available at the work location during all periods of construction and restoration operations and shall be provided for inspection upon demand.

§ 229-8. Schedule of permit fees.

- A. The following schedule of fees is hereby fixed, determined and established as being the fees to be paid the Borough of Tuckerton for the issuance of all road opening or street excavation permits:

| Opening Area | Fees |
|-----------------------|-------------|
| (square yards) | |
| 0 to 20 | \$50 |
| 20.01 to 100 | \$100 |
| 100.01 to 500 | \$250 |
| 500.01 to 1,500 | \$500 |
| 1,500.01 to 2,500 | \$750 |
| 2,500.01 and over | \$1,250 |

- B. All fees set forth in this section shall be payable to the Borough of Tuckerton and shall be nonrefundable. Fees shall become property of the Borough of Tuckerton.
- C. Should any additional costs be incurred by the Borough of Tuckerton due to the permittee's operations or negligence, including but not limited to administrative, engineering, inspection and legal costs, the permittee shall reimburse the Borough for all costs incurred.

§ 229-9. Pavement, restoration, performance and maintenance guaranties.

- A. Each applicant for a permit for such opening or excavating shall post, prior to issuance of any road opening or street excavation permit, a performance guaranty ensuring proper and satisfactory completion of all pavement and trench restoration in strict accordance with the specifications set forth herein. The amount of the performance guaranty shall be determined by the Superintendent of Public Works for each street opening or trench excavation and shall be based upon the pavement requirements and restoration necessary for each specific application.
- B. The performance guaranty shall be posted with the Tuckerton Borough Department of Public Works or secretary of Construction Code Official and shall be in any of the forms indicated herein:
 - (1) A certified check drawn payable to the Borough of Tuckerton and drawn on a New Jersey Bank.
 - (2) A letter of credit drawn in favor of the Borough of Tuckerton and issued by a New Jersey financial institution. The letter of credit shall be subject to the review and approval of the Borough Attorney for form prior to its acceptance.
 - (3) A surety bond issued by a surety company licensed by the State of New Jersey. Evidence shall be submitted as to the solvency of the bonding company issuing the bond. The bond shall be executed by the permittee as principal herein and the surety company shall be the surety therein.
- C. Upon completion of the final permanent restoration, to the satisfaction of the Tuckerton Borough Superintendent of Public Works, of the public road, street, highway or thoroughfare in accordance with all standards set forth herein, a maintenance guaranty shall be posted by the permittee. The maintenance bond shall be in one of the three forms set forth above. The maintenance guaranty shall be in an amount equal to 50% of the performance guaranty amount and shall remain in force for a period of not less than two years from the date of acceptance of the permanent pavement restoration by the Borough Public Works Superintendent.
- D. Performance and maintenance guaranties shall be released upon satisfaction of the Tuckerton Borough Public Works Superintendent that all final permanent road restoration work has been completed in accordance with the standards set forth herein.
- E. Any bona fide utility regulated and licensed by the New Jersey Board of Public Utilities may, in lieu of posting separate maintenance and performance guaranties, be permitted to post an annual performance guaranty and maintenance guaranty. The guaranties shall be determined by the Superintendent of Public Works. The utility shall provide to the Superintendent of Public Works a projected list of openings of scheduled utility extensions during the calendar year and an estimate of the average number of emergency openings

which may be experienced in the course of a year. The utility shall provide the names, addresses, telephone numbers and contact officials of all contractors who will be performing street openings and surface restoration work. This shall not relieve the utility of any responsibilities for obtaining the necessary road opening permits.

§ 229-10. Surface restoration requirements.

All surface restoration shall be in strict compliance with the standards set forth herein, and all materials shall conform with all applicable requirements of the Standard Specifications for Road and Bridge Construction, 1983, and as amended by the latest addenda of the New Jersey Department of Transportation, hereinafter referred to as "Standard Specifications."

- A. Bituminous pavement restoration. The restoration of all bituminous surfaced roadways disturbed, opened, excavated or in which trenches have been dug shall conform to the following pavement types and thicknesses specified herein:
- (1) Surface course. All surface courses shall be of bituminous concrete, hot-mixed, Type FABC-1, N.J.D.O.T. Mix No. I-5, having a compacted thickness of either 1 1/2 inches or two inches, as required to conform to the pavement surface thickness of the pavement or classification of road in which the restoration is to be performed. The bituminous concrete surface shall be placed on a bituminous stabilized base course as set forth herein. A tack coat conforming to the requirements herein shall be applied to the base course prior to placement of the surface course.
 - (2) Base course. A bituminous stabilized base course shall be placed in a total compacted thickness of six inches in the trench area and shall conform to all applicable requirements set forth in the Standard Specifications for bituminous stabilized base course, hot-mixed, Type CABC-2, stone mix Mix I-1 or I-2. The base course shall be placed in a minimum of two lifts, each lift having a compacted thickness of not greater than three inches, with the first lift being compacted in accordance with the requirements of the Standard Specifications before placing the succeeding lift of base course material. The bituminous stabilized base course shall be placed on aggregate subbase course conforming to the requirements set forth herein.
 - (3) Subbase course. A subbase course consisting of a minimum compacted thickness of six inches of quarry blend stone conforming to gradation Type I-5 or eight inches compacted thickness (minimum) of soil aggregate (bank-run gravel) conforming to gradation type as set forth in the Standard Specifications. A filter fabric of an approved type and thickness shall be placed on the subgrade prior to placement of the subbase.
- B. Gravel surfaced roads. In the case of a gravel- or soil-aggregate surfaced roadway, the minimum restoration thickness shall consist of not less than the eight inches compacted thickness of soil aggregate conforming to gradation type as set forth in the Standard Specifications. A filter fabric or geotextile of an approved type and thickness shall be placed over the subgrade prior to placement of any soil aggregate or gravel surface course.
- C. Sidewalks. Any concrete sidewalk disturbed, damaged or disrupted as part of the trench opening shall be replaced with concrete sidewalk conforming to all applicable standards of the Borough of Tuckerton. All concrete shall be ready-mixed air-entrained portland cement concrete conforming to all applicable requirements set forth in the Standard Specifications

for Class B concrete. All concrete shall have a minimum compressive strength (twenty-eight-day) of not less than 3,500 pounds per square inch. Expansion joints shall be of a minimum thickness of 1/2 inch and shall be of the bituminous cellular type conforming to the requirements of the Standard Specifications. All sidewalk shall be placed on a soil aggregate base conforming to the requirements specified elsewhere herein. All concrete sidewalk shall have a minimum compacted thickness of not less than four inches, and all base courses beneath sidewalks shall have a minimum compacted thickness of not less than four inches.

- D. Curb and gutters. Where concrete curbing and/or gutters are disturbed, damaged or removed, curbing and gutters of the exact configuration as the existing curbing and/or gutters shall be constructed. Concrete shall be portland cement concrete (air-entrained) conforming to the requirements of the Standard Specifications for Class B concrete and shall have a minimum compressive strength of 4,000 pounds per square inch after 28 days.
- E. Topsoiled and unpaved areas. All topsoiled, seeded or otherwise unpaved areas disturbed in the course of the work shall be topsoiled with a minimum thickness of not less than four inches of loan-type topsoil. Fertilizer, lime and all other soil conditioners needed to promote the proper growth of grass shall be incorporated and thoroughly worked into the topsoil. Seed or sod of the species suitable for growth in the location and environment and conforming to the requirements of the Standard Specifications shall be placed in all unpaved areas.
- F. Gravel shoulder areas. All shoulder areas disturbed in the course of the trench opening shall be restored and graded to provide and maintain the proper flow of drainage and to provide adequate lateral support of the abutting pavement structure. The gravel material shall be soil aggregate, Type I-6, conforming to all applicable requirements of the Standard Specifications. The soil aggregate or gravel shall be a minimum thickness of not less than eight-inch compacted thickness.
- G. Concrete drive aprons. All concrete drive aprons disturbed during the course of excavation or trench opening shall be replaced in accordance with all applicable standards for concrete drive aprons as set forth in the Tuckerton Borough Subdivision Ordinance⁷⁵ and shall be constructed of portland cement concrete (air-entrained), Class B concrete, having a twenty-eight-day compressive strength of 4,000 pounds per square inch and a minimum concrete thickness of six inches, including the sidewalk area traversing the apron. The apron shall be reinforced with welded-steel wire mesh having a mesh grid pattern of six by six inches and being electrically welded construction of ten-gauge steel wire.

§ 229-11. Construction standards; methods of construction.

- A. Excavation. All methods of excavation employed in the opening of trenches, digging in streets, backfilling, compacting and restoration of surfaces shall be in strict compliance with the requirements set forth herein, with the Standard Specifications or as otherwise directed by the Superintendent of Public Works.
 - (1) Prior to the removal of any pavement or the excavation of any trench, the road surface shall be cut in a straight line along the lines of a trench or opening. The pavement shall be cut using a pavement cutting wheel, pavement saw or other device as approved by

75. Editor's Note: See Ch. 231, Subdivision of Land.

the Superintendent. The cut shall extend through all courses of bituminous concrete surface and base courses. Should broken or failed pavement be encountered within or abutting the limits of the trench, these areas shall be cut back to an area of sound pavement. In the event of over-excavation, the pavement shall be sawcut back to a straight line abutting sound pavement and firm base, free of undermined areas. In the case of undermining of the area beneath the pavement abutting the trench, the pavement over the undermined area shall be saw- or wheel-cut in a straight line to produce a straight edge abutting sound pavement over a firm, undisturbed subgrade.

- (2) The excavation shall be conducted in such a manner as not to interfere or disrupt any existing utility installations, building connections, foundations, curbing, sidewalk, traffic signal appurtenances, storm drains or other appurtenances either located or extending into a subsurface area either within the trench area or within proximity of the trench or opening area in such a manner as to possibly be affected by the trenching or opening activity.
 - (3) All unsuitable backfill material shall be removed from the work area and disposed of in a location and manner as approved by the Superintendent. The permittee shall replace all unsuitable material conforming to the requirements for select borrow, Gradation I-13. All excess material removed and disposed in a manner and location as approved by the Superintendent. The removal and disposal of all unsuitable backfill and excess material and the replacement of all unsuitable backfill material shall be at the expense of the permittee.
 - (4) The permittee shall ensure that the proper bracing, shoring and other means of trench stabilization shall be constructed wherever required or deemed necessary by the Superintendent or by any state, federal or local laws. All shoring, bracing and stabilization shall be designed to withstand all lateral pressures and support all loading surcharges imposed by traffic, adjoining structures or other sources of surcharge loading. All shoring, bracing and stabilization shall conform to the plan as required hereinabove and shall be designed by a New Jersey licensed professional engineer. All shoring, bracing and stabilization shall conform to all standards set forth by the Occupational Safety and Health Administration (OSHA) of the United States Department of Labor and the Bureau of Workplace Safety Standards of the New Jersey Department of Labor and Industry. In the case of prefabricated steel trench boxes or other devices, only those devices conforming with all applicable standards set forth hereinabove shall be employed.
 - (5) No spoil, materials or other items shall be placed so as to interfere with public use of the highway, road or street or as to create a traffic hazard.
 - (6) The excavation or opening shall be kept open for the minimum time required to accomplish the purpose of the opening, and all openings, excavations and trenches shall be closed at the earliest time thereafter.
- B. Backfilling. All backfilling of trenches, openings and excavations in streets, roads, highways and thoroughfares of the Borough of Tuckerton shall be performed in strict compliance with the procedures and methods set forth herein and in the Standard Specifications or as otherwise directed by the Superintendent of Public Works.

- (1) All pipe shall be placed on the proper class and type of bedding required for the type of soil conditions encountered, depth of cover over the pipe, type of pipe and traffic loading imposed.
 - (2) In those instances where the height of cover over the pipe or conduit is less than the minimum height of cover as required for the type of conduit or pipe, pipe thickness and diameter needed to withstand a minimum AASHTO H-20 loading, the conduit or pipe shall be encased in reinforced concrete, with the encasement being of the thickness, reinforcement and configuration to support loading. The encasement shall be constructed so that the load is not carried by the conduit and any other pipe or conduit which is located beneath the conduit or pipe under construction.
 - (3) Backfill shall be thoroughly compacted by mechanical means in six-inch lifts to a minimum 95% (AASHTO T-95 proctor) relative density. Tampers or compaction equipment shall be designed for the type of material being compacted. All compaction equipment shall be subject to the inspection of the Superintendent.
 - (4) Under no circumstances shall puddling, flooding or other nonmechanical means of compaction be permitted.
- C. Pavement restoration. All pavement restoration shall be performed in strict compliance with all applicable requirements as set forth in the Standard Specifications or as otherwise amended herein or as otherwise directed by the Superintendent of Public Works.
- (1) All existing pavement edges shall be completely tacked prior to placement of bituminous concrete with heated-asphalt cement Grade AC-10 or AC-20.
 - (2) Prior to placement of the soil aggregate or quarry blend subbase course on the subgrade, a filter fabric or geotextile shall be placed in the trench. All geotextile or filter fabric shall be an approved type and thickness and shall be installed in strict accordance with the manufacturer's instructions.
 - (3) The subbase course shall be thoroughly compacted to a minimum of 95% relative density (AASHTO T-95 proctor).
 - (4) Prior to placing the bituminous stabilized base course, a prime coat consisting of an asphalt cutback, Grade MC-250 or approved equal, shall be applied at a rate of 0.25 gallon per square yard, a minimum of 12 and not greater than 24 hours prior to the placement of the bituminous stabilized base course. If, in the opinion of the Superintendent, the optimum moisture content and binder content of the subbase material is sufficient, the prime coat requirement may be waived upon specific application.
 - (5) The bituminous stabilized base course material shall be placed in two immediately successive lifts of three-inch compacted thickness, with each lift being thoroughly compacted prior to placement of the succeeding lift. The bituminous stabilized base course shall be brought to the elevation of the surrounding existing pavement.
 - (6) A minimum interval of 30 calendar days shall pass between placement of the final bituminous concrete surface course, to allow for settlement.
 - (7) Prior to placement of the final bituminous concrete surface course, the trench area shall be thoroughly swept of all soil, foreign material, moisture, silt, sand and other

substance which would prevent proper adhesion of the bituminous concrete or tack coat. Any failed areas of base course shall be removed, replaced and recompact to the satisfaction of the Superintendent.

- (8) Prior to placement of the final pavement, the area shall be tacked with asphalt cutback, Grade MC-70 or approved equal. Tack coat shall extend to provide smooth transition to the existing pavement.
- (9) The final pavement shall be constructed in strict accordance with all provisions of the Standard Specifications. The finished pavement shall be blended and finished in such a manner as to provide a smooth transition to the existing pavement surface, providing a smooth joint and edge and bond between the pavement restoration and the existing pavement. The finished pavement shall be free of depressions, high areas or other surface irregularities.
- (10) Where traffic markings are disturbed in the course of pavement restoration or trench opening, it shall be the responsibility of the permittee to ensure that all pavement markings are restored in accordance with all applicable requirements and to the satisfaction of the Superintendent.
- (11) In case of any special circumstances or conditions, the permittee shall restore the road surface as directed and determined by Superintendent.

§ 229-12. Traffic safety and control; barricades.

The permittee shall bear all responsibility for ensuring traffic safety and safety to the public in the trench and work area at all times. The permittee shall also be responsible for maintaining proper traffic circulation throughout the work area. The permittee shall ensure compliance with all provisions herein or as otherwise directed by either the Superintendent of Public Works or the Police Department.

- A. All barricades, signs, flasher units, cones, traffic warning and direction devices, barrel delineators and all other devices employed in traffic control, warning and direction in and around the work area shall be in strict compliance with all requirements set forth in the Manual for Uniform Traffic Control Devices, including design, placement and maintenance.
- B. It shall be the responsibility of the permittee to erect and maintain at all times all required barricades, signs, warning devices and all other items as required to maintain traffic safety and circulation and public safety and convenience.
- C. Flashers, reflective devices and other items required to ensure visibility of the trench or work area in hours of darkness shall be provided in strict compliance with all requirements set forth in the Manual of Uniform Traffic Control Devices.
- D. The permittee shall provide to the Superintendent of Public Works and to the Tuckerton Borough Police Department the names and telephone numbers of responsible individuals who can be contacted on a twenty-four-hour-a-day, seven-day-per-week basis to respond to an emergency involving the trench or street opening and to replace or repair any defective, nonfunctioning, vandalized, stolen, damaged or otherwise ineffective barrier, warning device, flasher, sign, barricade or other device as required.

- E. Should it be necessary to allow, for any period of time whatsoever, a manhole casting, storm drainage inlet casting-value box, traffic signal detector plates or other appurtenances in the roadway, shoulder or sidewalk area to remain above the elevation of the surrounding pavement, ground surface or sidewalk, barricades, barrel delineators or other suitable devices provided with a flasher unit shall be placed over the appurtenance and shall be secured to prevent toppling or unauthorized removal or tampering and shall conform with all applicable requirements of the Manual of Uniform Traffic Control Devices for breakaway in the event of vehicle collisions. If, in the opinion of the Superintendent, temporary pavement can be placed around the appurtenance to alleviate the unsafe condition, the permittee shall be required to place such temporary pavement in accordance with all requirements specified herein and to properly remove such pavement when the appurtenance has been set to proper grade.
- F. Should the permittee propose the use of road plates or other temporary bridging, the specific approval for such items shall be obtained, in writing, from the Superintendent.
- G. No detours shall be implemented unless specific written approval has been granted by the Superintendent and the Borough Police Department. Prior to implementation or approval of any detour, the permittee must submit a specific application to the Superintendent and Police Department, such application shall include six copies of a detour plan, indicating the following information:
- (1) Location of detour, indicating the street from which traffic is to be detoured and the streets of alternate route.
 - (2) The alternate route location.
 - (3) A signing plan, indicating the location of all signs and details of all signs, including advance warning signs, traffic direction signs and barricades.
 - (4) Placement of uniformed traffic control officers. Locations of all traffic control officers, conforming to the requirements herein.
 - (5) Written narrative of the detour plan, indicating the route of detour, the length of time the detour is to remain in effect, any traffic control measures and the means to provide access to all residences and businesses within the detour area.
 - (6) Evidence of notification of all agencies, including but not limited to:
 - (a) The volunteer fire company service of the district in which the detour is located.
 - (b) The first aid squad serving the district in which the detour is located.
 - (c) The Board of Education Transportation Coordinator and Superintendent of Schools.
 - (d) The Borough Clerk.
 - (e) All other agencies as may be directed by the Public Works Department.
- H. Application for detour approval must be submitted 30 days in advance of the date of implementation of the detour. A waiver of this requirement may be permitted if, by determination of the Superintendent, a bona fide emergency condition exists.

- I. Where the need for traffic control directors or flagmen is indicated, all personnel shall be uniformed and shall have satisfactorily completed all approved traffic control and traffic direction course. All traffic control directors shall be equipped with all required flags, safety attire and communication equipment as required by the Manual of Uniform Traffic Control Devices and the State of New Jersey. All traffic control directors shall be subject to the approval of the Tuckerton Borough Chief of Police.

§ 229-13. Responsibilities of permittees.

Any person, firm, corporation, utility, quasi-public body or other entity granted a permit by the Borough of Tuckerton to open or excavate a trench or other excavation or otherwise disrupt the surface of any road, street, highway or public thoroughfare of the Borough of Tuckerton shall accept, as conditions of the granting of the permit, the following responsibilities:

- A. All liability and responsibility arising from the street opening covered by the permit, including liability arising from the opening, construction operations, traffic safety and control and restoration, holding the Borough of Tuckerton harmless from all liability.
- B. Compliance with all requirements set forth herein or as otherwise directed by the Superintendent.
- C. Notice to the Tuckerton Borough Department of Public Works Superintendent, with a minimum of two working days' notice, in advance of commencement of street opening work.
- D. Notice to all utilities or other entities of the street opening work as required by New Jersey Law.
- E. Protect the health, safety and welfare of the public at all times by employing all required traffic safety devices, warning devices and other items required to maintain traffic safety and circulation.
- F. Prevent, to the extent possible, the inconvenience to the public due to road opening work and to maintain at all times safe and efficient traffic circulation around the work.
- G. Provide and maintain proper liability insurance coverage for work operations, protecting and holding the Borough of Tuckerton harmless from all suits arising from the road opening.
- H. Provide and maintain safe working conditions for all personnel and provide adequate workmens' compensation insurance holding the Borough harmless from all suits arising from injuries sustained by personnel in the course of the permittee's operations.
- I. Maintain proper barricades, signs, warning devices and all other traffic safety devices at all times.
- J. Obey all instructions issued regarding the permit issued by the Superintendent.
- K. Post all required maintenance guaranties as required and to repair any defects or failures in the restoration during the period covered by the maintenance guaranty. The permittee shall ensure that all repairs are carried out within two working days of notification of restoration defects or failure by the Public Works Superintendent.

§ 229-14. Inspection and acceptance. [Amended 11-7-1988 by Ord. No. 18-1988]

- A. All work shall be subject to the inspection by the Department of Public Works. The Superintendent of Public Works shall reserve the right to inspect all work relating to the street opening, including but not limited to the excavation, backfill, bedding, surface restoration, restoration maintenance and traffic control and safety measures. In the event that the Borough Superintendent of Public Works shall at any time determine that any permittee has failed to comply with any of the terms and conditions and requirements of this article, the Borough Superintendent of Public Works shall have the right, in his discretion, to rescind the written permit issued previously to the permittee, and the permittee shall thereupon immediately cease any and all excavation or restoration until such time as such permittee shall have remedied such violation to the satisfaction of the Borough Superintendent of Public Works.
- B. All restoration work shall be subject to the review and approval by the Superintendent of Public Works. No surface restoration shall be considered to be complete or accepted until approved by the Superintendent of Public Works. Once approved by the Superintendent, notification will be given to the permittee. Release of the performance guaranty will not be authorized until satisfactory posting or acceptance of the maintenance guaranty conforming to the requirements of this article.
- C. In the case of road openings associated with projects that have received either Tuckerton Borough Planning Board or Zoning Board of Adjustment approval, as well as all projects of the Tuckerton Municipal Utilities Authority, it shall be the responsibility of the Borough Engineer to administer and enforce the provisions of this article and to make the required inspections, approvals and determinations otherwise entrusted to the Borough Superintendent of Public Works.

§ 229-15. Prohibited street excavations.

Upon the adoption date of this article, any excavation, opening, trench or other disruption in the pavement of any public road, street, highway or thoroughfare of the Borough of Tuckerton which has been surfaced, resurfaced, constructed or reconstructed after the effective date of this article shall be prohibited for a period of five years from the date of the completion of such resurfacing. The permittee, upon demonstration to the satisfaction of the Superintendent of Public Works that a bona fide emergency condition exists, may seek relief from this prohibition.

§ 229-16. Permittee's liability.

The permittee shall solely be liable and responsible for any damages, injuries or claims resulting from the street opening or restoration or in any connection related to the permit or the permittee's operations and actions. Nothing in this article shall be understood or construed by any permittee or other person as to absolve any permittee, his employees, agents or contractors of any responsibility for any damage or injuries suffered by any person or property in connection with the opening or digging of any public road, street or highway or thoroughfare.

§ 229-17. Indemnification.

- A. All performance guaranties and maintenance guaranties shall be drawn in favor of the Borough of Tuckerton, and written evidence of such indemnification shall be provided to the Superintendent of Public Works prior to commencement of work.

- B. The permittee shall post with the Superintendent of Public Works a certificate of public liability insurance providing a minimum umbrella or comprehensive coverage limit of not less than \$1,000,000 for injuries, including wrongful death, to any one person and, subject to the same limit for each person, in an amount not less than \$500,000 on account of one accident and property damage insurance in an amount not less than \$250,000 for damage to property for each accident.
- C. The above policies for public liability and property damage insurance must be so written as to include contingent liability and contingent property damage insurance to protect the Borough against claims arising from the operation of the permittee's contractors, subcontractors or agents.
- D. Indemnification against the liability arising from the permittee's operations and the street opening or any work in connection hereof shall protect and hold harmless the Borough of Tuckerton, its officers, its employees and its agents.

§ 229-18. Violations and penalties.

Any person, firm, corporation, partnership, utility, quasi-public body or other entity violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be subject to punishment by a fine of not more than \$1,000 or by imprisonment for a term not to exceed 90 days, or by both fine and imprisonment, in the discretion of the Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided for each separate offense.

ARTICLE IV
Construction and Maintenance
[Adopted 11-7-2005 by Ord. No. 27-2005⁷⁶]

§ 229-19. Premises owner to maintain sidewalks and curbs.

The owner of any premises in the Borough of Tuckerton abutting a sidewalk or curb constructed after January 1, 2000, shall, at his or her own cost and expense, keep and maintain such sidewalk or curb in good condition and state of repair and shall not permit the same to fall into a state of disrepair or to become unfit or unsafe to walk upon. In the event that such sidewalk or curb or any part thereof becomes unsafe or hazardous to the public or unfit to walk upon, the abutting owner, at his or her own cost and expense, shall, with all expeditious speed, reconstruct or repair, as the facts may require, such sidewalk or curb or that part thereof which requires reconstruction or repair.

§ 229-20. Notice of condition to owner.

Where in the opinion of the Borough Engineer, Code Enforcement Officer or the Public Works Director/Superintendent a sidewalk or curb is in an unsafe or hazardous condition, he or she shall inform the Borough Council, which shall, by resolution, authorize a notice, in writing, to be served upon the owner or occupant of said lands, requiring the necessary specified work to said curb or sidewalk to be done by said owner or occupant within the period not less than 60 days from the date of service of said notice. Whenever any lands are unoccupied, and the owner cannot be found within the Borough, said notice may be mailed, postage prepaid, to his or her post office address as it is ascertained from the latest tax rolls of the Borough. In a case where an owner is a nonresident of the municipality or his or her post office address cannot be ascertained, then a notice may be inserted for four weeks, once a week, in the official newspaper of the Borough.

§ 229-21. Failure to comply; work to be done by Borough.

In the case where the owner or occupant of such lands shall not comply with the requirements of such notice, it shall be lawful for the Public Works Director/Superintendent, upon filing due proof of service or publication of the aforesaid notice, to cause the required work to be done and paid for out of the Borough funds available for that purpose. The cost of such work shall be certified by the Public Works Director/Superintendent to the Borough Engineer, who shall verify the same and turn it over to the Tax Assessor. Upon filing these said certificates, the amount of the cost of such work shall be and become a lien upon said abutting lands in front of which such work was done.

§ 229-22. Line and grade of sidewalks and curbs.

All new sidewalks and curbs constructed by an abutting owner shall be constructed in accordance with the line and grade established by the Borough Engineer. All old and existing sidewalks reconstructed or repaired by an abutting owner shall be reconstructed or repaired in accordance with the existing line and grade unless such line or grade is changed by the Borough

76. Editor's Note: This ordinance also repealed former Art. IV, Visual Obstructions Near Roadways, adopted 6-16-1975 by Ord. No. 16-1975, as amended.

Engineer. It shall be the duty of the abutting owner in all instances to make inquiry to the Borough Engineer respecting such line and grade.

§ 229-23. Construction specifications.

All sidewalks and curbs constructed, reconstructed or repaired shall be in accordance with specifications of the Borough.

§ 229-24. Appropriation of funds; disposition of moneys.

The Borough Council may each year include in its annual budget an appropriation for curb and/or sidewalk repairs in addition to any existing maintenance fund, out of which appropriation all costs of construction and/or repair of curbs and sidewalks during the year may be charged when it becomes necessary for the Public Works Department to make such repairs and/or construction pursuant hereto. All moneys recovered or paid to the Borough under the provisions of this article, other than penalties as hereinafter set forth, shall be credited to the account out of which such work was paid.

§ 229-25. Application for permit; fee.

Whenever any curb or sidewalk is required to be repaired, reset or relaid in the Borough, application for a permit shall be made by the owner of the abutting lands or his or her contractor to the Construction Official, specifying grade, dimensions, mixed materials and the method of construction or repair to be used. The Construction Official shall examine said specifications and, upon approval of the Borough Engineer, in compliance with all the provisions of this article, shall grant a permit to the applicant. An administrative fee for the aforesaid permit shall be \$2 per linear foot of sidewalk and \$5 per linear foot of curb being repaired. In addition, the applicant shall pay a fee to the Borough to cover the cost of the Borough Engineer's inspection of the curb and/or sidewalks, which fee shall be as follows:

Curb and Sidewalks

| (linear feet) | Fee |
|---------------------------------------|--------------------|
| Up to 50 | \$150 |
| Each additional 50 or portion thereof | An additional \$50 |

§ 229-26. Prohibition on obstruction of right-of-way.

The owners of premises abutting a street right-of-way in the Borough shall not allow or cause the construction or placement of any permanent structure or planting of any plant life and allowing such plant life to grow higher than 2 1/2 feet in the street right-of-way in front of such property without the approval of the Borough Council.

§ 229-27. Prohibition on casting of snow or ice.

No owner, tenant or occupant of any premises abutting on any street shall throw, place or deposit snow or ice into or on any street, it being the intent and purpose of this provision to prohibit all persons from throwing, casting, placing or depositing snow and ice which accumulates within the private property belonging to that person on the sidewalks or streets of the Borough.

§ 229-28. Removal of snow. [Amended 3-15-2010 by Ord. No. 4-2010]

The owner, tenant or occupant of any premises abutting a sidewalk shall remove all snow or ice from the sidewalk abutting said property in a manner so as not to allow snow or ice to remain on the sidewalk for more than 24 hours after the end of the storm.

§ 229-29. Cutting of brushes and hedges near roadways and intersections.

The owner and tenants of lands lying within the limits of the Borough shall keep all brush, hedges and other plant life growing within 10 feet of any roadway and also within 25 feet of the intersection of two roadways cut to a height of not more than 2 1/2 feet. Where it shall be necessary and expedient for the preservation of public safety, the owner or tenant of said property shall be required by the Code Enforcement Officer of the Borough to cut said brush, hedges and other plant life in accordance with the terms of this article within 10 days after notice to cut the same is served by the Code Enforcement Officer of the Borough. Said notice shall be served by regular and certified mail at the last known address of the owner or tenant of the subject property. In the event that no address is known, service shall be made by posting said notice on the subject property. In the event that the owner or tenant shall fail or neglect to cut the brush, hedges and plant life within 10 days after receipt of said notice in accordance with the provision of this article, the brush, hedges and plant life may be removed by the Borough under the direction of the Code Enforcement Officer of the Borough.

§ 229-30. Cost of removal to be lien.

In all cases where the brush, hedges and other plant life are cut from any lands pursuant to the provisions of § 229-29, by or under the direction of the Code Enforcement Officer of the Borough, the Code Enforcement Officer shall certify the costs thereafter to the governing body, who shall examine the certificate and, if found correct, shall cause the costs thereon to be charged against said lands. In the event that such cost is determined by the governing body to be excessive, the reasonable cost thereof, in the determination of the governing body, shall be charged against said lands, and the amount so charged shall forthwith become a lien upon said lands and shall be added to and become part of the taxes next to be assessed and levied upon such lands. Said lien shall bear the same interest rate as taxes and shall be collected and enforced by the officers of the municipality in the same manner as taxes.

§ 229-31. Enforcement.

This article shall be enforced by the Police Department and Code Enforcement Officer of the Borough of Tuckerton.

§ 229-32. Violations and penalties.

- A. The failure of any applicant, owner or his or her contractor, servant or agent to construct or repair such curbs and/or sidewalks in accordance with the specifications filed by him or her for the purpose of securing that permit under the terms of this article shall be and constitute a violation hereof.
- B. Any person violating the terms of this article or refusing or neglecting to comply with any of the provisions hereof shall, upon conviction therefor, be subject to a fine of not more than \$1,000, imprisonment in the county jail for a period of not more than 90 days and/or a

period of community service of not more than 90 days in the discretion of the court before which such conviction is had.

- C. Each day's persistence in the things or acts prohibited by this article shall be and constitute a separate and distinct offense subject to any and all penalties prescribed in this article.

ARTICLE V

Obstruction of Streets**[Adopted 11-7-2005 by Ord. No. 29-2005]****§ 229-33. Definitions.**

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

STREET — As defined in § 255-4.

§ 229-34. Obstruction of street prohibited.

No person shall place or cause to be placed any dumpster, rubbish, debris, sand, gravel, stone, soil, mulch or other landscaping material or any pallet, skid, container or receptacle used to deliver or store such material on any public street or portion thereof in any manner so as to obstruct or interfere with the operation of motor vehicles or drainage.

§ 229-35. Enforcement.

This article shall be enforced by the Police Department, Code Enforcement Officer or Construction Official of the Borough of Tuckerton.

§ 229-36. Violations and Penalties.

Any person, firm, corporation, partnership, utility, quasi-public body or other entity violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be subject to punishment by a fine of not more than \$1,000 or by imprisonment for a term not to exceed 90 days, or by both fine and imprisonment, in the discretion of the Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided for each separate offense.

Chapter 231

SUBDIVISION OF LAND

GENERAL REFERENCES

Planning Board — See Ch. 45, Art. I.

Building construction — See Ch. 107.

Certificates of occupancy — See Ch. 122.

Landmarks preservation — See Ch. 187.

Mobile home parks — See Ch. 196.

Site plan review — See Ch. 220.

Streets and sidewalks — See Ch. 229.

Vehicles and traffic — See Ch. 246.

Water and sewers — See Ch. 249.

Zoning — See Ch. 255.

ARTICLE I
General Provisions

§ 231-1. Short title.

This chapter shall be known and may be cited as "The 1973 Land Subdivision Ordinance of the Borough of Tuckerton, Ocean County, New Jersey."

§ 231-2. Purpose.

The purpose of this chapter shall be to provide rules, regulations and standards to guide land subdivision in the Borough of Tuckerton in order to promote the public health, safety, convenience and general welfare of the municipality. It shall be administered to ensure the orderly growth and development, the conservation, production and proper use of land and adequate provision for traffic circulation, utilities and services.

ARTICLE II
Administration

§ 231-3. Approving agency.

The approval provisions of this chapter shall be administered by the Planning Board of the Borough of Tuckerton in accordance with the provisions of Chapter 433 of the Laws of 1953 (N.J.S.A. 40:55-1.1 et seq.) and the amendments thereof and supplements thereto,⁷⁷ except in those instances in said statute specifically requiring action by the Mayor and Council or other municipal officials.

§ 231-4. Minimum requirements.

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 Borough of Tuckerton.

§ 231-5. Planning Board duties.

- A. The Planning Board, in considering a major subdivision, in addition to all other requirements, must also review the subdivision to determine whether existing community facilities or plans, or reasonable possibilities for expanding such facilities, are adequate to provide for the needs of future residents of the proposed development.
- B. The Planning Board shall prepare bylaws and rules and regulations for its procedures and operation, subject to this chapter and applicable statutes, and the necessary terms to implement the same.

77. Former N.J.S.A. 40:55-1.1 through 40:55-1.42 was repealed by L. 1975, c. 291, § 80, effective 8-1-1976.

ARTICLE III
Exempt Subdivisions

§ 231-6. Purpose and intent.

If a proposed subdivision meets the requirements of an exempt subdivision as defined by this chapter, it is the intent of this chapter that these subdivisions be exempted from the procedural requirements for major subdivisions.

§ 231-7. Procedure.

A. Action by the applicant.

(1) Any owner of land within the Borough of Tuckerton seeking subdivision approval under the provisions of this article shall submit the following documents to the Secretary of the Planning Board 10 days prior to the regular scheduled meeting:

- (a) An exempt subdivision fee in the amount of \$50. Checks shall be made payable to the Treasurer, Borough of Tuckerton.
- (b) Three copies of exempt subdivision application forms.
- (c) Five copies of the plat of the proposed subdivision which has been previously approved by the Ocean County Planning Board.
- (d) A certificate from the Municipal Tax Collector or other satisfactory proof that all current taxes and assessments for local improvements, if any, have been paid.
- (e) A copy of any protective covenants or deed restrictions applying to the land involved in the subdivision or a negative statement by the applicant's attorney or engineer indicating that none exist.
- (f) One copy of the appeal to the Board of Adjustment when any variances are required.

(2) Upon approval by the Planning Board and receipt from the Secretary of the signed original tracing and certified copy of the approving resolution, the applicant will file the approved map in the office of the Ocean County Clerk within 90 days of the date of approval. If said map is not filed within the time period stated, the approval shall expire and application must again be made to the Planning Board. After filing, the applicant will furnish to the Secretary a duplicate original tracing showing the filing information thereon and seven copies of the approved plat, together with a statement from the applicant's engineer that these are true copies of the plat approved by the Planning Board, who will then make the necessary distributions.

B. Variance procedure. If a variance is required, all hereinabove outlined procedures remain unchanged except that the action of the Planning Board shall be made subject to favorable action by the Board of Adjustment. Upon favorable action by the Planning Board, subject to favorable action by the Board of Adjustment, the Secretary shall return to the applicant the unsigned original plat, together with a certified copy of the resolution, and shall also forward a certified copy of the resolution to the Board of Adjustment. Upon favorable action by the Board of Adjustment and receipt of the original tracing, the Secretary shall verify the action of the Board of Adjustment and have the original tracing signed

and returned to the applicant for final processing in accordance with exempt subdivision procedures hereinbefore outlined. In the event the time limit for filing has expired, the Secretary will present the map to the Planning Board for reapproval prior to obtaining the necessary signatures.

C. Action by the Planning Board.

- (1) Upon receipt of all the required documents, the Secretary of the Planning Board shall refer one copy of the plat to the Borough Engineer for review and report. The Borough Engineer will report the results of his review to the Planning Board which will then take whatever action it deems necessary. Upon approval by the Planning Board, a notation shall be made to that effect on the original tracing indicating the time limit within which the plat must be filed in the office of the Ocean County Clerk and the Secretary will then return said noted original to the subdivider with a certified copy of the Planning Board resolution.
- (2) Upon receipt from the subdivider of the duplicate original and seven copies of the approved map on which has been shown the filing information, the Secretary shall retain the duplicate original in the Planning Board files and distribute one copy each to the following:
 - (a) Borough Clerk.
 - (b) Applicant.
 - (c) Tax Assessor.
 - (d) Borough Solicitor.
 - (e) Borough Engineer.
 - (f) Building Inspector.
 - (g) Zoning Officer.
- (3) If any person shall be aggrieved by the action of the Planning Board, appeal in writing to the governing body may be taken within 10 days after the date of the action of the Planning Board. A hearing thereon shall be had on notice to all parties in interest, who shall be afforded an opportunity to be heard. After such hearing, the governing body may affirm or reverse the action of the Planning Board by a recorded vote of a majority of the total members thereof. The findings and reasons for the disposition of the appeal shall be stated on the records of the governing body, and the appealing party shall be given a copy.

§ 231-8. Plat details.

- A. General. The subdivision plat shall be clearly and legibly drawn or reproduced in ink on a reproducible tracing base. Any map which, in the opinion of the Borough Engineer, is not clear and legible shall be returned to the applicant without action by the Planning Board. All plats shall be drawn to a scale commensurate with the size of the property being subdivided, but in no instance shall it be less than one inch equals 100 feet unless approval is obtained from the Borough Engineer. All plats shall be prepared by a licensed

professional engineer or land surveyor in compliance with all the provisions of N.J.S.A. 46:23-9.9 et seq.⁷⁸

- B. Required information on plat. The following information shall be required on all exempt subdivision plats:
- (1) A title box, which shall include a proper map title reciting all tax lot and block numbers of property affected by the subdivision.
 - (2) The map date showing the month, day and year, together with a revision box which shall contain a brief description and date of any revisions made after the map date.
 - (3) Graphic scale.
 - (4) Reference meridian.
 - (5) A key map at an appropriate scale showing the subdivision in relation to surrounding major arteries and waterways.
 - (6) The zone of the property being subdivided, together with a tabulation of the minimum zoning requirements of lot width, depth, frontage and area, and front, side and rear setbacks.
 - (7) A survey of the tract or tracts as well as complete dimensions and net areas of each lot.
 - (8) All existing buildings showing setback dimensions from any new lot line being created by the subdivision, together with all watercourses and any other topographical features which are pertinent to the subdivision. If the property is vacant, it shall be so stated on the plat.
 - (9) The names, owners and tax lot and block numbers of all contiguous land.
 - (10) All existing street widths dimensioned from each side of the established center line.
 - (11) All street widening dedications showing width of actual dedication, distance from the established street center line and to whom dedication is made.
 - (12) All easements, both existing and proposed, showing location, width, purpose and to whom the easement is being granted.
 - (13) All found and set monumentation. Set monumentation shall be in accordance with the provisions of the Map Filing Law.⁷⁹
 - (14) The location and type of all existing improvements within the street right-of-way for the entire frontage of the property being subdivided.
 - (15) The endorsed certifications of a land surveyor attesting to the preparation and accuracy of the plat and to the setting of all monuments shown and of the property owner attesting to the ownership and consenting to the subdivision and filing thereof. In addition, there shall be unendorsed certifications for the Borough Engineer

78. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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

attesting to conformance of the plat with all applicable regulations and for the Planning Board attesting to the approval of the map and the time limit for filing thereof.

- (16) Any other information deemed necessary by the Planning Board or Borough Engineer to properly evaluate the subdivision.

§ 231-8.1. Sidewalk and curbing requirements. [Added 8-21-2006 by Ord. No. 11-2006]

Notwithstanding any provision to the contrary, curbs and sidewalks shall be required along all street frontages as a condition relating to any minor subdivision, major subdivision, minor site plan or major site plan approval granted by the Land Use Board in accordance with the requirements of § 231-29.1 of the Borough Code of the Borough of Tuckerton.

ARTICLE IV
Major Subdivision; Preliminary Plat

§ 231-9. Purpose of preliminary plat.

The purpose of the preliminary plat is to provide the Planning Board with the detailed drawings of what is expected to become the final subdivision plat. These drawings shall be accurate in order to give the Planning Board and their representatives, who are charged with the responsibility of reviewing the plat, all the data necessary for a detailed review.

§ 231-10. Required documents to be submitted.

The following documents or proofs shall be submitted with, or prior to, action by the Planning Board on all preliminary major subdivisions:

- A. Two copies of preliminary subdivision application forms.
- B. Preliminary subdivision fee in the amount of \$20 per lot for the first 50 lots, plus \$10 per lot for the next 50 lots, plus \$5 per lot for each lot thereafter, but in no event shall the fee be less than \$150. Said fee shall be used to cover the cost of review, site inspection and other incidental work required by the application. Checks shall be made payable to the Treasurer, Borough of Tuckerton.
- C. Six copies of the preliminary plat and preliminary street profiles, as well as any other maps required for the proper presentation of the subdivision, accompanied by the written consent of the owner.
- D. Two copies of a drainage area map and drainage calculations.
- E. Two copies of all boring logs. The minimum number shall be one for each 10 acres or fraction thereof but not less than two for any subdivision.
- F. Proof of payment of all current taxes due assessments for local improvements, if any.
- G. Approval of the Ocean County Planning Board.
- H. A statement of intent and proof of public water supply availability, or in lieu thereof, tentative approval of the Municipal Board of Health for the use of individual water supplies.
- I. Tentative approval of the Borough of Tuckerton Municipal Utilities Authority of all sewerage extensions, or in lieu thereof, tentative approval of the Municipal Board of Health for the use of individual sewage disposal systems.
- J. Tentative approval of the New Jersey State Department of Environmental Protection.
- K. Tentative approval of the New Jersey Department of Transportation, if the proposed subdivision abuts upon a state highway.

§ 231-11. Submission procedure.

- A. Public hearing date. Upon receipt by the Planning Board Secretary of at least those items in § 231-10A to E, inclusive, of the required proofs and documents 10 days prior to the regular scheduled meeting, the Planning Board shall set a date for a public hearing on the

proposed preliminary plat, which shall be as soon thereafter as possible, predicated upon administrative policy set by the Planning Board. The Planning Board Secretary shall then notify the applicant in writing of the time and place of the public hearing.

- B. Plan distribution. Upon setting the public hearing date, the Secretary shall forward one copy of the preliminary plans, together with notice of the time and place of the public hearing, to each of the following:
- (1) Borough Engineer, including one copy of the drainage area map and calculations and boring logs.
 - (2) Borough Clerk.
 - (3) Tax Assessor.
 - (4) Zoning Officer.
 - (5) School Board.
- C. Public hearing notification. The applicant shall cause notice of the public hearing to be published in the official newspaper or newspapers of general circulation in the municipality at least 10 days prior to the hearing. The applicant shall notify by certified mail, return receipt requested, at least five days prior to the hearing, all property owners within 200 feet of the extreme limits of the subdivision as their names appear on the municipal tax record. If the proposed subdivision is within 200 feet of an adjoining municipality, the Municipal Clerk of the adjoining municipality shall be notified by the applicant at least 10 days prior to the hearing by certified mail, return receipt requested. If the proposed subdivision involves property abutting upon or adjacent to a county roadway, the applicant shall, at least 10 days prior to the hearing, give notice in writing of the hearing by certified mail, return receipt requested, to the Ocean County Planning Board. If the proposed subdivision involves property abutting upon or adjacent to a state highway, the applicant shall, at least 10 days prior to the hearing, give notice in writing by certified mail, return receipt requested, to the Commissioner of Transportation of the State of New Jersey. The notice of hearing shall contain a brief description of the property involved, a statement as to its location, a list of the maps and other documents to be considered and a summary statement of the matters to be heard and that copies of the maps and other documents to be considered at the hearing have been filed with the Secretary of the Planning Board for public inspection at or before the time and place of the public hearing. The applicant shall furnish to the Secretary a certified list of the names and addresses of the persons to whom notices were mailed, the original return receipts and certified proof of publication of the public hearing.
- D. Public hearing on preliminary plat. The Planning Board shall hold the public hearing on the preliminary plat at the time and place specified in accordance with an adopted procedure set by the Board. This procedure shall be indicated to the public when the hearing is opened for discussion. It shall be indicated that the purpose of the public hearing is to hear from those persons and property owners affected by the proposed subdivision, as well as other interested parties.
- E. Report of Borough Engineer.

- (1) The Borough Engineer shall check each preliminary plat in sufficient detail to assure the Planning Board all applicable regulations and design standards have been satisfactorily complied with. The Borough Engineer shall review the preliminary plat for: compliance with the current zoning ordinances;⁸⁰ suitability of the land for building purposes; adequacy of the proposed street layout with due consideration given to traffic safety, circulation, ease of access, proper street dedications and extensions of existing streets; adequacy of the on-site drainage system and proper disposition of the discharge off-site including any off-site drainage assessment; satisfactory water supply and sewage disposal facilities; proposed grading of streets and lots to ensure that land disturbance is kept to a minimum; evaluation of any pertinent comments made at the public hearing; all else either requested by the Planning Board or which, in the opinion of the Borough Engineer, affects the proper evaluation of the preliminary plat.
 - (2) The Borough Engineer shall submit his report to the Planning Board as soon as practicable after the public hearing, stating his findings and any recommended changes.
 - (3) The Borough Engineer and solicitor shall submit a written report to the Planning Board attesting that all required approvals of all other governmental agencies have been obtained and are in proper order.
 - (4) It shall be the applicant's responsibility to see that the Borough Engineer is furnished with copies of all required approvals.
- F. Reports of other governmental agencies. Major subdividers must provide and incorporate in their plans provisions for adequate water supply and adequate waste and sewage disposal facilities.
- (1) Sewage disposal facilities. All major subdivisions shall provide sewage disposal facilities which are connected to the existing collection and treatment facilities of the Tuckerton Municipal Utilities Authority. Prior to any action by the Planning Board, the subdivider shall obtain tentative approval of the proposed collection system from the Tuckerton Municipal Utilities Authority. In the event that the Tuckerton Municipal Utilities Authority is unable or deems it impractical to provide for extension of the collection system, then the subdivider shall obtain tentative approval of the Tuckerton Board of Health for individual disposal systems. If it is proposed to provide individual sewage disposal systems for 50 or more lots, the subdivider will then be required, pursuant to N.J.S.A. 58:11-25.1, to obtain tentative approval of the proposed system from the New Jersey Department of Environmental Protection, Division of Water Resources, after tentative approval has been granted by the Tuckerton Board of Health.
 - (2) Water supply facilities. All major subdivisions shall be required to provide a public water supply system. The subdivider shall furnish to the Planning Board a statement indicating the type of system proposed (extension of an existing distribution system or construction of a new supply and distribution system) and, in the case of an extension of an existing system, a letter from the franchised water company indicating the availability of service to the subdivision. In the event that it is deemed impractical

80. Editor's Note: See Ch. 255, Zoning.

to provide a public water supply and distribution system, which judgment shall be at the sole discretion of the Planning Board, then the subdivider shall obtain tentative approval of the Tuckerton Board of Health for individual water supply systems. If it is proposed to provide individual water supply systems for 50 or more lots or if it is proposed to provide a new comprehensive water supply and distribution system, the subdivider will then be required, pursuant to N.J.S.A. 58:11-25.1, to obtain tentative approval of the proposed system from the New Jersey Department of Environmental Protection, Division of Water Resources, after tentative approval has been granted by the Tuckerton Board of Health.

G. Action by the Planning Board.

- (1) Upon completion of the public hearing and upon receipt of at least those items in § 231-10A to E, inclusive, of the supporting proofs, the Planning Board shall review the preliminary plat.
- (2) If any changes to the plat are required by the Planning Board, the Secretary shall notify the applicant in writing of the necessary revisions. If the applicant requests, the Secretary shall also arrange a meeting whereby the applicant and Subdivision Committee can review and discuss the proposed changes.
- (3) Upon a favorable review and completion of any required changes, the Planning Board shall act on the preliminary plat. The Board shall have the option of taking action subject to the applicant obtaining all required remaining approvals or acting only after all required remaining approvals have been obtained.
- (4) Upon favorable action by the Planning Board, the Secretary shall forward a copy of the approving resolution to the applicant. The applicant will then furnish to the Secretary the original tracing and a duplicate original, together with proof that any or all conditions specified in the approval have been complied with. The Secretary will then have both tracings signed by the Chairman and return the original to the applicant and retain the duplicate original in the Planning Board files.

H. Appeal. If any person shall be aggrieved by the action of the Planning Board, appeal in writing to the governing body may be taken within 10 days after the date of the action of the Planning Board. A hearing thereon shall be had on notice to all parties in interest, who shall be afforded an opportunity to be heard. After such hearing, the governing body may affirm or reverse the action of the Planning Board by a recorded vote of a majority of the total members thereof. The findings and reasons for the disposition of the appeal shall be stated on the records of the governing body, and the appealing party shall be given a copy.

I. Tentative preliminary plat approval rights. Tentative approval shall confer upon the applicant the following rights for a three-year period from the date of approval.

- (1) The general terms and conditions upon which the tentative approval was granted will not be changed.
- (2) Said applicant may submit on or before the expiration date the whole or part or parts of said plat for final approval.

§ 231-12. General information required on preliminary plans.

- A. The preliminary plans of a major subdivision shall include the preliminary plat, preliminary street profiles, drainage area map and drainage calculations, utility plans, if required, construction details, if required, and any other plans necessary to establish the design, arrangement and dimensions of streets, lots and other planned features as to form size and location. This information shall form the basis for the general terms and conditions upon which tentative approval may be granted.
- B. The preliminary plans shall be clearly and legibly drawn on a reproducible tracing base. Any map which in the opinion of the Borough Engineer is not clear and legible shall be returned to the applicant without action by the Planning Board. Preliminary plats shall be drawn to a scale commensurate with the size of the property being subdivided, but in no instance shall it be less than one inch equals 100 feet unless approval is obtained from the Borough Engineer. All plats shall be prepared by a licensed professional engineer or land surveyor in compliance with the design provisions of Article VII of this chapter.

§ 231-13. Required information on plats.

The following information shall be shown on all preliminary plats:

- A. A title box showing the tract name and section, if any; Tax Map, block and lot numbers; map date showing the month, day and year; revision box and graphic scale.
- B. Planning Board approval block.
- C. The zone of the property being subdivided, together with a tabulation of the minimum zoning requirements of lot width, depth, frontage and area, and front, side and rear setbacks.
- D. The entire tract acreage to the nearest tenth of an acre.
- E. The total number of building lots created by the subdivision.
- F. The name and address of the subdivider and the name and address of the owner, together with a certification by the owner attesting to his ownership and consenting to the subdivision.
- G. The names and tax block and lot numbers of all owners within 200 feet of the subdivision.
- H. Reference meridian.
- I. A key map at an appropriate scale showing the subdivision in relation to surrounding major arteries and waterways.
- J. Complete boundary information, together with a statement as to the source of the information (survey, Tax Map, deed, etc.).
- K. All existing streets within the proposed subdivision and within 400 feet of the boundary showing the name, width and established center line.
- L. All existing easements, rights-of-way and other reserved lands within the subdivision showing the width, purpose and grantee.
- M. All proposed street dedications, easements and rights-of-way showing the location, width, purpose and grantee, and all other reserved lands indicating the size and proposed use.

- N. All existing aboveground topography, including buildings, woods outline with a general description of type and density, watercourses, curbs, sidewalks and pavement types.
- O. All existing and proposed storm drainage and existing and proposed sanitary sewerage showing pipe size, type, invert elevation and slope. All existing and proposed water mains, gas mains and other underground utilities within or contiguous to the proposed subdivision when a separate utility plan is not required by the Borough Engineer.
- P. The proposed street names and lot and block numbers which shall be approved by the Borough Engineer.
- Q. The dimensions of each and every lot within the subdivision.
- R. The boring locations with a tabulation of the boring log if not submitted separately. Said logs shall show data obtained from soil borings not less than eight feet below final grade at the ratio of one boring for every 10 acres, which shall be evaluated by the Planning Board to determine suitability of the ground for the type of construction to be erected thereon. The Planning Board or Engineer may require additional borings if necessary to reach a proper evaluation.
- S. The existing ground contours at a maximum interval of two feet, except if the average slope of the land is 1% or less, the maximum interval shall be one foot. Existing contours shall be shown as short dashed lines with every fifth contour accented.
- T. The proposed elevations every 50 feet along the center line of all streets within and abutting the proposed subdivision. In addition, there shall be proposed elevations at each lot corner, an approximate house plateau elevation and sufficient other elevations to show the anticipated grading of the subdivision and general direction of all surface drainage runoff.
- U. Traffic control signs and devices.

§ 231-14. Required information on preliminary street profiles.

- A. Preliminary profiles shall be submitted for every street within and for all existing streets abutting the proposed subdivision.
- B. Except in unusual circumstances, profiles shall be drawn at a scale of one inch equals 50 feet horizontally and one inch equals five feet vertically. Streets shall be stationed from south to north and west to east and profiles drawn with stations increasing to the right.
- C. In addition, all profiles shall show the following information:
 - (1) The existing ground and proposed finished grade; existing and proposed elevations to the nearest .1 shown at every station; station to the nearest five feet and proposed elevation at every intersecting street; P.V.I. station, elevation and length of curve at all vertical curves; station and proposed elevation of all P.V.C.'s and P.V.T.'s; and tangent grades to the nearest .01%.
 - (2) All existing and proposed sanitary sewers and all existing and proposed trunk and principal lateral storm sewers. Any trunk or principal lateral storm sewer which is not in a street shall be plotted on a separate profile. Invert elevations and pipe sizes shall also be shown for storm and sanitary sewers.

- (3) When unsuitable material is required to be removed in roadway areas, the vertical limits of such removal shall be shown.
- (4) Any other information required by the nature of the design which may appropriately be shown in a profile view.

§ 231-15. Drainage area map and calculations.

Unless specifically approved otherwise by the Borough Engineer, the drainage area map shall be prepared on a duplicate original of the preliminary plat, which has been completed to show all the detail required on a preliminary plat with the exception of the proposed drainage and extraneous notations, and shall show the following additional information:

- A. All proposed drainage with each manhole, inlet, headwall and other drainage structure numbered.
- B. The outline of each area contributing to a drainage inlet structure both on-site and off-site. When it is impractical to show the off-site contributing area on the drainage area map, it may be shown on the largest available scale geodetic quadrangle sheet or other appropriate contour map.
- C. Arrows showing the direction of flow of all surface drainage and particularly noting the location of all high and low points and the direction of gutter flow through all street intersections.
- D. In either tabulated form or within the appropriate outline, there shall be shown for each contributing area the total area in acres with subtotals for areas of equal runoff coefficients and the runoff coefficient used for each subarea.
- E. In either tabulated form or within the appropriate outline, there shall be shown the distance from the most remote point of the contributing drainage area to the inlet structure. This shall be segregated into lengths of equal overland flow characteristics and shall show the overland flow time for each length and also the total.
- F. The off-site point of discharge and existing off-site system showing pipe size, type, slope, invert and capacity, to an extent which will provide the Borough Engineer with sufficient detail to properly evaluate the complete drainage system. Dependent upon the size and scale of the drawing, this information may be shown at a reduced scale.
- G. When in the opinion of the Borough Engineer the design appears to be marginal, there shall also be included a hydraulic profile of the proposed system.
- H. Drainage calculations shall be organized in an orderly, logical sequence and shall show for each drainage inlet structure the contributing drainage area, the runoff coefficient, time of concentration, rainfall intensity, design flow, length of the pipe, slope of the pipe, proposed diameter and type, coefficient of roughness of the pipe, velocity in the pipe, time in the pipe and capacity of the pipe.

§ 231-16. Utility plans.

When required by the Borough Engineer, a separate utility plan shall be submitted showing, for all streets within the proposed subdivision and those streets abutting the proposed subdivision, all existing and proposed storm sewers, water mains (including hydrant locations), gas mains,

utility poles, underground electric transmission and distribution lines (including locations of streetlight standards, transformers and other aboveground items), underground telephone service lines (including the location of any aboveground items) and any other utility service proposed to be provided either above or below ground.

§ 231-17. Separate details for nonstandard construction.

When in the opinion of the Borough Engineer elements of the subdivision design or features of construction do not conform to standard criteria, separate construction details shall be provided. Details shall be submitted with sufficient information to establish the concept of the design. Some examples for which construction details will be required are: special drainage structures, bridges, warped intersection designs, special improvement requirements, retaining walls, special grading locations, special slope stabilization techniques, etc.

§ 231-18. Action by subdivider after approval.

- A. Improvements prior to final approval. Upon approval of the preliminary plat and before submission of or action on any final plat or section thereof, the subdivider shall construct at least the following improvements as specified in Article VI.
- (1) All new dedicated streets, all existing unimproved streets and all widened portions of improved existing streets shall be paved up to and including the first course of the wearing surface.
 - (2) Concrete curbing.
 - (3) Stormwater collection system.
 - (4) Sanitary sewage collection system, when required.
 - (5) Water distribution system, when required.
 - (6) All other underground utilities.
- B. Engineering drawings. All improvements shall be constructed in accordance with final engineering drawings prepared by a licensed New Jersey professional engineer and approved by the Borough Engineer. Said drawings shall include final plans and profiles of all streets, tentative final lot grading plan which will show sufficient elevations to establish the lot area surface flow throughout the subdivision and finalized versions of all other supporting drawings required for tentative approval, together with any other drawings deemed necessary by the Borough Engineer. Upon notification of approval of the engineering drawings, the applicant shall furnish the Borough Engineer with the original and duplicate original of all drawings. The Borough Engineer shall affix his signature to both sets and return the original to the applicant, retain the duplicate original in his files and forward copies to the Planning Board, Borough Clerk and Building Inspector. Said drawings shall become the approved plans governing the construction of all improvements.
- C. Construction of improvements. Upon receipt of the approved plans, the subdivider may proceed to construct the required improvements; provided, however, that he shall notify the Borough Clerk, Planning Board, Borough Engineer and Building Inspector at least seven days in advance of the date of beginning construction and shall have obtained all permits required. No on-site or off-site improvements shall be constructed except in strict

accordance with approved plans. If it is found by the subdivider that minor modifications or additions are needed during the course of installing such improvements due to unforeseen circumstances, the subdivider shall not make such improvement change until approval has been granted by the Borough Engineer after the submittal of plans incorporating such changes.

- D. Inspection of improvements. Upon completion of construction of all required improvements, the subdivider shall notify the Borough Engineer, who will then inspect the construction. When inspection reveals that all improvements have been satisfactorily constructed, the Borough Engineer shall so notify the applicant.
- E. As-built plans. Upon notification that all improvements have been satisfactorily constructed, the subdivider shall furnish the Borough Engineer with a complete set of final engineering drawings (duplicate originals) which have been annotated to show the as-built horizontal and vertical locations of all constructed improvements. Upon submission of the final as-built drawings, the subdivider may then apply for final approval.

ARTICLE V
Major Subdivision; Final Plat

§ 231-19. Time limit for submission.

The final plat shall be submitted to the Planning Board within three years from the date of tentative approval.

§ 231-20. Submission of required documents.

The following documents or proofs shall be submitted with all final major subdivision plats:

- A. Three copies of the final subdivision application forms.
- B. Six copies of the final plat and final lot grading plan.
- C. The final subdivision fee to cover the cost of review of the engineering drawings, final plat, site inspection, inspection of construction improvements and other related work required by the application, in the amount of \$100 per lot.
- D. Off-site drainage assessment fee, when required.
- E. Proof of payment of all current taxes due and assessments for local improvements, if any.
- F. The approval of the final plat by the Ocean County Planning Board.
- G. A performance bond in cash or other surety satisfactory to the Planning Board, in accordance with a bond estimate prepared by the Borough Engineer, guaranteeing the construction of all remaining required improvements within two years of final approval.
- H. A maintenance bond in surety form or cash equivalent to 15% of the value of all required improvements (said value as determined by the Borough Engineer) to remain in effect for a period of not less than two years from the date of final approval.
- I. A certificate of title and certification of the owner consenting to the subdivision and filing of the plat.

§ 231-21. Submission procedure.

The applicant shall submit all the required proofs or documents to the Secretary of the Planning Board. The Secretary shall then forward copies of the final plat and lot grading plans to the Borough Engineer for review and report. Upon receipt of the Borough Engineer's report, the Planning Board shall act on the final plat. The Planning Board shall act within 45 days of the date whereon the subdivider has complied with all actions required of him by this chapter. Failure of the Planning Board to act within the allotted time or a mutually agreed upon extension shall be deemed to be favorable action and the Borough Clerk shall issue a certificate to that effect.

§ 231-22. Report of Borough Engineer.

The Borough Engineer shall review the final plat and report to the Planning Board as follows:

- A. That he is in receipt of as-built plans and a certification from the developer showing all utilities and improvements in exact location and elevation and identifying those portions already installed and those to be installed.
- B. That all improvements completed by the developer prior to submission of the final plat to the Planning Board have been inspected and approved by the Borough Engineer.
- C. That the subdivider has installed all improvements in accordance with the requirements of these regulations.
- D. That the submitted final plat conforms exactly to the preliminary plat as approved by the Planning Board or the recommendation of the submission of a revised preliminary plat if the final plat does not so conform.

§ 231-23. Legibility and scale of map.

The final plat shall be clearly and legibly drawn on a reproducible tracing base. Any map which in the opinion of the Borough Engineer is not clear and legible shall be returned to the applicant without action by the Planning Board. Final plats shall be drawn to a scale commensurate with the size of the property being subdivided but in no instance shall it be less than one inch equals 100 feet unless approval is obtained from the Borough Engineer. All plats shall be prepared by a licensed professional engineer or land surveyor in compliance with the provisions of this chapter.

§ 231-24. Required information.

The following information shall be shown on all final plats:

- A. A title box showing the tract name and section, if any; Tax Map block and lot numbers; the map date showing the month, day and year; and a revision box and graphic scale.
- B. Planning Board approval block.
- C. The zone of the property being subdivided, together with a tabulation of the minimum zoning requirements of lot width, depth, frontage and area, and front, side and rear setbacks.
- D. The entire tract acreage to the nearest hundredth of an acre.
- E. The total number of building lots created by the subdivision.
- F. The name and address of the subdivider and the name and address of the owner, together with a certification by the owner attesting to his ownership and consenting to the subdivision.
- G. The tax block and lot numbers of all adjacent lands.
- H. Reference meridian.
- I. A key map at an appropriate scale showing the subdivision in relation to surrounding major arteries and waterways.
- J. Complete survey boundary information.

- K. All existing streets within and contiguous to the proposed subdivision showing the name, width and established center line.
- L. All existing easements, rights-of-way and other reserved lands within the subdivision showing width, purpose and grantee.
- M. All proposed street dedications, easements and rights-of-way showing the location, width, purpose and grantee and all other reserved lands indicating the size and proposed use.
- N. All existing buildings and watercourses.
- O. The proposed street names and lot and block numbers which shall be approved by the Borough Engineer.
- P. The dimensions of each and every lot within the subdivision.
- Q. All monumentation, both existing and proposed.
- R. Complete curve data for all street center lines showing the identification number, radius, central angle, tangent length, curve length and chord length.
- S. The setback lines from all streets properly dimensioned.
- T. Certification as follows:
 - (1) The Municipal Engineer attesting to conformance with the Map Filing Law⁸¹ and applicable regulations.
 - (2) A land surveyor attesting to the accuracy of the map and survey and the status of monuments shown on the plat.
 - (3) The Planning Board attesting to approval of the map, the time limit for filing, the bonding of the monument when such is the case and approval of the street layout without obligation for acceptance.
 - (4) The owner's certification attesting to ownership and consenting to the subdivision and filing thereof.

§ 231-25. Final lot grading plan requirements.

The final lot grading plan shall be drawn to the same scale as the preliminary plat and shall show the following information:

- A. All streets and lots within the proposed subdivision, including lot and block numbers. Lot dimensions shall also be shown when they do not obscure the legibility of the other information.
- B. The existing ground contours at the same interval required for the preliminary plan.
- C. All surface improvements properly delineating between constructed and to be constructed.
- D. All storm drainage.

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

- E. The as-built center line and the top of curb elevations every 50 feet along all streets.
- F. The graphic location of all proposed buildings showing type, finished floor elevation, garage elevation and type of foundation (basement, crawl space, slab).
- G. The proposed elevations at all lot corners, house corners, swales and other locations sufficient to clearly establish the direction of surface runoff from all lot areas.
- H. Except when permitted otherwise by the Borough Engineer, proposed contours at the same interval as existing contours.

§ 231-26. Filing of requirements.

Upon favorable action by the Planning Board, the applicant shall submit the original tracing to the Secretary. The Secretary shall obtain the signatures of the Borough Engineer and Planning Board Chairman and shall endorse all remaining certifications shown on the final plat and return the original tracing, together with a copy of the approving resolution, to the applicant. The applicant shall then file the final plat with the county recording officer and afterwards submit a duplicate original tracing and eight prints of the approved plat, together with a statement from the applicant's engineer that these are true copies of the plat approved by the Planning Board, on which is shown the filing information, to the Secretary who will retain the duplicate original in the Planning Board files and distribute copies to the following:

- A. Borough Clerk.
- B. Borough Engineer.
- C. Tax Assessor.
- D. Tax Collector.
- E. Building Inspector.
- F. Zoning Officer.
- G. School Board.

§ 231-27. Issuance of building permits.

Upon filing of the final map, the developer may obtain building permits for all lots shown on the final plat.

§ 231-28. Issuance of certificates of occupancy.

No certificates of occupancy shall be issued until all inspections have been made pertaining to the individual structure and until all required improvements and individual site improvements have been completed.

ARTICLE VI
Improvements

§ 231-29. Required construction improvements.

The following construction improvements shall be required in all major subdivisions:

- A. All new dedicated streets, all existing unimproved dedicated streets and all widened portions of improved existing streets shall be paved with one inch of FABC; the top course on 1 1/2 inches of FABC; the bottom course on six inches of gravel base course. In lieu of the gravel base course, the developer may select to substitute three inches of bituminous stabilized base course. The above pavement section shall apply to marginal, minor and collector streets only. Arterial streets shall be constructed of a pavement section determined by the Borough Engineer based upon traffic volumes and composition. When required by the Engineer, traffic striping shall be included.
- B. All streets which are to be paved or widened shall have concrete curbs along all paved edges.
- C. Concrete sidewalks along street frontages where curbing is required.
- D. Shade trees every 50 feet along all street frontages.
- E. One new street name sign at every street intersection.
- F. Concrete control monuments at every corner of the outside boundary of the entire subdivision, at the intersection of the outside boundary of the entire subdivision with one side of all new and existing streets, at any two corners of every street intersection and at all other locations required by the Map Filing Law.⁸²
- G. Stormwater collection system, including all appurtenant improvements, approved by the Borough Engineer.
- H. Final lot grading and vegetative ground cover.
- I. Grading, vegetative ground cover, equipment and other physical facilities in all park and recreation areas when such have been required by the Planning Board.
- J. Sanitary sewage collection system connected to the existing Tuckerton Municipal Utilities Authority's system. Individual disposal systems shall be permitted only when specifically approved by all local and state agencies.
- K. Public water distribution system with hydrants so located that no building within the subdivision shall be more than 600 feet from a hydrant. Individual water supply systems shall be permitted only when specifically approved by all local and state agencies.
- L. Underground telephone service lines and underground electric distribution lines, together with an adequate streetlighting system approved by the Borough Engineer.
- M. Traffic control signs and devices as shown on the preliminary plan and approved.

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

§ 231-29.1. Sidewalk and curbing requirements. [Added 8-21-2006 by Ord. No. 11-2006; amended 3-1-2010 by Ord. No. 3-2010]

Notwithstanding any provision to the contrary, sidewalks and curbing shall be required along all street frontages as a condition relating to any minor subdivision, major subdivision, minor site plan or major site plan approval granted by the Land Use Board. The proposed curbing and sidewalk shall be designed and constructed in accordance with the requirements of § 231-42.

A. Payment in lieu of sidewalk and curbing.

- (1) Any developer seeking minor subdivision, major subdivision, minor site plan and/or major site plan approval may request a waiver of the requirement to install curbing and sidewalks along all street frontages of the subject property by agreeing to pay a sum to the Tuckerton Borough Pedestrian Safety Fund equal to the cost of said curbing and sidewalk. Said cost shall be determined by the Borough Engineer or the Land Use Board Engineer based on documented construction costs for public improvements prevailing in the general area of the municipality.
- (2) In determining whether to grant the requested waiver and accept a payment in lieu of the installation of sidewalk and curbing, the Land Use Board shall consider the following factors:
 - (a) The presence or absence of curbing and sidewalks in the general vicinity of the subject property;
 - (b) The practical difficulty as established by the applicant of installing such improvements in or adjacent to the subject property due to exceptional topographic conditions, drainage concerns and/or the deleterious impact to surrounding properties as a result of the installation of such improvements;
 - (c) The recommendation of the Board or Borough Engineer.

B. Tuckerton Borough Pedestrian Safety Fund.

- (1) There is hereby established the Tuckerton Borough Pedestrian Safety Fund (hereinafter "fund").
- (2) Said fund shall be dedicated to pay for the cost of designing and constructing various pedestrian safety projects and repairs within the Borough.
- (3) All monies paid by developers in accordance with this section shall be deposited into said fund.
- (4) The Chief Financial Officer of the Borough is hereby directed to establish and maintain the fund and to make disbursements upon the request of the Borough Council for designated pedestrian safety improvements and repairs.

§ 231-30. Conformance with other standards and specifications required.

All the above improvements shall be constructed in accordance with the design standards contained in Article VII and the construction specifications contained in Article VIII of this chapter.

ARTICLE VII
Design Standards

§ 231-31. General conformance required.

The subdivision plat shall conform to design standards that will encourage good development patterns within the Borough. Where either or both an Official Map or Master Plan has or have been adopted, the subdivision shall conform to the proposals and conditions shown thereon. To ensure the harmonious development of the Borough and enhance the public welfare, the following minimum design standards shall be complied with.

§ 231-32. Subdivision layout.

- A. Subdivisions shall be designed to provide a street pattern which is essentially curvilinear. Grid street patterns shall not be permitted.
- B. The proposed arrangement of streets shall provide for the extension of all contiguous existing streets.
- C. Street patterns in all new subdivisions shall be dictated by the contour of the land. Streets shall be laid out to run essentially perpendicular to the slope of the land. Streets running parallel with the slope of the land shall be permitted only in unavoidable or limited situations. In addition, street patterns shall be designed which will minimize the land disturbance thereby permitting the preservation of most of the existing vegetation.
- D. Street patterns shall be designed to provide convenient access to all lots within the subdivision and shall be based upon a local residential street pattern connected to a residential collector street system.
- E. Reserve access strips. No subdivision showing reserve strips controlling access to streets shall be approved.
- F. Additional street widths. 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 said road. If the subdivision is along one side only, 1/2 of the required extra width shall be dedicated.
- G. Private streets. Private streets shall be prohibited in major subdivisions.
- H. Half streets. New half or partial streets shall not be permitted except that wherever a proposed subdivision borders a half or partial street, the Planning Board shall require that the other part of the street be platted in the proposed tract.
- I. Multiple intersections. Multiple intersections involving a junction of more than two streets shall be prohibited.
- J. Intersections with arterial streets. To the fullest extent possible, local residential street and residential collector streets shall not intersect with arterial streets less than 800 feet apart, measured from center line to center line.

- K. Lot dimensions. Lot dimensions shall conform to the requirements of the Zoning Ordinance,⁸³ and lots abutting major and collector streets shall exceed the minimum depth requirements where necessary to increase the safety and privacy thereon.
- L. Access. Each lot shall front on an improved street.
- M. Street widening. 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.
- N. Side lot lines. Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets.
- O. Double frontage. Double frontage and reverse frontage lots shall be avoided, except where specifically required by the Planning Board to overcome specific disadvantages of topography and orientation. A planting screen of at least 10 feet shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use. There shall be no right of access across such easement.
- P. Odd-shaped lots. Where there is a question as to the shape and boundary line of a lot or lots for their optimum use by the future occupant, including such conditions as narrow or unduly elongated lots and other awkward appearing angles or appendages, the Planning Board may withhold approval of such lot or lots.

§ 231-33. Streets.

- A. The right-of-way and cartway widths of streets shall be measured from lot line to lot line and shall not be less than the following:
 - (1) Minor streets shall have a right-of-way width of 50 feet and a cartway of 30 feet.
 - (2) Collector streets shall have a right-of-way width of 60 feet and a cartway of 40 feet.
 - (3) Arterial street widths shall be determined by the Borough Engineer based upon future traffic demands and other applicable considerations of the area to be served.
 - (4) Culs-de-sac shall have a right-of-way radius of 50 feet and a cartway radius of 40 feet.
- B. Horizontal curves. When connecting street lines deflect from each other at any point by more than 10°, they shall be connected by a horizontal curve. No minor street shall have a horizontal curve with a center line radius of less than 100 feet. No collector street shall have a radius of less than 500 feet. No arterial street shall have a radius of less than 750 feet.
- C. Cross-sectional design. Minor streets and collector streets shall be constructed with a crown equivalent to 1/4 inch per foot. Arterial streets, unless required otherwise, shall be constructed with a crown on tangent alignments and superelevated at 2% on curved alignments.
- D. Vertical grades. Grades on arterial and collector streets shall not exceed 5%, Grades on other streets shall not exceed 8%. No street shall have a minimum grade of less than 5/10 of 1%. Upon the recommendation of the Borough Engineer, the Planning Board may permit a

83. Editor's Note: See Ch. 255, Zoning.

reduction of vertical grade to no less than 4/10 of 1%. Within 50 feet of the intersection of any street with a collector street, arterial street or controlled access highway the maximum grade shall be limited to 2%.

- E. Vertical curves. All tangent profiles shall be connected by vertical curves conforming to the following: Minor streets shall have crest and sag curves of 25 feet minimum for each 1% of grade change. Collector streets shall have curve lengths of 40 feet minimum for each 1% of grade change. Arterial streets shall have curve lengths of 65 feet minimum for each 1% of grade change. To ensure proper drainage flow, no vertical curve shall be longer than 140 feet for each 1% of grade change. To ensure proper comfort, no vertical curve shall be less than 50 feet and preferably not less than 100 feet.
- F. Dead-end streets. All dead-end streets which are not intended to be continued in the future shall terminate in a cul-de-sac. The maximum desirable length of a street terminating in a cul-de-sac shall be 500 feet. Dead-end streets which are intended to continue in the future, which extend more than two lots past the corner lot, shall terminate with a temporary cul-de-sac.
- G. T-intersections. The minimum distance between offset T-intersections shall be 200 feet between center lines. Further, T-intersections shall be located such that the intersecting street center line aligns with the lot line opposite as closely as possible in order to minimize the effect of headlight glare on the dwelling opposite the intersection.
- H. Street intersection angles. All intersections shall be as nearly as possible at right angles. In no case shall an intersection be permitted with a skew angle of more than 30°. In the case of an intersection between two collector streets or a collector street and an arterial street or major highway, the skew angle shall be no more than 15°.
- I. Reverse curves. A tangent of not less than 100 feet in length shall be used to connect reverse curves on arterial streets. A tangent of not less than 50 feet in length shall be used to connect curves on other streets.
- J. Broken back curves. The tangent length between horizontal curves in the same direction shall be as long as possible. When reasonable tangent lengths cannot be provided, the curves shall be compounded.
- K. Compound curves. On collector and arterial streets, the ratio of the larger to the smaller curve shall not exceed two. On all other streets, the ratio shall not exceed three.
- L. Street name. No street name shall be proposed which is a duplication in whole or part of any existing street name nor which is so similar as to be confused with an existing street name.
- M. Marginal roads. Subdivisions abutting major alternate streets or highways may be required to provide marginal access roads. Said determination shall be made by the Planning Board after consultation with the Borough Engineer.
- N. Intersection radii. All intersecting street right-of-way lines shall be rounded with a minimum radius of 10 feet. Intersections of minor and collector streets with arterial streets shall be rounded with a minimum radius of 15 feet, except that larger radii may be required by the Borough Engineer or other body having jurisdiction over the major street.

§ 231-34. Storm drainage.

- A. Runoff. All storm drains shall be designed to carry the runoff from the entire watershed. The quantity of runoff shall be determined by the rational formula or other formula acceptable to the Borough Engineer:

$$Q = ACi$$

- A = Acreage of the watershed
- Q = Peak discharge from watershed in cubic feet per second (cfs) resulting from the design storm
- C = Coefficient of runoff
- i = Intensity of rainfall in inches per hour based upon the time of concentration for the area under consideration.

- B. Conduit sizing. The sizing of conduit for the transmission of storm flow shall be determined by the use of the Manning Formula:

$$Q = \frac{a \cdot 1.486 R^{2/3} S^{1/2}}{n}$$

- Q = Flow of conduit in cubic feet per second (cfs)
- a = Cross-sectional area of water flow through conduit in square feet
- R = $\frac{a}{p}$ (hydraulic radius) in feet
- S = Slope, in feet/feet
- V = Average velocity of water in feet/second
- p = Wetted perimeter in feet
- n = Roughness coefficient

- C. Coefficient of runoff.

- (1) The following coefficients shall be used in determining runoff from all off-site contributing areas based upon permitted land use as determined by the current Zoning Ordinance.⁸⁴

| Use | Coefficient |
|--|--------------------|
| Residential (lot size greater than 20,000 square feet) | 0.40 |
| Residential (lot size less than 20,000 square feet) | 0.50 |
| Multifamily | 0.70 |
| Commercial | 0.85 |
| Industrial | 0.80 |
| Parks and other permanent open spaces | 0.2 |

84. Editor's Note: See Ch. 255, Zoning.

- (2) In lieu of a more detailed analysis, the above values shall also be used to determine the runoff from on-site contributing areas. If the designer wishes to present a more detailed analysis, the following coefficients shall be used in determining the average overall coefficient:

| Contributing Area | Coefficient |
|---|--------------------|
| Paved surfaces (streets, drives, roofs, etc.) | 0.90 |
| Unpaved bare surfaces | 0.6 |
| Flat grassed (less than 2%) | 0.2 |
| Average grassed (between 2% and 10%) | 0.3 |
| Steep grassed (more than 10%) | 0.4 |

- D. Time of concentration. The time of concentration is the time required for water to travel from the most remote point in the watershed to the point under consideration and shall include both overland flow time and time in conduits. The overland flow time shall be determined by the use of charts similar to that found in the United States Department of Transportation Advisory Circular No. AC 150/15320-5B, Airport Drainage (available from the Superintendent of Documents, United States Government Printing Office, Washington, D.C.), or in lieu thereof from the following formula:

$$T = \frac{1.8 (1.1-C) D^{1/2}}{S^{1/3}}$$

- T = Time of surface flow
- C = Coefficient of runoff
- D = Distance traveled
- S = Average slope of the land

When charts reflect the coefficient of runoff as a surface description, the "poor grass" designation shall be used.

- E. Intensity of rainfall. All subdivision drainage collection systems shall be designed for a ten-year frequency rainfall using the applicable time of concentration. Rainfall data shall be taken from the United States Department of Commerce Technical Paper No. 25, Rainfall Intensity-Duration-Frequency Curves using the Atlantic City weather station data. Stream relocations, bridges, box culverts, pipes over 72 feet in diameter and other critical waterways, as determined by the Borough Engineer, shall be designed for a twenty-five-year frequency rainfall.

- F. Coefficient of roughness.

- (1) The following coefficients of roughness shall be used in the Manning Formula to determine pipe capacity:

| Type | Coefficient |
|---|--------------------|
| Concrete pipe/box culverts and other shapes | .015 |
| Corrugated metal pipe/pipe arch | .024 |

| Type | Coefficient |
|---|--------------------|
| Corrugated metal pipe (paved invert) | .021 |
| Corrugated metal pipe arch (paved invert) | .019 |
| Corrugated metal pipe/pipe arch (fully paved) | .015 |
| Vitrified clay pipe | .012 |

(2) The following valves shall be used for open channels:

| Type of Channel | Valve |
|------------------------|------------------|
| Concrete lined | C = .015 |
| Earth | C = .026 |
| Natural | C = .030 to .040 |

- G. Velocity. Unless specifically approved otherwise by the Borough Engineer, all pipes shall be designed to provide a minimum self-cleansing velocity of three feet per second when flowing 1/4 full. The maximum full velocity shall be limited to 10 feet per second. At outlet structures, the discharge velocity shall be limited to the scouring velocity of the downstream channel as specified in the Standards for Soil Erosion and Sediment Control in New Jersey by the New Jersey State Soil Conservation Committee. When outlet velocities exceed the maximum permissible, energy dissipaters shall be provided satisfactory to the Borough Engineer.
- H. Drainage structures. All drainage structures, including manholes, inlets, headwalls, end sections and box culverts, shall conform to the current details of the New Jersey Department of Transportation. Unless approved otherwise by the Borough Engineer, all curb inlets shall be standard Type B with curb piece heights equal to the exposed curb face of the adjacent curb. All lawn inlets shall be standard Type E. When the pipe size is such as to require a larger structure, standard Type B1 or B2, E1 and E2 shall be used. If still larger sizes are required, they shall be specially detailed using standard frames and grates.
- I. Inlet capacity. The maximum collecting capacity of an inlet shall be considered to be 5 cubic feet per second when installed in streets where the grade is less than 2%, 4.5 cubic feet per second when installed in streets where the grade is more than 2% but less than 6% and four cubic feet per second when installed in streets where the grade is greater than 6%. When installed at low points, the collecting capacity shall be 60% of the above based on the maximum tangent grade on either side of the low point.
- J. Inlet location and spacing. Inlets shall be located as follows: at all street low points, in all gutters spaced to ensure that the runoff to each inlet does not exceed the collecting capacity as previously established, in yards and swales as required and as required at intersections to eliminate rocker gutters. In no event shall inlets be placed more than 800 feet apart.
- K. Alignment.
 - (1) It is preferable that all pipes be constructed on a tangent alignment. However, curved alignments may be permitted conforming to the following minimum radii:

| Diameter (in inches) | Minimum radius (in feet) |
|---------------------------------|-------------------------------------|
| 15 to 18 | 350 |
| 21 to 24 | 400 |
| 27 to 30 | 450 |
| 33 to 36 | 500 |
| 42 to 60 | 600 |
| Over 60 | 1,000 |

(2) Angular deflections in both horizontal and vertical alignment shall be made at manholes or inlets spaced not more than 400 feet apart.

- L. End section. All discharge pipes shall terminate with an end section which may be precast flared concrete, flared corrugated metal, straight cast in place concrete or cast in place concrete with flared wing walls. The final determination as to the type of end treatment shall be subject to approval of the Borough Engineer.
- M. Silt control. Immediately preceding all discharge pipes, there shall be constructed some silt retention structure satisfactory to the Borough Engineer. When, in the opinion of the Borough Engineer, silt retention cannot be adequately provided for at one location, additional locations shall be provided.
- N. Minimum pipe size. The minimum size of a storm drain permitted shall be 15 inches, except that 18 inches minimum shall be used for all pipes draining low points.
- O. Off-site drainage and/or assessment. All drainage systems shall terminate in an existing permanent natural body of water. When in the opinion of the Borough Engineer an adequate temporary discharge on-site cannot be made, the subdivider will be required to construct the off-site system to either the ultimate point of discharge or to a satisfactory temporary location. When the off-site system is not constructed by the subdivider to the permanent point of discharge or when the subdivider connects to an existing drainage system, he shall pay in cash to the Borough an off-site assessment equal to his proportionate share of the cost of the remaining system from the point of temporary discharge to the point of ultimate discharge. The off-site assessment shall be determined by the Borough Engineer, except in those instances where the existing or proposed drainage system is to be maintained by Ocean County, in which case the assessment shall be determined by the County Engineer and paid to Ocean County. If the proposed system discharges into a state-maintained system, then the subdivider will be required to obtain all required easements. In the event that required easements can only be obtained through condemnation, then the subdivider will be required to pay the cost of those proceedings.

§ 231-34.1. Stormwater control requirements. [Added 3-20-2006 by Ord. No. 6-2006]

- A. Scope and purpose.
 - (1) Policy statement.
 - (a) It is hereby determined that the waterways within the Borough of Tuckerton are at times subjected to flooding, that such flooding is a danger to the lives and

property of the public; that such flooding is also a danger to the natural resources of the Borough of Tuckerton, the county and the state; that development tends to accentuate flooding by increasing stormwater runoff, due to alteration of the hydrologic response of the watershed in changing from the undeveloped to the developed condition; that such increased flooding produced by the development of real property contributes increased quantities of waterborne pollutants, and tends to increase channel erosion; that such increased flooding, increased erosion, and increased pollution constitutes deterioration of the water resources of the Borough of Tuckerton, the county and the state; and that such increased flooding, increased erosion and increased pollution can be controlled to some extent by the regulation of stormwater runoff from such development.

- (b) It is therefore determined that it is in the public interest to regulate the development of real property and to establish standards to regulate the additional discharge of stormwater runoff from such developments as provided in this chapter. 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.
- (2) Purpose. It is the purpose of this section to establish minimum stormwater management requirements and controls for major development, as defined in Subsection B.
 - (3) Applicability.
 - (a) This section 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 section shall also be applicable to all major developments undertaken by the Borough of Tuckerton.
 - (4) Compatibility with other permit and ordinance requirements. Development approvals issued for subdivisions and site plans pursuant to this section 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 section shall be held to be the minimum requirements for the promotion of the public health,

safety and general welfare. This section is not intended to interfere with, abrogate or annul any other ordinances, rule or regulation, statute or other provision of law except that, where any provision of this section 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.

- B. Definitions. Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meanings they have in common usage and to give this section 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.

CAFRA CENTERS, CORES OR NODES — Those areas within boundaries accepted by the Department pursuant to N.J.A.C. 7:8E-5B.

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.

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 Ocean County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

- (1) A county planning agency; or
- (2) 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.

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:I C-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.

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, or would create 1/4 acre or more of impervious surface.

MAXIMUM EXTENT PRACTICABLE — Compliance with the specific objective to the greatest extent possible taking into account equitable considerations and competing factors, including, but not limited to, environmental benefits, pollutant-removal effectiveness, regulatory compliance, ability to implement given site-specific environmental conditions, cost and technical or engineering feasibility.

MUNICIPALITY — The Borough of Tuckerton.

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 Borough of Tuckerton, 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. 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 RUNOFF — Water flow on the surface of the ground or in storm sewers, resulting from precipitation.

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.

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 watershed to the point of interest within a watershed.

TOTAL SUSPENDED SOILS — The sum of dissolved and undissolved solids and particulate matter of a buoyancy and/or specific gravity that prohibits their settling in runoff;

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:

- (1) Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
- (2) Designated as CAFRA Centers, Cores or Nodes;

- (3) Designated as Urban Enterprise Zones; and
- (4) Designated as Urban Coordinating Council Empowerment Neighborhoods.

WATERS OF THE STATE — The ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water, 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.

C. Design and performance standards for stormwater management measures.

- (1) 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 Subsection D. 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.
- (2) The standards in this section 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.
- (3) For site improvements regulated under the Residential Site Improvement Standards (RSIS) at N.J.A.C. 5:21, the RSIS shall apply in addition to this section except to the extent the RSIS are superseded by this section or alternative standards applicable under a regional stormwater management plan or water quality management plan adopted in accordance with the rules of the New Jersey Department of Environmental Protection.

D. Stormwater management requirements for major development.

- (1) The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with Subsection A.
- (2) Stormwater management measures shall avoid the adverse impacts on habitat for threatened and endangered species in Tuckerton Borough, including but not limited to the foraging areas of the Black Crowned Night Heron, the Black Skimmer, the Osprey, and also the Pine Barrens Tree Frog, which have been documented in the New Jersey Department of Environmental Protection's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150.
- (3) The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Subsection D(6) and (7).

- (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.
- (4) A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Subsection D(6) and (7) 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 Subsection D(6) and (7) to the maximum extent practicable;
 - (c) The applicant demonstrates that, in order to meet the requirements of Subsection D(6) and (7) 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 Subsection D(4)(c) above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Subsection D(6) and (7) that were not achievable on site.
- (5) Nonstructural stormwater management strategies.
- (a) To the maximum extent practicable, the standards in Subsection D(6) and (7) shall be met by incorporating nonstructural stormwater management strategies set forth at Subsection D(5) 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 Subsection D(5)(b) 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 Subsection D(5)(c) 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 Subsection D(5)(b)[9][b] 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 Subsection D(5)(c)[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:

- [i] 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
 - [ii] 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.
- [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 seven square inches, or be no greater than two inches across the smallest dimension.
- [3] This standard shall not apply under the following conditions or situations:
- [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 Subsection D(7)(a) 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:
 - [i] A rectangular space $4 \frac{5}{8}$ inches long and $1 \frac{1}{2}$ inches wide (this option does not apply for outfall netting facilities); or
 - [ii] 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 Subsection D(7)(a); 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 Subsection D(6) and (7) shall be dedicated to a government agency, subjected to a conservation restriction filed with the Ocean 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 Subsection E, or found on the Department's Web site at www.njstormwater.org.
- (6) 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 Subsection D, either:
 - [i] 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
 - [ii] Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from preconstruction to postconstruction for the two-year storm is infiltrated.
 - [b] This groundwater recharge requirement does not apply to projects within an "urban redevelopment area," or to projects subject to Subsection D(6)(a)[2][c] below.
 - [c] The following types of stormwater shall not be recharged:
 - [i] 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

- [ii] 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 Subsection D, complete one of the following:
 - [a] Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, postconstruction 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 postconstruction 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 postconstruction 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 postconstruction 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 Subsection D(6)(a)[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 Subsection B shall be submitted to the Ocean County Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Ocean County 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, or 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.
- (7) Stormwater runoff quality standards.
 - (a) Stormwater management measures shall be designed to reduce the postconstruction 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 Distribution

| Time | Cumulative Rainfall | Time | Cumulative Rainfall |
|------------------|----------------------------|------------------|----------------------------|
| (minutes) | (inches) | (minutes) | (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 |

Table 1
Water Quality Design Storm Distribution

| Time (minutes) | Cumulative Rainfall (inches) | Time (minutes) | Cumulative Rainfall (inches) |
|---------------------------------|---|---------------------------------|---|
| 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 Subsection E or found on the Department's Web site at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in Subsection E. 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 eighty-percent TSS reduction 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 = TSS percent removal rate applicable to the first BMP
- B = 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 |

Table 2: TSS Removal Rates for BMPs

| Best Management Practice | TSS Percent Removal Rate |
|---------------------------------|---------------------------------|
| Extended detention basin | 40% to 60% |
| Infiltration structure | 80% |
| Manufactured treatment device | 50% to 90% |
| 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 converge 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 postconstruction 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 Subsection D(6) and (7).
- (f) 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.
- (g) 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 have been 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 Subsection D(7)(g)[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 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 subparagraph shall be subject to review and approval by the Department.

- [2] All stormwater shall be discharged outside of but may 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 ninety-five-percent TSS postconstruction removal rate;
 - [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 Subsection D(7)(g) 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 Subsection D(7)(g) shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in Subsection D(7)(g)[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] Subsection D(7)(g) 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.

E. Calculation of stormwater runoff and groundwater recharge.

- (1) Stormwater runoff shall be calculated in accordance with the following:

- (a) The design engineer shall calculate runoff using one of the following methods:

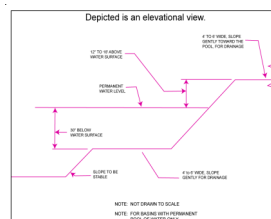
- [1] The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 — Hydrology and Technical Release 55 — Urban Hydrology for Small Watersheds; or
- [2] The Rational 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 Subsection E(1)(a)[1] and the Rational and Modified Rational Methods at Subsection D(1)(a)[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.
- (2) Groundwater recharge may be calculated in accordance with the following:
- (a) 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.
- (3) Design of stormwater conduit systems shall utilize the Sandy Hook, twenty-five-year rainfall.
- F. Standards for structural stormwater management measures.
- (1) 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 Subsection G(1).
 - (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, 7.4, and 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 Subsection G.
- (2) 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 Subsection D of this section.
 - (3) Manufactured treatment devices may be used to meet the requirements of Subsection D of this section, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.
- G. Safety standards for stormwater management basins. This subsection sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This subsection applies to any new stormwater management basin. Note: The provisions of this subsection are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management basins. Municipal and county stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management basins to be retrofitted to meet one or more of the safety standards in Subsection G(1), (2) and (3) for trash racks, overflow grates, and escape provisions at outlet structures.
- (1) 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 subsection, 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 Subsection G(2), 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 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 Subsection G(3) 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.
- (2) 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.
- (3) Illustration of safety ledges in a new stormwater management basin.



H. Requirements for a site development stormwater plan.

- (1) Submission of site development stormwater plan.

- (a) Whenever an applicant seeks municipal approval of a development subject to this section, the applicant shall submit all of the required components of the checklist for the site development stormwater plan at Subsection H(3) 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 section.
 - (c) The applicant shall submit 14 copies of the materials listed in the checklist for site development stormwater plans in accordance with Subsection H(3) of this section.
- (2) 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 and/or Zoning Board (as appropriate) to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this section.
- (3) Checklist requirements.
- (a) The following information shall be required:
 - [1] 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, waterways that drain into or upstream of the Category One waters, wetlands and flood plains 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.
 - [2] 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.
 - [3] Project description and site plan(s). A map (or maps) at the scale of the topographical base map indicating the location of areas of impervious surface including, but not limited to 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 ground water elevations. A written description of the site plan and justification of proposed changes in natural conditions shall also be provided.

- [4] Land use planning and source control plan. This plan shall provide a demonstration of how the goals and standards of Subsections C through F 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.
 - [5] Stormwater management facilities map. The following information, illustrated on a map of the same scale as the topographic base map, shall be included:
 - [a] 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.
 - [b] 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.
 - [6] Calculations.
 - [a] Comprehensive hydrologic and hydraulic design calculations for the predevelopment and postdevelopment conditions for the design storms specified in Subsection D.
 - [b] When the proposed stormwater management control measure (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.
 - [7] Maintenance and repair plan. The design and planning of the stormwater management facility shall meet the maintenance requirements of Subsection I.
- (b) Waiver from submission requirements. The municipal official or board reviewing an application under this section may, in consultation with the Municipal Engineer, waive submission of any of the requirements in Subsection H(3)(a)[1] through [7] of this section 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.

- (c) Site plan checklist. Major development applications shall require the applicant to complete and submit a copy of the site conditions checklist, which can be found at the end of this chapter.

I. Maintenance and repair.

- (1) Applicability. Projects subject to review as in Subsection A(3) shall comply with the requirements of Subsection I(2) and (3) in this subsection.
- (2) 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 municipality in a residential development or project. Responsibility for facilities located in commercial or development sites shall be the owner of the site. A named individual shall be responsible for the safety and maintenance of said facility. The posting of a two-year maintenance guarantee in accordance with N.J.S.A. 40:55D-53 shall be required for all facilities not dedicated to the municipality or other public agency.
 - (d) If the person responsible for maintenance identified under Subsection I(2)(b) above is not a public agency, the maintenance plan and any future revisions based on Subsection I(2)(g) 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 Subsection I(2)(b) 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 Subsection I(2)(b) above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed, and submit such changes for approval by the Borough Engineer.
 - (h) The person responsible for maintenance identified under Subsection I(2)(b) 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 Subsection I(2)(f) and (g) within 10 days of such a request.
 - (i) The requirements of Subsection I(2)(c) 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.
- (3) 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.
- J. Violations and penalties. Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure, or land in violation of this article shall be subject to the penalties set forth by Tuckerton Borough within § 231-47.
- K. When effective. This section shall take effect immediately upon the approval by the county review agency, or 60 days from the receipt of the section by the county review agency if the county review agency should fail to act.
- L. Severability. If the provisions of any section, subsection, paragraph, subdivision, or clause of this section shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this section.
- M. Fees. All subdivision and site plan review fees associated with this section shall be provided by the applicant as established within § 220-7 (Application requirements; fees) of this Code.

§ 231-35. Easements.

- A. General. An easement shall be provided for all natural drainage ways and all utility lines when such utility line or lines do not fall within a dedicated right-of-way. All easements

shall be plotted on the preliminary and final plats. A clause shall be inserted in the deed of each lot affected by an easement specifically reserving the easement.

- B. Minimum easement width. Except as further required by this article, easements shall have a minimum width of 20 feet.
- C. Drainageways. Where a subdivision is traversed by a drainageway, channel or stream, a drainageway easement conforming substantially with the lines of such watercourse shall be provided. The easement shall be a minimum of 20 feet wide or such width as will be adequate to preserve natural drainage and provide sufficient width for maintenance. Where it is found that additional easement width is needed, such width shall be determined by the Borough Engineer.
- D. Easement location. To the fullest extent possible, easements shall be centered on or adjacent to rear or side lot lines.
- E. Easement and lot sizes. In specific cases where lots front or side on easements, the Planning Board may require the depth or width of said affected lots to be increased by the width of the easement. This determination shall take into consideration the health, safety and welfare of the future residents of said lots as well as the usefulness of the lots by the future residents as a result of the easement.

§ 231-36. Public sites and recreation facilities.

Where a park, playground, school or other site for public use is proposed in whole or in part in the applicant's subdivision, the Planning Board may accept the dedication or reservation of such area within the subdivision. All subdivisions providing for park and recreation facilities shall adhere to the following standards:

- A. Land area shall be based upon a minimum ratio of one acre of land per 50 dwelling units or fraction thereof with a minimum of one acre.
- B. The Planning Board shall determine whether the land to be utilized for recreational purposes shall remain for private recreational uses or dedicated to public use.
- C. When a subdivision is traversed by a watercourse, the Planning Board may request the developer to provide additional land along the stream for park purposes.
- D. No depositing of debris shall be permitted in any area designated as a proposed park or other public site.

§ 231-37. Preservation of natural resources.

- A. Topsoil protection. Topsoil moved during the course of construction shall be redistributed to all areas of the subdivision which are not covered by structures or paving and shall be stabilized by seeding or planting. At no time shall topsoil be removed from the site without written permission from the Planning Board.
- B. Existing trees. To the fullest extent possible, existing trees shall be preserved by the developer. Special consideration shall be given to the layout of lots and the position of dwellings on the lots to ensure that existing trees are preserved. Special precautions shall also be taken to protect existing trees during the process of grading lots and roads.

- C. Watercourses. Where a subdivision is traversed by a natural lake, pond or stream, the boundaries or alignment of said watercourse shall be preserved and shall conform substantially with the natural alignment or boundary.
- D. Unique physical features. Unique physical features such as historic landmarks, lookouts and similar features of natural beauty or critical ecological function shall be preserved to the fullest extent possible. The Planning Board may, after proper investigation, withhold approval of the lotting of such areas.
- E. Landscaped buffer screen. When a proposed subdivision borders upon an existing commercial or industrial establishment or any other such use which, in the opinion of the Planning Board, may be visually detrimental to the tranquility of the future residents of the subdivision, the Planning Board may require a landscaped screen to buffer the subdivision from the visually noncompatible use.

ARTICLE VIII
Construction Specifications

§ 231-38. Compliance with state specifications required.

Unless otherwise specified by the Borough, all work shall be performed in accordance with New Jersey State Highway Department Standard Specifications for Road and Bridge Construction - 1961, or later revision. These specifications shall govern the installation and construction of improvements in all subdivisions whose final plats have not received approval prior to the effective date of this chapter, and to all construction work hereafter performed on previously approved final plats.

§ 231-39. General provisions.

- A. Definitions (Article 1.1.3.). Through the context of these specifications and the state specifications, the word "contractor" shall mean the subdivider or applicant who is obligated to complete the required improvements and any subcontractors or others in his employ. The words "engineer" and "inspector" shall mean the Borough Engineer or his authorized representative.
- B. Plans and specifications (Article 1.2.3). All work performed shall be in accordance with the engineering drawings which have been approved by the Borough Engineer and final appropriate standard details and in accordance with these standard supplementary specifications and the state standard specifications and also in accordance with any special conditions which may have been imposed as a condition of approval. When a discrepancy arises between the plans and specifications or between these supplementary specifications and the state specifications, it shall be referred to the Borough Engineer whose interpretation shall be final.
- C. Subsurface conditions. (Article 1.2.12). Approval of the final engineering drawings shall not relieve the developer of any responsibility to construct the required improvements on suitable subgrade. If, during the course of construction, unsatisfactory subsurface conditions are discovered, the Borough Engineer shall examine the situation and advise the developer in writing of the necessary corrective measures.
- D. Other contractors. (Article 1.4.2). The subdivider shall be responsible for all work performed by subcontractors in his employ. Prior to any subcontractor beginning work, the subdivider shall notify the Engineer in writing of the name and address of the subcontractor, the name of the person who will be in charge of the work to be performed and the scope of the work to be performed by each subcontractor.
- E. Maintenance and protection of traffic (Article 1.4.3).
 - (1) Vehicular and pedestrian traffic shall be maintained over all existing streets and highways within or adjacent to the proposed subdivision. All roadways which are to be utilized for vehicular traffic shall be maintained free from obstructions and in a smooth riding condition at all times.
 - (2) Except as necessary during actual working hours, the contractor shall not occupy with his equipment, materials or personnel any roadway or sidewalk area that is open to traffic within or adjacent to the subdivision.

- (3) The contractor shall provide means of access for pedestrian and vehicular traffic at all private driveways and occupied buildings affected by his work. During construction in the vicinity of a driveway, the access width at the driveway entrance shall be plainly marked by lights, torches and such other devices as meet with the approval of the Engineer. The contractor shall notify the owners of adjoining properties at least 24 hours prior to the time he proposes to begin any work which will interfere with their normal passage.
 - (4) No equipment or machinery having caterpillar or other heavy treads that mar or damage pavements shall be permitted to move over or operate from newly completed or existing pavements unless such equipment or machinery is moved on suitable pontoons or trailers.
 - (5) The contractor shall erect or place and maintain in good condition barricades, lights, flares, yellow electric flasher units, traffic cones and other warning signals and devices appropriate for the specific need, at working sites, open excavations, locations of obstructions and other locations where there is danger to vehicular or pedestrian traffic. All such devices and installations shall be subject to the approval of the Engineer.
- F. Final cleaning up (Article 1.4.4). Before final acceptance of any improvements, the contractor shall remove from the site all temporary work, unused or useless material, rubbish and debris; repair or replace any public or private property which may have been damaged by his operation; fill all depressions and water pockets; remove any and all obstructions from waterways; clean all drains and drainage structures of any silt and other debris; sweep all streets; and leave the site and adjacent public and private property in a neat and presentable condition wherever his operations have disturbed conditions existing at the time of starting the work.
- G. Sanitary provisions (Article 1.4.6). The contractor shall provide and maintain in a neat and sanitary condition, properly secluded, accommodations for himself and his employees, complying with the regulations of the State Department of Health and other bodies having jurisdiction.
- H. Materials (Article 1.4.7).
- (1) All materials for the project shall be furnished by the subdivider unless specific provisions have been made otherwise in any conditions of approval. Before beginning any work, the subdivider shall notify the Engineer in writing of the name and address of the suppliers of all material to be used in the construction of all improvements. No change shall be made in the type or quality of material as shown on the approved plans or required by ordinance unless specific written approval is obtained from the Engineer.
 - (2) The required samples of materials shall be as follows:

| Material | Sample | Rate of Sample | Delivery Instructions |
|--|--------------------------------|------------------------------|---|
| Bituminous concrete (in place) | 6-inch square | Each 200 sq. yds. | Securely wrapped |
| Bituminous stabilized base course (in place) | 6-inch square | Each 200 sq. yds. | Securely wrapped |
| Concrete | 6- x 12-inch Cylinder | Each 50 cu. yds., each class | Common carrier in crates or delivery by vehicle |
| Landscaping materials | Subject to job site inspection | | |
| Soil aggregate | 50 pounds | 500 cu. yds. | Large sample bag |

(3) For all materials not shown which are to be used on the project, the subdivider shall furnish to the Engineer certifications from each supplier attesting to the material being furnished in accordance with all applicable ordinances and regulations of the Borough of Tuckerton and shall contain the following information:

- (a) The project to which the material is consigned.
- (b) The name of the contractor to which the material is supplied.
- (c) The kind of material supplied.
- (d) The quantity of material represented by the certificate.
- (e) That the material has been tested and found to be in conformity with all pertinent requirements.

(4) The Engineer shall at all times reserve the right to require samples other than listed above or to revise the rate of sampling to ensure the quality of the material being furnished. The required samples shall be taken by the Engineer. However, the contractor shall furnish all tools, labor and other assistance necessary.

I. Duties of Engineer (Article 1.5.1). The Engineer shall be responsible for the inspection of all work. He shall furnish to the subdivider or his representative any information concerning municipal facilities which may be required to complete the work.

J. Construction stakes (Article 1.5.4). The subdivider shall be required to perform all construction stakeout. Sufficient stakes shall be placed to ensure that the contractor with reasonable effort can transfer them accurately to the work. When, in the opinion of the Engineer, sufficient stakes are not being furnished to adequately control the work, he shall notify the contractor and subdivider and no work shall be undertaken until adequate stakes have been furnished. When, in the opinion of the Engineer, work has not been accurately constructed, he shall notify the subdivider of the nature and extent of the questionable work and the as-built information required to verify the work. The subdivider shall then furnish the required information.

- K. Unauthorized or defective work (Article 1.5.6). Work performed and materials furnished which do not conform to the requirements therefor will be rejected and shall be removed, replaced or repaired as the Engineer may direct in a manner satisfactory to him at the expense of the subdivider.
- L. Acceptance of work (Article 1.5.8). Upon completion of all required work, the subdivider shall make application to the Borough for municipal acceptance of all improvements which are to be maintained by the Borough. Application shall be made in the manner designated by the Borough. Upon receipt of a request for acceptance, the Engineer and other inspectors designated by the Borough shall make a final inspection of all improvements. If any improvements are incomplete or unacceptable, the Engineer shall notify the subdivider in writing of the missing or unacceptable portions of the work. The subdivider shall then make all necessary repairs. Prior to formal acceptance, the subdivider shall have posted all required maintenance guaranties.
- M. Permits and licenses (Article 1.6.5). Except as may be provided otherwise, the subdivider shall procure all required permits and licenses, pay all charges and fees therefor and shall give all notices necessary and incidental to the due and lawful prosecution of the work.
- N. Property damage (Article 1.6.10). The subdivider shall not enter upon or make use of private property without obtaining written approval to do so from the owner. A copy of such approval shall be filed with the Engineer and shall state the work to be performed, the approximate time for completion, the approximate location and extent of property to be altered and the manner in which the land is to be restored.
- O. Commencement and procedure (Article 1.7.1). No work shall commence on any improvement until the necessary approvals have been obtained from all governmental agencies having jurisdiction. The subdivider shall notify the Engineer at least one week in advance of the time he will start work.
- P. Progress and time of completion (Article 1.7.2). All work shall be completed within the time limit specified in the performance guaranty or within any extended time period which may be granted by the Borough.
- Q. Change of plans (Article 1.8.4). If the subdivider wishes to make any changes in the work from that shown on the approved plans, he shall submit a request to do so in writing with all supporting documents or drawings to the Engineer. If, in the opinion of the Engineer, the change requested is within his authority to grant and he deems it advisable, he shall so notify the subdivider. If the change requested is not within the authority of the Engineer to grant, he will then notify the subdivider of the approvals which must be obtained.

§ 231-40. Earthwork.

- A. Clearing site (Section 1).
 - (1) Methods of construction (Article 2.1.3). The site shall be cleared within the limits of construction. In all areas of the site, the ground shall be cleared of debris, rubbish and other unsuitable matter. In areas of street construction, subsurface installations, paved areas and building sites, trees shall be removed and stumps grubbed out. Stumps may remain extending not more than one foot above the ground surface only in those areas where the pavement subgrade is more than 3 1/2 feet above the ground surface. In the remaining areas of the subdivision site, trees should only be removed when dead

or diseased, in the interests of selective thinning or when required grade changes make it impossible or impractical to preserve them. Branches of trees overhanging any traveled way shall be cut off to a height of 14 feet above it and cuts made more than one inch in diameter shall be painted.

- (2) Street and road signs shall be removed carefully and shall be reset at the exact locations and in the manner designated by the authorities having jurisdiction.
- (3) Where buildings are required to be demolished, the work shall consist of complete demolition or removal of the buildings, including foundation walls above the ground, porches, breaking of cellar floors, termination of utilities and other incidental work.
- (4) When existing municipal facilities are being abandoned within the work site, the subdivider shall carefully remove all usable materials and deposit them where instructed by the Borough Superintendent of Public Works.
- (5) All materials accumulated by the work of clearing the site shall be disposed of by the subdivider off the subdivision site. No burning or burying of accumulated materials will be permitted.

B. Roadway excavation (Section 2).

- (1) Methods of construction (Article 2.2.3). After clearing the site and before commencing any grading, the underlying topsoil within excavation and embankment areas shall be stripped and stored on the site in locations which will not interfere with the work. Upon completion of the grading and other work, the topsoil shall be redistributed to all lot areas and other landscaped areas within the site. Excavation shall be carried to the lines and grades shown on the plans. Cellar walls and foundations shall be removed to a depth of not less than two feet below the proposed pavement subgrade. Roadway excavations shall be carried out so that the subgrade throughout is kept properly drained. If any unsuitable material is encountered at the bottom limits of the excavation, it shall be removed to firm bottom or as directed by the Engineer and replaced with satisfactory borrow. Material so removed may be used for lot fill if approved by the Engineer and if not, shall be disposed of by the contractor off the subdivision site.
- (2) All excavated materials which are suitable therefor shall be used for embankment or lot backfill. All excess material shall be disposed of by the contractor off the subdivision site.
- (3) All excavation shall be carried out in a manner which will minimize erosion potential. When excavation is required adjacent to private property, diversion ditches or berms shall be constructed to prevent washing of excavated materials onto adjoining lands.

C. Embankment (Section 3).

- (1) Materials (Article 2.3.2). Embankment material shall be equal to soil aggregate Type 4, Class D, conforming to the requirements specified in Division 8, Section 8, of the state specifications and gradation listed below and any other materials which, in the opinion of the Borough Engineer, are suitable for the use intended.

| Sieve Size | Percent by Weight Passing Square Mesh Sieves |
|-------------------|---|
| 4-inch | 100 |
| No. 200 | 0 to 5 |

- (2) Methods of construction (Article 2.3.3). Before placing the embankment, the underlying topsoil shall be stripped as provided for under excavation. Embankment shall not proceed during freezing weather except upon approval of the Engineer, nor shall embankment be placed on ice, frozen ground or frozen layers of embankment. The stripped surface of existing ground shall be compacted by the dry-fill method prior to placing additional embankment. In areas of subsurface installations, embankment shall be placed to at least one foot above the proposed installation before trenching begins for the subsurface installation. Where existing pipes and conduits have insufficient earth cover during construction, the contractor shall protect them against damage by his operations. Any existing pipe damaged by the contractor shall be removed and replaced at his expense. No rock or broken paving materials which are permitted to be used for embankment larger than 12 inches in any dimension shall be placed within three feet of any subsurface installation. When such materials are permitted in the embankment, they shall be distributed throughout the embankment in a manner which will ensure that no unfilled voids are created.
- (a) Dry fill method. The embankment shall be compacted by the rolling or vibrating method or by the density control method, as specified by the Engineer and more fully described in Article 2.3.3 of the state specifications. Where the conditions are such that access with compacting equipment specified above is not possible, the embankment shall be placed in six-inch layers and shall be compacted to a density of not less than 95%. Water shall be applied to the loose layers of embankment when directed by the Engineer. The construction of embankment shall not proceed when its moisture content exceeds the optimum by more than 2% as determined in the test for compaction specified by ASTM Designation D698.
- (b) Backfill of wet excavation areas. Wet excavation shall be performed as specified in Article 2.2.3 of the state specifications. The contractor shall test the bottom of the excavation longitudinally and transversely at sufficient points to make sure that all muck and other unstable materials have been removed. The formation of embankment shall proceed in the form of a wedge of 60° with its axis following the center line of the roadway. The manner of filling and advancing the wedge shall be such as to force all remaining muck and silt laterally to the sides of the excavation, and not entrap it under the fill. All accumulations of muck and other unstable material at the sides of the excavated area shall be removed as the embankment wedge advances. If any muck or silt is spilled or otherwise deposited on the top or sides of the embankment during this operation, it shall be entirely removed by the contractor. If muck, silt, mud or clay are entrapped within or under the embankment or between any new and existing embankment, and the quantity and location or distribution thereof is such as to cause visible unstable areas in the embankment or to be detrimental to the stability of the embankment or of the proposed or future roadway or structures, in the opinion of the Engineer, the entrapped muck, mud, silt or clay and

the overlying material shall be removed and all such excavated areas shall be backfilled with satisfactory material.

D. Borrow excavation (Section 4).

- (1) Materials (Article 2.4.2). Borrow excavation materials shall conform to the requirements for embankment materials specified in Article 2.3.2 or other materials which in the opinion of the Engineer are satisfactory for the use intended.
- (2) Methods of construction (Article 2.4.3). Borrow excavation material may be procured from upland borrow pits or from hydraulic sources. No borrow shall be brought to the site until the contractor has advised the Engineer of the location of the source and furnished samples for approval. Borrow shall only be obtained from locations which are being legally operated under all local and state regulations. Borrow excavation shall be placed as specified for embankment.

E. Channel and ditch excavation (Section 5).

- (1) Methods of construction (Article 2.5.3). Excavated materials that are disposed of adjacent to the channels shall be neatly graded and sloped to provide adequate drainage flow from the lands adjacent to the channel.

F. Subsurface structure excavation (Section 7).

- (1) Methods of construction (Article 2.7.3). Trenches shall be not less than one foot wider at the bottom than the outside diameter of the pipe and, when conditions permit, shall be opened for a distance of not more than 300 feet in advance of the laying of the pipe. When the material at the bottom of the trench is soft or otherwise unsuitable, it shall be removed as directed by the Engineer and replaced with suitable material. Backfill of trenches shall be made in layers not exceeding 12 inches in thickness and compacted in a manner satisfactory to the Engineer up to one foot above the top of the pipe. Backfill around inlets, manholes and other structures shall be compacted by flat face mechanical tampers.

§ 231-41. Pavements.

Pavements (Division 3).

A. Gravel base course (Section 1).

- (1) Materials (Article 3.1.2). The material shall be soil aggregate Type 2, Class A, conforming to the requirements specified in Division 8, Section 8, of the state specifications and gradation shown below:

| Sieve Size | Percent by Weight Passing Square Mesh Sieves |
|-------------------|---|
| 2-inch | 100 |
| 3/4-inch | 70 to 100 |
| No. 4 | 35 to 75 |
| No. 40 | 15 to 30 |
| No. 200 | 4 to 12, see text |

- (2) Methods of construction (Article 3.1.3). The gravel shall be placed in layers not exceeding eight inches in thickness and shaped with road scrapers so that when compacted and finished, it will be of the thickness and at the required grade and crown. The gravel shall be compacted as specified in Article 2.3.3 of the state specifications. The dry-fill method, except that alternative four with a minimum of five passes of a fifty-ton compactor loaded to a gross weight of 25 tons, or alternative five, shall be used. Inaccessible areas shall be compacted to a density of not less than 95%.

B. Bituminous stabilized base course (Section 2A).

- (1) Materials (Article 3.2A.2). All material for the bituminous stabilized base course shall be in accordance with the provisions listed herein and in accordance with all applicable remaining provisions of this article of the state specifications including amendments contained in Addenda A to the 1961 Standard Specifications (hereinafter referred to as "Addenda A") and amendments contained in the Reference and Instructional Guide for Use in Preparation of Supplementary Specifications, March 1967, with current amendments thereto.
- (2) Soil aggregates shall be natural or prepared mixtures consisting predominantly of stone, sand and stone dust for stone mix or hard durable particles or fragments of gravel and sand containing some silt-clay or stone dust for gravel mix meeting the requirements as specified in Articles 8.8.5 and 8.8.1 of the state specifications.
- (3) Bituminous material shall be asphalt cement, viscosity grade AC-20, conforming to the requirements specified therefor in Article 8.1.2 of the state specifications.
- (4) The mineral constituents for each mix shall be combined in such proportions that the resulting mixture will comply with the grading requirements prescribed in Article 3.10.2 for Mix No. 1 of the state specifications.

C. Bituminous concrete surface course, hot mixed (Section 10).

- (1) Materials (Article 3.10.2). All materials shall conform to the requirements listed hereinafter and with those amendments listed under Article 3.2A.2 of the state specifications.
 - (a) Coarse aggregate shall be broken stone conforming to the requirements of Article 8.5.5 of the state specifications.
 - (b) Fine aggregate shall conform to the requirements of Article 8.5.12 of the state specifications.
 - (c) Mineral filler shall conform to the requirements of Article 8.5.34 of the state specifications.
 - (d) Composition of mixtures.

[1] The bituminous concrete for the bottom course shall be composed of coarse aggregate, fine aggregate and bituminous material. The bituminous concrete for the top course shall be composed of coarse aggregate, fine aggregate, mineral filler and bituminous material.

- [2] The several mineral constituents for each mixture shall be combined in such proportions that the resulting mixture will meet the grading requirements shown in Table 3 below.
- [3] In calculating the percentages of aggregates of the various sizes, the bituminous material is excluded.
- [4] FABC top course shall be Mix No. 5 and bottom course shall be Mix No. 2.

TABLE 3

Bituminous Concrete Mixtures

| Sieve Size | Grading of Total Aggregate* (weight percent**) | | |
|-------------------|---|----------|----------|
| | Gradation Mix No. | | |
| | 1 | 2 | 5 |
| 2-inch | 100 | -- | -- |
| 1 1/2-inch | 90 - 100 | 100 | -- |
| 1-inch | -- | 90 - 100 | -- |
| 3/4-inch | 60 - 100 | -- | -- |
| 1/2-inch | -- | 60 - 80 | 100 |
| 3/8-inch | -- | -- | 90 - 100 |
| No. 4 | 25 - 60 | 25 - 60 | 60 - 80 |
| No. 8 | 20 - 50 | 15 - 45 | 35 - 65 |
| No. 16 | -- | -- | -- |
| No. 30 | -- | -- | -- |
| No. 50 | 8 - 30 | 3 - 18 | 6 - 25 |
| No. 100 | -- | -- | -- |
| No. 200 | 4 - 12 | 1 - 7 | 4 - 10 |

Asphalt Cement

(weight percent of total mixtures)

| | | |
|-----------|-----------|------------|
| 3.5 - 8.0 | 4.0 - 8.5 | 5.0 - 10.0 |
|-----------|-----------|------------|

NOTE: Material passing the No. 200 sieve may consist of fine particles of the aggregate or mineral filler or both. Material passing the No. 40 sieve shall be nonplastic when tested in accordance with the requirements of current American Association of State Highway Officials Designation T 90.

* Course plus fine, plus filler if required.

** Amounts finer than each laboratory sieve (square opening).

- (e) Resistance to plastic flow. The bituminous mixture when combined in the proportions of the job mix formula shall conform to the design and control requirements of Table 3-B when tested in accordance with the requirements of current ASTM Designation D-1559.

TABLE 3-B

Design and Control Requirements

| Criteria | Test Limits | | | |
|--------------------------------|-------------|--------|-------|-------|
| | Mix No. | | | |
| | 1 | 2 | 5 | 5 |
| | Stone | Gravel | Stone | Stone |
| Design stability (lbs. min.) | 1500 | 1100 | 1200 | 1200 |
| Control stability (lbs. min.) | 1200 | 800 | 900 | 900 |
| Flow value (0.01 inch) | 6-18 | 6-18 | 6-18 | 6-16 |
| Design air voids (percentage) | 3-7 | 3-7 | 3-7 | 3-6 |
| Control air voids (percentage) | 2-10 | 2-10 | 2-10 | 2-10 |

D. Traffic stripes (Section 14).

- (1) Description (Article 3.14.1). Traffic stripes shall include the striping of pavements with white or yellow traffic paint and applying glass beads thereto.
- (2) Materials (Article 3.14.2).
 - (a) White traffic paint shall conform to the requirements specified for Type 111, pure drying alkyd-chlorinated rubber vehicle in Article 8.6.14 of the state specifications, white traffic paint.
 - (b) Yellow traffic paint shall conform to the requirements specified for Type 111, pure drying alkyd-chlorinated rubber vehicle in Article 8.6.14A of the state specifications, yellow traffic paint.

§ 231-42. Road structures.

A. Storm drains (Section 2).

- (1) Materials (Article 5.2.2).
 - (a) Pipe shall be of a type listed herein as shown on the approved plans. No substitutions shall be permitted from that shown on the approved plan without the written approval of the Engineer.
 - (b) Reinforced concrete culvert pipe shall be Class III, Wall B, unless extra strength is required, in which case Class IV, Wall B, shall be used. All other requirements shall be in accordance with Article 8.7.5 of the state specifications.

- (c) Corrugated metal culvert pipe and corrugated metal sewer pipe shall conform to the requirements of Article 8.7.6 of the state specifications and shall be furnished in the following minimum gauges:

| | | | | | | | | | | | | |
|---------------------|----|----|----|----|----|----|----|----|----|----|---------|---|
| Diameter | 21 | 24 | 30 | 36 | 42 | 48 | 54 | 60 | 66 | 72 | 78 - 90 | |
| (inches) | | | | | | | | | | | | |
| Gauge | 16 | 16 | 16 | 14 | 14 | 12 | 12 | 12 | 10 | 10 | 10 | 8 |

- (d) Corrugated metal pipe arch and corrugated metal sewer pipe arch shall conform to the requirements of Article 8.7.7 of the state specifications and shall be furnished in the following minimum gauges:

| | | | | | | | | | |
|------------------|----|----|----|----|----|----|----|----|----|
| Span | 22 | 25 | 29 | 36 | 43 | 50 | 58 | 65 | 72 |
| Rise | 13 | 16 | 18 | 22 | 27 | 31 | 36 | 40 | 44 |
| Gauge | 14 | 14 | 12 | 12 | 10 | 10 | 8 | 8 | 8 |

- (e) Structural plate pipe and pipe arch shall conform to the requirements specified therefor in Article 8.7.8 of the state specifications.

- (f) Corrugated aluminum pipe and aluminum drains.

[1] Corrugated aluminum culvert pipe and pipe arch shall conform to the current requirements of AASHO Designation M196 and shall be furnished in the following minimum gauges:

| | | | | | | | | | |
|---------------------|----|----|----|----|----|----|----|---------------|----|
| Diameter | 21 | 24 | 30 | 36 | 42 | 48 | 54 | 60 and larger | |
| Gauge | 14 | 14 | 12 | 12 | 10 | 10 | 10 | 8 | |
| Span | 22 | 25 | 29 | 36 | 43 | 50 | 58 | 65 | 72 |
| Rise | 13 | 16 | 18 | 22 | 27 | 31 | 36 | 40 | 44 |
| Gauge | 14 | 14 | 12 | 12 | 10 | 10 | 8 | 8 | 8 |

[2] Aluminum drains shall only be permitted when the minimum cover is 24 inches for drains 36 inches in diameter or equivalent diameter and less. For drains greater than 36 inches in diameter, the minimum cover shall be 2/3 of the diameter.

- (g) Reinforced concrete elliptical pipe shall conform to current AASHO Designation M207 and shall be Class HE-111 or VE-111 when standard strength is required and Class HE-IV or VE-IV when extra strength is required.

- (h) Additional drain types may be permitted with the written approval of the Borough Engineer who will specify the requirements.

(2) Methods of construction (Article 5.2.3).

- (a) Pipe shown on the plans or directed by the Engineer to be abandoned shall be plugged with Class C concrete as specified in Division 4, Section 1.

- (b) Trench openings for pipes shall not remain open overnight within, or adjacent to, roadways on which traffic is being maintained or within the normal limits of pedestrian access, unless adequately protected to the satisfaction of the Engineer.
 - (c) The contractor shall maintain the roadways where storm drains are installed in good serviceable condition, and all abrupt depressions shall be immediately repaired to the satisfaction of the Engineer.
 - (d) The contractor shall maintain existing drainage flow during construction to the satisfaction of the Engineer until proposed drainage facilities are completed and put into service.
 - (e) Where the ends of pipes are to enter existing concrete or masonry walls, the pipe and wall shall be neatly cut to fit at the face of the wall and the pipe shall be grouted in place. Where pipes are to enter below the paved invert of existing structures, the contractor will be required to cut the existing concrete and shape a new channel, all as directed by the Engineer.
 - (f) The contractor shall construct any necessary ditches or trenches to keep the site and the work well drained at all times during the progress of the work.
- B. Manholes, inlets and catch basins (Section 3).
- (1) Methods of construction (Article 5.3.3). The concrete block and brick shall be laid with broken joints. All horizontal joints, all vertical joints of brick and all keyways of vertical joints of concrete block shall be filled with 1:2 cement-sand mortar. All horizontal joints and in brick, all vertical joints, shall be not more than three-eighths-inch wide. The outside wall shall be plastered with a minimum of one-half-inch thickness of 1:2 cement-sand mortar, troweled to a smooth finish.
 - (2) Curb inlet castings shall be permanently set to final grade after adjacent curb back forms have been set to grade and before placement of concrete for the adjacent curb.
- C. Curbs and headers (Section 5).
- (1) Description (Article 5.5.1). Unless required otherwise by a governmental agency having jurisdiction, all curbing shall be six inches wide at the top, eight inches wide at the bottom and 18 inches deep. The reveal shall be six inches, except at driveways where a two-inch reveal shall be used. The top corners of the curb shall be rounded with a one-inch radius.
 - (2) Materials (Article 5.5.2). Concrete for curbs shall be air-entrained Class B as specified in Article 4.1.2. of the state specifications except as modified herein. Ultimate strength when tested by standard methods shall be not less than 4,000 pounds per square inch. The maximum water cement ratio shall be 5.5 gallons per sack.
 - (3) Methods of construction (Article 5.5.3).
 - (a) No concrete shall be poured between December 1 and March 1 of each year without the prior express written permission of the Engineer. Where such written permission is obtained, the Engineer shall specify the appropriate

procedures to be followed from the state specifications whose requirements shall also apply from March to November in cold weather conditions.

- (b) True joints shall be placed on a curb at ten-foot intervals. Backfilling for curbs shall be made within 72 hours after construction.
- (c) Where the curb is to be constructed along lines having a radius of 250 feet or less, securely anchored curved forms shall be used. Multiple ten-foot long tangent straight forms will be permitted for curved curbs where the radius exceeds 250 feet, provided the ends of the tangents are finished to prevent the appearance of sharp angles. At street intersections the curb corners shall have a minimum radius of 20 feet.

D. Sidewalks (Section 8).

- (1) Description (Article 5.8.1). Sidewalks shall have a minimum width of four feet and a minimum thickness of four inches, except in driveway areas where the thickness shall be increased to six inches. Unless directed otherwise by the Engineer, the far edge of all sidewalks shall be located on the right-of-way line.
- (2) Materials (Article 5.8.2). Concrete for sidewalks shall be air-entrained Class C as specified in Article 4.1.2 of the state specifications except as modified herein. Ultimate strength when tested by standard methods shall be not less than 3,500 pounds per square inch. The maximum water cement ratio shall be six gallons per sack.
- (3) Methods of construction (Article 5.8.3). Sidewalks shall be constructed with a slope towards the roadway of 1/4 inch per foot. The sidewalk shall be located at an elevation equivalent to 1/4 inch per foot from the top of the curb. Driveways in sidewalk areas and driveway aprons shall be six inches thick and reinforced with 66-1010 welded wire fabric.

E. Headwalls and culverts (Section 12).

- (1) Description (Article 5.12.1). Unless specifically permitted otherwise by the Engineer, all discharge pipes shall terminate with an end section of the type permitted in the design specifications.
- (2) Materials (Article 5.12.2). Corrugated metal end sections shall conform to the standard state details and the appropriate provisions of Division 5, Section 2, of the state specifications. Concrete end sections shall conform to the details furnished by the contractor and approved by the Engineer and to the appropriate provisions of Division 5, Section 2, of the state specifications. All shapes of cast-in-place concrete headwalls shall conform to the standard state details and the appropriate provisions of Division 4, Section 1.
- (3) Methods of construction (Article 5.12.3). All preformed metal or concrete end sections shall be constructed on a cast-in-place Class C concrete cutoff wall at least eight inches thick, 12 inches deep and the width of the section. At the option of the Engineer, the cutoff wall may be increased in size or eliminated entirely.

F. Monuments (Section 13).

- (1) Materials (Article 5.13.4). Monuments shall be Class A concrete as specified in Article 4.1.2 of the state specifications and shall be six inches square at the top and bottom and at least 30 inches long. Monuments shall be set firmly in the ground so as to be visible at all times.

§ 231-43. Landscaping.

A. General. All unpaved areas within the subdivision and all unpaved areas within the street rights-of-way shall be topsoiled, fertilized and seeded to provide a stabilized ground surface and prevent soil erosion. In difficult areas, all measures shall be taken to ensure the establishment of a satisfactory ground cover and shall include but not be limited to sodding, slope boards, jute matting and hay mulching. All work performed and all materials furnished shall be in accordance with the applicable provisions of Division 7 of the state specifications.

B. Planting (Section 10).

- (1) Description (Article 7.10.1). Shade trees shall be planted along both sides of every street within the subdivision and along the abutting side of each street adjacent to the subdivision. Trees shall be planted off the street right-of-way in a five-foot strip behind the sidewalk and shall be at a maximum spacing of 50 feet.

- (2) Materials (Article 7.10.2). Shade trees shall be nursery grown and shall be a minimum of two inches diameter at breast height and any one of the following types dependent upon the location of the subdivision:

- (a) In areas adjacent to rivers, bays and lagoons, one of the following kinds of trees shall be planted:

- [1] Honey Locust (*Gleditsia triacanthos inermis*).
- [2] Oriental Plane (*Platanus orientalis*).
- [3] Willow (*Salix babylonica*).
- [4] Canoe Birch (*Betula papyrifera*).
- [5] European White Birch (*Betula alba pendula*).
- [6] Japanese Cherry (*Prunus quanzan*).
- [7] Hawthorn (*Crataegus*).

- (b) In the upland, which is away from rivers, bays and lagoons and not adjacent to large bodies of water, one of the following kinds of trees shall be planted:

- [1] Pin Oak (*Quercus palustris*).
- [2] Norway Maple (*Acer platanoides*).
- [3] Honey Locust (*Gleditsia triacanthos inermis*).
- [4] Crabapple (*Malus*).
- [5] Mountain Ash, European (*Sorbus aucuparia*).

[6] Dogwood (*Cornus florida*, white) and (*Cornus florida rubra*, pink).

[7] European White Birch (*Betula alba pendula*)

C. Screening strips/buffers. **[Added 12-17-2007 by Ord. No. 16-2007]**

- (1) Screening strip/buffer areas are required along all lot lines and street lines which separate a nonresidential use from either an existing residential use or a residential zoning district.
- (2) If a residential use is proposed next to a commercial uses then the residential use shall provide the appropriate buffer. Where a residential use on a single lot is proposed bordering a nonresidential use, the single lot shall provide a ten-foot-wide buffer.
- (3) Buffer areas shall be developed in an aesthetic manner for the primary purposes of screening views and reducing noise perception beyond the lot. Buffer widths shall be measured horizontally and perpendicularly to lot and street lines. No structure, activity, storage of materials, or parking of vehicles shall be permitted in a buffer area. The standards for the location and design of buffer areas are intended to provide flexibility in order to provide effective buffers. The location and design of buffers shall consider the use of the portion of the property being screened, the distance between the use and the adjoining property line, differences in elevations, the type of buffer, such as dense planting, existing woods, a wall or a fence, buffer height, buffer width, and other combinations of man-made and natural features. The buffer shall be designed, planted, graded, landscaped and developed with the general guideline that the closer a use or activity is to a property line, or the more intense the use, the more effective the buffer area must be in obscuring light and vision and reducing noise beyond the lot.
- (4) When buffers are required, building setbacks shall be measured from the buffer line.
- (5) All buffer areas shall be planted and maintained with either grass or ground cover, together with a screen of live shrubs or scattered planting of live trees, shrubs, or other plant material meeting the following requirements:
 - (a) The preservation of all natural wooded tracts shall be an integral part of all site plans and may be calculated as part of the required buffer area, provided the growth is of a density and the area has sufficient width to serve the purpose of a buffer. Where additional plantings are necessary to establish an appropriate tone for an effective buffer, the plantings may be required;
 - (b) Plant materials used in screen planting shall be at least three feet in height when planted and be of such density as will obscure, throughout the full course of the year, the glare of automobile headlights emitted from the premises. Such strips shall consist of, but not be limited to, dense evergreen growth or other approved plantings or, in the absence of natural evergreen growth, densely planted evergreens from the ground to a height of not less than eight feet. The buffer must provide year-round screening. In instances where new planting is required to provide said screen, such planting shall attain a height of not less than five feet after one growing season and not less than eight feet after three growing seasons;

- (c) The screen planting shall be so placed that at maturity it will not be closer than three feet to any street or property line (where possible);
 - (d) Trees shall be at least five feet in height and 1 1/2 inches in diameter, measured at 6 inches above the ground, when planted and be of species common to the area, be of nursery stock, and be free of insects and disease;
 - (e) Screening strips shall be at all times properly maintained so as not to become unsightly. Any plant material which does not live shall be replaced within one year or one growing season;
 - (f) Screen plantings and landscaping shall be broken at points of vehicular and pedestrian ingress and egress to assure a clear sight triangle at all street and driveway intersections.
- (6) Wherever this chapter imposes a landscaping or seeding requirement, natural vegetation may be substituted in all areas where it exists and has attained a height of at least six feet. The landscaping and seeding requirement shall still apply, however, in all areas not so covered.
 - (7) A buffer zone shall be provided in conjunction with any nonresidential use abutting a lot zoned for residential purposes or occupied by a residential use. Such buffer requirements shall apply to every property line that abuts a residentially zoned or used lot. The minimum width of such buffer zone shall be 30 feet.
 - (8) A screening strip shall be required between land which is zoned for multifamily use and which is adjacent to a single-family residential use or zone. In addition, any special use in any residential zone shall provide a screening strip along any property line that adjoins a single-family residential use or zone.

§ 231-44. Other standard specifications.

A. Street signs.

- (1) Materials. There shall be one sign assembly mounted at each intersection and each street will be clearly marked.
- (2) Unless approval for other types is given by the Engineer, each sign unit shall consist of four sign plates with theftproof fixtures and hardware for assembling and mounting on a steel post.
- (3) The background for the sign shall be green with white letters and shall be of similar design and construction as presently utilized by the Borough. Posts shall have a two-inch inside diameter, galvanized steel 10 feet six inches in length embedded in a twelve-inch circular concrete anchor three feet deep along each post. There shall be one-half-inch hole drilled six inches from the bottom of each post to accommodate an anchor rod 1 1/2 by nine inches, which shall be furnished with each post.

B. Sanitary sewers. All sanitary sewerage facilities shall be constructed in accordance with all current regulations, as applicable, of the Tuckerton Board of Health, the Tuckerton Municipal Utilities Authority, the New Jersey Department of Health and the appropriate provisions of these specifications and the state specifications.

- C. Water supply facilities. All water supply facilities shall be constructed in accordance with all current regulations, as applicable, of the Tuckerton Board of Health, the New Jersey Water Policy and Supply Council, the franchised water company and the appropriate provisions of these specifications and the state specifications.
- D. Traffic control signs and devices. All traffic control signs and devices shall be in accordance with the manual on Uniform Traffic Control Devices for Streets and Highways adopted by the United States Department of Transportation, dated 1971.

ARTICLE IX
Tax Map Revision Fees
[Added 4-5-2004 by Ord. No. 6-2004]

§ 231-45. Revision fees.

Upon receipt of subdivision approval, the applicant shall be required to post with the Borough Clerk an amount equal to the estimated cost of revision to the municipal Tax Map to reflect such approval. Such costs shall be based upon an estimate prepared by the Borough Engineer. No construction permit shall be issued in connection with such subdivision approval unless such cost shall have been posted with the Borough Clerk in accordance with this subsection. The amount posted by the applicant shall be placed by the Borough in an escrow account and that portion of the estimated cost which remains unused after the Tax Map has been revised shall be refunded to the applicant. As to every subdivision approved, it shall be the responsibility of the applicant to provide a reduced scale map of the subdivision to the same scale as the Borough Tax Map.

ARTICLE X
Definitions

§ 231-46. Definitions.

For the purpose of this chapter, the terms used herein are defined as follows:

BLOCK — Interpreted to be that area along one side of a street located between and on the same side of two intersecting or connecting streets. Corner lots shall be included even though the residence fronts, or is intended to front, on another street.

BOARD — The Planning Board of the Borough of Tuckerton in the County of Ocean.

CART WAY or ROADWAY — That part of the street between curbs.

CHAIRMAN — The Chairman of the Board.

CLERK — The Borough Clerk.

DRAINAGE RIGHT-OF-WAY — The lands required for the installation of storm sewers or drainage ditches, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage in accordance with Chapter 1 of Title 58 of the Revised Statutes.

EASEMENT — A right or interest, less than a fee, held by a particular person or corporation in land owned by another to be used for specific purposes.

ENGINEER — The Borough Engineer of the Borough of Tuckerton, in the County of Ocean.

GOVERNING BODY — The Mayor and Council of the Borough of Tuckerton, in the County of Ocean.

IMPROVED STREET — When used in the context of an existing street, any street which is constructed with an all-weather surface. When used in the context of a new street, it shall mean a street constructed in accordance with the provisions of this chapter.

MASTER PLAN — A composite of the mapped and written proposals recommending the physical development of the municipality which may be adopted by the Planning Board and which may be used as a guide by the Planning Board and by the governing body.

OFFICIAL MAP — A map which may be adopted in accordance with the Official Map and Building Permit Act, Chapter 434 of the Laws of 1953,⁸⁵ or any prior act authorizing such adoption. Such a map shall be deemed to be conclusive with respect to the location and width of streets, public parks and playgrounds and drainage rights-of-way shown thereon.

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 — Performance bonds and/or cash in combinations specified hereinafter, or other collateral which the Planning Board, may, at its discretion, deem satisfactory, accepted in lieu of constructing required improvements prior to final approval of a plat by the Planning Board.

PLAT — A map of a subdivision.

85. Editor's Note: Former N.J.S.A. 40:55-1.1 through 40:55-1.42 was repealed by L. 1975, c. 291, § 80, effective 8-1-1976.

PLAT, EXEMPT SUBDIVISION — The final map of an exempt subdivision which is presented to the Planning Board for final technical review in accordance with these regulations, and which, if approved, shall be filed with the recording officer of the County of Ocean.

PLAT, FINAL — The final map which designates all or a portion of the subdivision and which is presented to the Planning Board for final technical review for approval in accordance with these regulations, and which if approved shall be filed with the recording officer of the County of Ocean.

PLAT, PRELIMINARY — The preliminary map of a subdivision which indicates the proposed layout of the subdivision and which is presented to the Planning Board for technical review for tentative approval in accordance with these regulations.

RIGHT-OF-WAY — The land and space required on the surface, subsurface and overhead for the construction and installation of material necessary to provide passageways for vehicular traffic, pedestrians, utility lines, poles, conduits, mains, signs, hydrants, trees, shrubbery and the proper amount of light and air, and which shall be measured from lot line to lot line.

SECRETARY — The Secretary of the Planning Board.

SITE IMPROVEMENTS — Those improvements to the land or plat in addition to the required improvements mentioned herein, including but not limited to driveways, landscaping and access walkways.

SOLICITOR — The Planning Board Attorney.

STANDARD DETAILS — Those construction details prepared by the Borough Engineer as a complement and supplement to the standard specifications, state specifications and regulations contained herein.

STANDARD SPECIFICATIONS — Those specifications which may be adopted by the governing body to amend and/or supplement the state specifications governing the construction of improvements.

STATE SPECIFICATIONS — The New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction, 1961, together with amendments and supplements thereto.

STORM DRAINS — Artificial means such as pipes or other conduits constructed to carry collected surface drainage to a point of accepted discharge.

STREET — A public thoroughfare intended for the use of vehicular traffic, to gain access to abutting properties, and shall include any street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way which is an existing state, county or municipal roadway or a street or way shown upon a plat heretofore approved pursuant to law, and includes the land between the street lines whether improved or unimproved and may comprise pavement, shoulders, gutters, sidewalks, parking areas and other areas within the street lines. For the purpose of this chapter, new streets shall be classified as follows:

- A. ARTERIAL STREETS — Those streets which provide for through traffic movement between areas or municipalities and direct access to abutting properties (when not deemed to be a safety hazard), subject to necessary controls on location and design of entrances and exits.

- B. COLLECTOR STREETS — Those streets which provide for traffic movement between major arterials, direct access to abutting properties and also includes the principal entrance streets of a residential development and streets for circulation within such a development.
- C. MARGINAL ACCESS STREETS — Streets which are parallel to and adjacent to arterial streets and major highways, and which provide access to abutting properties and protection from through traffic.
- D. MINOR STREETS — Those which are used primarily for access to abutting properties and include marginal access streets.

STREET LINE — The line dividing the dedicated street from the private property.

SUBDIVIDER/APPLICANT — 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 — The division of a lot, tract or parcel of land into two or more lots, sites or other divisions of land for the purpose, whether immediate or future, of sale or building development, except that the following divisions shall not be considered subdivisions; provided however, that no new streets or roads are involved: divisions of land for agricultural purposes where the resulting parcels are three acres or larger in size, divisions of property by testamentary or intestate provisions or divisions of property upon court order.

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

SUBDIVISION, EXEMPT — Any subdivision which shall include all resubdivisions of lots shown on any plat duly approved by the Planning Board and which complies with all of the following requirements:

- A. All lots created or remaining have the required frontage on an existing improved, municipal, county or state roadway.
- B. No more than three lots, including the remainder of the original lot, are created by the subdivision.
- C. No new streets are required to be dedicated.
- D. No extension of public utilities is required.
- E. No construction of previously dedicated streets is required.
- F. Not in conflict with any Master Plan, Official Map, Zoning Ordinance⁸⁶ or this chapter.
- G. Any portion of the property involved has not been part of another exempt subdivision within two years preceding the pending application nor has any portion of the property involved been part of more than two exempt subdivisions during any time period.

SUBDIVISION, MAJOR — All subdivisions not classified as exempt subdivisions.

86. Editor's Note: See Ch. 255, Zoning.

ARTICLE XI
Enforcement

§ 231-47. Violations and penalties.⁸⁷

If, before favorable referral and final approval has been obtained, any person transfers or sells or agrees to sell, as owner or agent, any land which forms a part of a subdivision on which, by ordinance, the Planning Board and the governing body is required to act, or if any person violates or fails to comply with any of the provisions of this chapter, such person shall, upon conviction thereof, be punishable by a fine of not more than \$500 or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the Judge. The continuation of such violation for each successive day, and each parcel, plot or lot so disposed of, shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

87. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 235

TAXATION

ARTICLE I

**Tax Abatements for Improvements and Projects
[Adopted 6-15-1992 by Ord. No. 14-1992]****§ 235-1. Authority to enter agreements.**

The Mayor and Borough Council of the Borough of Tuckerton are hereby authorized to enter into agreements with property owners and developers for tax abatement on multiple-dwelling, commercial and industrial improvements or projects, pursuant to the provisions of P.L. 1991, c. 441,⁸⁸ providing for the exemption from real property taxation of improvements and the abatement of real property taxation on projects for a period of five years.

§ 235-2. Procedures.

The following procedures shall govern agreements for tax abatement entered into by the Mayor and Borough Council of the Borough of Tuckerton and property owners and developers:

A. Improvements.

- (1) All improvements, as defined in N.J.S.A. 40A:21-3n, shall be exempt from local real property taxes, if approved by the Tax Assessor after proper application has been made. Application shall be upon the form approved by the Mayor and Borough Council and the Borough Tax Assessor.
- (2) Applicants shall be encouraged to apply for tax exemption on improvements prior to the commencement of construction of the improvement, provided that the applicant must file a proper application with the Tax Assessor within 60 days of the completion of the improvement in order to be eligible for tax exemption thereon.
- (3) Every properly completed application for exemption of one or more improvements which is filed within 60 days of the completion of the improvement shall be approved and allowed by the Assessor within 60 days of its filing.

B. Applications. Applicants for tax abatement on projects shall provide the Mayor and Borough Council with an application setting forth:

- (1) A general description of the project for which abatement is sought.
- (2) A legal description of all real estate necessary for the project.
- (3) Plans, drawings and other documents as may be required by the Mayor and Borough Council to demonstrate the structure and design of the project.
- (4) A description of the number, classes and types of employees to be employed at the project site within two years of completion of the project.
- (5) A statement of the reasons for seeking tax abatement on the project and a description of the benefits to be realized by the applicant if tax abatement is granted.
- (6) Estimates of the cost of completing such project.

88. Editor's Note: See N.J.S.A. 40A:21-1 et seq.

- (7) A statement showing:
 - (a) The real property taxes currently being assessed at the project site.
 - (b) The estimated tax payments that would be made annually by the applicant on the project during the period of tax abatement.
 - (c) The estimated tax overpayments that would be made by the applicant on the project during the first full year following the termination of the tax abatement agreement.
 - (8) A description of any lease agreements between the applicant and proposed users of the project and a history and description of the user's business.
 - (9) Such other pertinent information as the Mayor and Borough Council may require.
- C. Agreements. Upon approval of a specific ordinance authorizing an agreement for tax abatement for a particular project, the Mayor and Borough Council shall enter into a written agreement with the applicant for the abatement of local real property taxes. The agreement shall provide for the applicant to pay to the Borough of Tuckerton, in lieu of full property tax payments, an amount annually to be computed by using either, but not a combination of, the formulas set out in N.J.S.A. 40A:21-10. All tax abatement agreements hereunder shall be in effect for a period of not more than five years and shall take initial effect for the first full tax year commencing after the tax year in which the agreement is authorized and executed.
- D. Abatements.
- (1) With regard to the exemption from taxation of improvements to multiple dwellings or of conversions of other buildings and structures, including unutilized public buildings, to multiple-dwelling use, or both, in determining the value of real property, the municipality shall regard up to the Assessor's full and true value of the improvements or conversion alterations as not increasing the value of the property for a period of five years, notwithstanding that the value of the property to which the improvements or conversion alterations are made is increased thereby. During the exemption period, the assessment on the property shall not be less than the assessment thereon existing immediately prior to the improvements or conversion alterations, unless an abatement is granted pursuant to Subsection D(2) of this section, or there is damage to the multiple dwelling through action of the elements sufficient to warrant a reduction.
 - (2) A project specific ordinance providing for exemption may also provide for the abatement of some portion of the assessed value of property receiving the exemption as it existed immediately prior to the improvement or conversion alteration. An abatement for a multiple dwelling may be granted with respect to that property for a total of up to five years, but the annual amount of the abatement shall not exceed 30% of the total cost of the improvement or conversion alteration, and the total amount of abatements granted to any single property shall not exceed the total cost of the improvement or conversion alteration. The abatement period and the annual percentage of the abatement to be granted shall be set forth in the specific ordinance, which may include a schedule providing for a different percentage of abatement, up to 30%, for each year of the abatement period.

- (3) With regard to the exemption from taxation of improvements to commercial or industrial structures in determining the value of real property, the municipality shall regard up to the Assessor's full and true value of the improvements as not increasing the value of the property for a period of five years, notwithstanding that the value of the property to which the improvements are made is increased thereby. During the exemption period, the assessment on the property shall not be less than the assessment thereon existing immediately prior to the improvements, unless there is damage to the structure through action of the elements sufficient to warrant a reduction.
- (4) With regard to exemptions for commercial and industrial improvements, the Borough shall authorize exemption for improvements on an individual basis after review, evaluation and approval of each application by the governing body.

Chapter 237**TAXICABS****GENERAL REFERENCES**

Streets and sidewalks — See Ch. 229.

Vehicles and traffic — See Ch. 246.

§ 237-1. Definitions.

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

TAXICAB — Any automobile or motorcar engaged in the business of carrying persons for hire upon the streets of this Borough to any place within or without the Borough whether hired or engaged from a garage or from any taxi stand or other place in the Borough.

§ 237-2. Consent of Council; insurance requirements; power of attorney.

- A. Any person who desires to operate a taxicab along any street in this municipality shall obtain the consent of the Borough Council prior to operating any vehicle upon the streets in this municipality.
- B. Prior to the Borough Council giving its consent, the owner shall file with the Clerk of the municipality an insurance policy from a corporation duly licensed to transact business under the insurance law of this state conditioned for the payment of a sum of not less than \$500,000 to satisfy all claims for damages by reason of bodily injury or death of any one person; a sum of not less than \$1,000,000 to satisfy all claims for damages by reason of bodily injury or death of all persons on account of any such accident arising out of or by reason of the ownership, operation, maintenance and use of such taxicab; a sum of not less than \$50,000 to satisfy any claim for property damages to any one person; and a sum not less than \$100,000 to satisfy all claims for damages to property of all persons on account of any such accident by reason of the ownership, operation, maintenance or use of such taxicab upon any public street.⁸⁹
- C. The owner of the taxicab shall execute and deliver to the Clerk of this municipality a power of attorney appointing the corporate fiscal officer of this municipality as true and lawful attorney for the purpose of acknowledging service of any process out of a court of competent jurisdiction to be served against the insured by virtue of the indemnity granted under the insurance policy required by Subsection B.

§ 237-3. Issuance of certificate.

Upon the said completion of the foregoing requirements, the Clerk of the municipality shall issue a certificate, in duplicate, showing that the owner of the taxicab has complied with the terms and provisions of the sections hereinbefore set forth.

89. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 237-4. Licenses required.⁹⁰

From and after the effective date of this chapter, no person shall operate any taxicab within this Borough unless both the taxicab and the driver thereof are licensed pursuant to this chapter and conform to all the provisions hereof, provided that such taxicab licenses as are now issued and outstanding shall remain effective until their respective expiration dates and the taxicabs thereby licensed shall be deemed to be licensed pursuant to the terms of this chapter, until such licenses are surrendered, suspended or revoked or have expired; provided, however, that in all other particulars said taxicabs and their owners shall be subject to all the provisions hereof.

- A. Owners' licenses. The Borough Council is hereby authorized to issue licenses to owners of taxicabs who are of good moral character and who otherwise qualify according to the provisions of this chapter. Such license shall hereinafter be referred to as the "owner's license." The maximum number of owners' licenses to be issued shall be three.
- B. Operators' licenses. The Borough Council is hereby authorized to issue licenses to operators of taxicabs, whether or not they are owners, who are capable and of good moral character, and who otherwise qualify according to the provisions of this chapter. Such license shall hereinafter be referred to as the "operator's license."

§ 237-5. Investigation of applicant.

Neither owners' nor operators' licenses shall be granted to any person unless the application for such license has been submitted to the Borough Council. Such applicant shall be thoroughly investigated by the Chief of Police, and the said applicant fingerprinted and photographed. A complete report of said investigation shall be submitted to the Borough Council.

§ 237-6. License numbering and contents; expirations; renewal; records.

- A. Owners' and operators' licenses shall be numbered consecutively in their own respective classifications and shall expire on December 31 of the year of issuance. Licenses not suspended or revoked may be renewed annually, subject to all of the same conditions, provisions and charges as required for the original license. Every license shall contain the following:
 - (1) The purposes of the license.
 - (2) The number of the license.
 - (3) The name and address of the licensee.
 - (4) Every owner's license shall also include the character and description of the vehicle.
- B. The Borough Clerk shall keep a register of all licenses granted, which register shall contain the details required by this section.

§ 237-7. License fees.

License fees in the following amounts shall be paid to the Clerk, who shall deliver the same over to the Treasurer:

90. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- A. For each owner's license: \$25.
- B. For each operator of a licensed vehicle, whether or not owner thereof: \$5.

§ 237-8. Condition of vehicle; inspection.

- A. No owner's license shall be issued, unless the taxicab shall be in such a condition, mechanical and otherwise, as to render it fit, safe and appropriate for the comfortable and decent transportation of passengers.
- B. The Chief of Police shall cause an inspection be made of the taxicab prior to the issuance of the license to determine whether it conforms with the requirements set forth in this section and he shall report his findings to the Borough Council.

§ 237-9. Badge required; display of badge and license.

- A. Every operator, whether owner or otherwise, shall be supplied a badge containing the number of the license, which he shall wear in a conspicuous place upon his person while operating such taxicab.
- B. Every owner, in addition, shall display the owner's license in a conspicuous place in the taxicab licensed.

§ 237-10. Refusal to convey prohibited.

No owner or operator of any taxicab, while waiting for employment at any place other than the garage or residence of the owner thereof, shall refuse conveyance to any person without just cause.

§ 237-11. Taxicab stands; regulations.

The Borough Council shall, by resolution, designate public stands for taxicabs licensed under this chapter. The Chief of Police, or such other police officer as may be designated for that purpose, shall regulate and preserve order at the public stands. Any owner or operator who shall fail, neglect or refuse to obey the directions of such police officer shall be guilty of a violation of this chapter.

§ 237-12. Fares.

The maximum fare chargeable for each passenger shall be \$0.75 per mile.

§ 237-13. Posting of fares and charges.⁹¹

No taxicab shall hereafter be operated in this Borough unless and until there is prominently displayed in the interior thereof, within the full view and access of any passengers therein, a complete list of fares, charges or tariff rates charged for transportation of passengers, which fares, charges or tariff rates so displayed, and no other, shall be those charged any passenger so transported.

91. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 237-14. Baggage.

Each passenger shall be entitled to have carried and conveyed upon any licensed taxicab, without charge, his ordinary traveling baggage, not exceeding in any case 50 pounds of baggage.

§ 237-15. License revocation or suspension; notice and hearing.

Every owner's or operator's license granted hereunder may be suspended or revoked by the Borough Council, after notice and hearing, for the violation of any of the provisions of this chapter or for other good and sufficient cause. During said suspension and after revocation, the license shall be inoperative and of no effect and shall be surrendered to the Borough forthwith, along with the badge supplied pursuant to § 237-9.

§ 237-16. Violations and penalties.⁹²

Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$500 or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

Chapter 240**TOBACCO****GENERAL REFERENCES**

Peddling and Soliciting — See Ch. 204.

92. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

ARTICLE I

Sale to Minors**[Adopted 6-17-1996 by Ord. No. 4-1996]****§ 240-1. Purpose.**

Extensive medical and scientific evidence reveals and the Surgeon General of the United States has determined that the use of tobacco is harmful to a person's health, such that it can lead to severe medical conditions. The American Cancer Society has cited that approximately 90% of today's regular smokers started before reaching adulthood. Statistics such as these have lead the FDA to classify nicotine addiction as a pediatric disease. Therefore, the Borough of Tuckerton finds it necessary to limit the accessibility of cigarettes and other tobacco products to minors and to regulate the means by which tobacco products are sold in order to protect the health, safety and welfare of its residents.

§ 240-2. Definitions.

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

HEALTH OFFICER — The administrative officer of the Borough of Tuckerton Board of Health and/or his or her authorized representative.

LAW ENFORCEMENT OFFICER — Any member of the Borough of Tuckerton Police Department.

PERSON — An individual, partnership, cooperative, association, corporation, personal representative, receiver, trustee, assignee or any other legal entity.

SELF-SERVICE DISPLAYS — A display or display shelves designed for the customer to serve oneself without the aid of a sales clerk and where the customer is required to pay the cashier upon leaving.

TOBACCO — Any product made from the tobacco plant for the purpose of smoking, chewing, inhaling and other personal use, including cigars, chewing tobacco, pipe tobacco, snuff and cigarettes in any form.

TOBACCO RETAILER — Any person or entity that operates a store, stand, booth, concession or place at which sales of tobacco are made to purchasers for consumption or use and shall mean a person or entity that owns or operates a vending machine.

VENDING MACHINE — Any automated, self-service device which, upon insertion of money, tokens or any other form of payments, dispenses cigarettes or other tobacco products.

§ 240-3. Prohibited acts; sign to be posted.

- A. Pursuant to the provisions of N.J.S.A. 2A:170-51,⁹³ it shall be unlawful for any person to sell, give or permit to be sold, given or furnished to an individual under the age of 18 tobacco in any form.

93. Editor's Note: Former N.J.S.A. 2A:170-51 was repealed by L. 1999, c. 90, § 19, effective 5-3-1999. See now N.J.S.A. 2C:33-13.1.

- B. A sign, not less than six inches by eight inches, shall be posted in a conspicuous place near each cash register in all retail establishments which sell tobacco products containing the following language:

SALE OF TOBACCO PRODUCTS TO MINORS UNDER THE AGE OF 18 IS PROHIBITED BY LAW. Legal proof of age must be shown. A person who sells or offers to sell a tobacco product to a person under 18 years of age may be prosecuted in accordance with state and local ordinances.

§ 240-4. Identification required.

It shall be unlawful for a tobacco retailer to sell or permit to be sold tobacco to any individual without requesting and examining identification from the purchaser, positively establishing purchaser's age as 18 years or greater, unless the seller has some other conclusive basis for determining the purchaser is over the age of 18 years of age.

§ 240-5. Sale through vending machines.

Sale of tobacco products through vending machines shall be prohibited unless the following criteria have been met:

- A. The vending machine shall be equipped with a remote-controlled locking device which must be in full working order.
- B. The remote-controlled locking device shall be operated only by the tobacco retailer or his agent or employee who must be 18 years of age or older. The tobacco retailer or his agent or employee shall be in full view of the vending machine at all times when operating the remote-controlled locking device.
- C. At no time shall the locking device be unattended so as to permit accessibility by a customer or patron of the retail establishment.
- D. After the operator of the remote-controlled locking device has activated the vending machine to allow a sale to take place that vending machine will deactivate itself until such time as said remote-controlled locking device has been reactivated.

§ 240-6. Self-service displays.

Self-service displays of tobacco products, from which individual packages or individual cigarettes may be selected by the customer, are prohibited.

§ 240-7. Enforcement.

The Borough of Tuckerton Health Officer and/or his or her designee and/or a Borough of Tuckerton law enforcement officer, shall be responsible for the enforcement of this article.

§ 240-8. Violations and penalties.

- A. Any person who directly or indirectly acting as agent or otherwise sells, gives or furnishes to a minor under the age of 18 years any cigarettes made of tobacco or of any other matter or substance which can be smoked or any cigarette paper or tobacco in any form, including

smokeless tobacco, shall be punished by a fine of \$250 in accordance with N.J.S.A. 2A:170-51.⁹⁴

- B. Whenever the Health Officer, his or her designee, Code Enforcement Officer or a law enforcement officer reasonably believes there exists a violation of this article, such individual may, by written notification not later than 60 days after discovery of the alleged violation, advise the tobacco retailer of the nature of the violation and that any subsequent failure or refusal to comply with this article shall be subject to the penalties set forth in this article.
- C. The Health Officer, his or her designee, Code Enforcement Officer or a law enforcement officer, after giving proper identification, may inspect any matter, thing, premises or place as may be necessary for the proper enforcement of the provisions of this article.
- D. It shall be unlawful for any person to oppose or otherwise obstruct a Health Officer or his or her designee or the Code Enforcement Officer. Such individual may request the assistance of a law enforcement officer when necessary to execute his or her official duty in a manner prescribed by law.
- E. Except as provided in Subsection A above, any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be punished by a fine of not more than \$1,000, by imprisonment for a term not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.
- F. The violation of any provision of this article shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

94. Editor's Note: Former N.J.S.A. 2A:170-51 was repealed by L. 1999, c. 90, § 19, effective 5-3-1999. See now N.J.S.A. 2C:33-13.1.

Chapter 242**TOWING AND STORAGE****GENERAL REFERENCES**

Vehicles and traffic — See Ch. 246.

§ 242-1. Rotating list of contractors established.

There is hereby established a nondiscriminatory, rotating list of towing and storage contractors authorized to provide vehicle towing and storage services as required by the Borough of Tuckerton. The Chief of Police shall be responsible for the administration of the rotating list. In the event none of the contractors listed on the rotating list are available or are unable to provide such services as requested by the Borough, the Chief of Police, in his discretion, may request such services from any other available source. Nothing in these rules and regulations shall be construed so as to prevent any owner or operator from selecting his own towing service.

§ 242-2. Required services.

- A. Basic towing. Basic towing services shall be available and provided on a seven-day-per-week, twenty-four-hour-per-day basis for the entire geographic area of the Borough of Tuckerton. The contractors on the rotating list must be able to respond to any tow scene within 15 minutes of the Borough's request.
- B. The contractor shall be responsible for the cleanup of debris in accordance with N.J.S.A. 39:4-56.8, with the exception of fuel, oil, chemicals or hazardous waste material. A fee for cleanup of debris shall be charged to the vehicle owner in addition to any other charges permitted under this chapter. **[Amended 11-16-2015 by Ord. No. 20-2015]**
- C. Storage. Storage shall be provided for all vehicles towed until claimed by the vehicle owner or disposed of in accordance with applicable law. The contractor shall provide adequate lighted land area sufficient to store a minimum of 10 vehicles (20 feet by 10 feet per vehicle space). Each storage area must be enclosed by a security fence. In addition, inside garage area space for at least one vehicle must be available. The location of the storage area must be within 15 minutes of travel time from the place of the tow.
- D. Recovery services. Recovery services will be furnished when necessary. Recovery services are those services which require the recovery of an automobile from a position beyond the right-of-way or berm, or from being impaled upon any other object within the right-of-way or berm, by several actions that may include but not be limited to winching and rigging.

§ 242-3. Police impounds.

Motor vehicles that are stolen, abandoned, involved in a crime, involved in fatal accidents or accidents which, in the judgment of the police, may become fatal shall be considered police impounds. Police impounds shall be towed to a designated police impound property. A video security monitoring system shall be in place covering the area where police impounds will be stored.

§ 242-4. Equipment requirements.

- A. All contractors on the rotating list shall provide and maintain the following minimum equipment:
 - (1) One flatbed/tow wrecker with a minimum deck area of 21 feet, equipped with wheel lift or a mechanism capable of towing a second vehicle, and a gross vehicle weight of 20,000 pounds. **[Amended 11-16-2015 by Ord. No. 20-2015]**
 - (2) Communication equipment between vehicles and its dispatchers.
- B. Tow vehicles shall have the name, address and telephone number of the contractor painted or permanently attached to both sides of the vehicle in compliance with state law.
- C. All equipment must meet applicable state standards, and the Borough reserves the right to make periodic, unannounced inspections of vehicles, equipment, storage areas and personnel.
- D. All contractors on the rotating list shall comply with all state laws and regulations regarding its services and equipment.

§ 242-5. Eligibility for rotating list.

- A. In addition to meeting all other criteria of this chapter and in order to be eligible for placement upon the rotating list of authorized towers, the contractor shall supply a certificate of liability insurance by a company licensed to do business in the State of New Jersey, certifying that the contractor maintains workers' compensation and garage liability insurance of not less than \$1,000,000 combined single limit, garage keepers' liability of not less than \$100,000 per vehicle, said garage keepers' legal liability insurance policy to further provide for fire, theft and explosion. All public liability insurance, including garage liability and garage keepers' legal liability coverage, shall name the Borough of Tuckerton, its officers, agents and employees as additional insureds on the policy, shall hold them harmless, indemnify them from any and all claims filed against the Borough arising out of any act or failure to act on behalf of the contractor and shall contain an endorsement providing 30 days' notice to the Borough in the event of any material changes of the policy or cancellation thereof. Those contractors meeting the eligibility requirements shall be approved and added to the rotating list by resolution of the Borough Council, upon advice of the Chief of Police.
- B. The contractor shall be located within 2.5 miles of the outermost borders of Tuckerton Borough and be a state-registered towing business for at least three years.
- C. All operators must be of a minimum age of 21 years to be engaged in the towing services.
- D. All new hires of authorized towing contractors are subject to a background check prior to commencing performing towing services under this chapter. **[Added 11-16-2015 by Ord. No. 20-2015]**

§ 242-6. (Reserved)⁹⁵

95. Editor's Note: Former § 242-6, Maximum rates and charges for passenger vehicles, motorcycles, all-terrain vehicles and mopeds, was repealed 11-16-2015 by Ord. No. 20-2015.

§ 242-7. Maximum rates and charges. [Amended 11-16-2015 by Ord. No. 20-2015]

- A. Basic towing charges for vehicles shall be as follows:
- (1) Vehicle up to 15,000 gross vehicle weight.
 - (a) First mile or portion thereof: \$145, one way.
 - (b) Each additional mile: \$6, round trip.
 - (2) Vehicle in excess of 15,000 gross vehicle weight but not exceeding 23,500 gross vehicle weight.
 - (a) First mile or portion thereof: \$195, one way.
 - (b) Each additional mile: \$10, round trip.
- B. A storage fee of \$65 per day or a portion thereof shall be charged for inside or outside storage.
- C. A yard fee of \$45 shall be charged for moving or relocating a vehicle at the request of the vehicle owner, insurance company or investigators.
- D. Winching: \$125 per hook up.
- E. After hours (outside posted business hours or federal or state holiday) pickup: \$50.
- F. Recovery services. Where it is necessary that certain recovery services be performed, or specialized equipment utilized in order to preserve the condition of the motor vehicle or to clear a public roadway, an additional charge shall be assessed against the vehicle owner. The fees to be charged for recovery services shall be fixed annually by the governing body by resolution.

§ 242-8. Towing information to be supplied to Borough.

- A. The contractor shall provide to the Borough the following information concerning vehicles and employees:
- (1) The year, make, model, vehicle identification number, type of vehicle, registration number and proof of insurance.
 - (2) The full name and address of all employees and license numbers. Each listed employee must be competent to provide minimum road services for disabled vehicles, present a neat appearance at all times, obey all traffic safety laws and regulations, be subject to periodic and unannounced inspections by the Chief of Police, or his designee, and shall be approved by the Chief of Police prior to rendering any services pursuant to this chapter.
 - (3) The addresses where the contractor shall be regularly based, telephone numbers available on a twenty-four-hour-per-day basis and the names of all operators, their addresses and the serial numbers of their New Jersey motor vehicle licenses.
 - (4) Certification of approved emergency warning lights.

- B. The contractor shall submit to the Borough of Tuckerton Police Department the following information on vehicles unclaimed over 30 days:
- (1) The year, make, model, color and vehicle identification number.
 - (2) The owner's name and address.
 - (3) A copy of a certified letter advising the owner of the vehicle's location and circumstances surrounding the same.
 - (4) A photograph of the vehicle.
 - (5) The mileage of the vehicle.
- C. The contractor shall provide the Borough with records of all towed vehicles, storage and towing charges upon request.

§ 242-9. Miscellaneous rates and charges.

- A. The hours of 8:00 a.m. until 4:30 p.m. shall apply to the day rate on Monday through Friday, except New Jersey state holidays. The night, weekend and holiday rate shall otherwise apply.
- B. The Borough of Tuckerton shall assess an administrative fee of \$20 per vehicle to recover the cost of administering the towing and storage services for all vehicles coming under the purview of police impound. Such assessment shall be placed on each vehicle processed, plus an additional fee to include storage rates consistent with § 242-7 of this chapter. **[Amended 11-16-2015 by Ord. No. 20-2015]**
- C. Under no circumstances shall the rates and fees charged by the contractor exceed the amounts prescribed in § 242-7 of this chapter. **[Amended 11-16-2015 by Ord. No. 20-2015]**
- D. The contractor shall charge the motor vehicle owner/operator or insurance company directly for all services provided.
- E. The contractor may charge an hourly rate for standby time incurred for winching, uprighting, excessive cleanup, waiting at the towing scene and other circumstances which fall outside the scope of services classified as normal in § 242-7 at the prevailing/ established rate, which rate shall not exceed \$60 per hour. The contractor must verify all standby charges for waiting at the scene by direct contact with the police communications center. The police shall, if appropriate, provide subsequent verification documentation. No standby charge for waiting at the scene shall be charged without such verification. **[Amended 11-16-2015 by Ord. No. 20-2015]**
- F. The Chief of Police shall also maintain a record of the regular response of wreckers to police calls and any complaints from vehicle owners as to improper service or charges. The Police Department is authorized to enforce the provisions of this chapter in accordance with applicable laws of the state. The Chief of Police may request contractor removal from the rotating list pursuant to § 242-12.

§ 242-10. Application process.

- A. Applications for inclusion on the rotating list shall contain all of the following information:
- (1) The name, residence, business address and telephone number of the owner of the towing company. If the owner is a corporation, the application shall contain the name, residence and business address and telephone number of every stockholder owning more than 10% of the issued stock.
 - (2) Such information as may be required by the Borough concerning the personnel, vehicles, equipment, and storage facilities of such applicant as herein provided, showing that the applicant meets the minimum standards of performance.
 - (3) A certificate or certificates of insurance evidencing adequate insurance coverage as herein provided.
 - (4) An annual fee of \$75, plus an additional fee of \$20 for each background check conducted by the borough on each business owner and employee involved in the towing. Renewal application must be filed by December 1. Background checks will be completed one time for each employee. These background checks are necessary and will be done in the interests of public safety. **[Amended 11-16-2015 by Ord. No. 20-2015]**
 - (5) Each towing applicant and its personnel must obtain and furnish to the Borough a copy of their own individual N.J.D.M.V. driver abstract.
 - (6) The names and addresses of at least two business references who have known the applicant for at least two years and can attest to the applicant's experience and performance in the towing, wrecking and storage business.
 - (7) Any new towing services applicant will be charged a nonrefundable fee of \$500. This will include inspection of the facility and equipment. All new applications must be filed by November 1.
- B. The application shall be forwarded to the Chief of Police for his review and approval. The review by the Chief of Police shall consist of the following:
- (1) A background check to determine if either the applicant or the applicant's personnel have been convicted of a criminal offense or have had their driver's license suspended or revoked within the past year. Conviction of a criminal offense or suspension of a driver's license within the past year shall be cause for disqualification from inclusion on the rotating list.
 - (2) Inspection of the personnel, vehicles, equipment and storage area proposed to be utilized by the applicant to verify the accuracy of the information contained in the application and to determine compliance with the applicable laws and regulations and the standards of performance required by this chapter.
- C. Those contractors meeting the eligibility requirements provided herein shall be approved and added to the rotating list as set forth in § 242-5.
- D. Those contractors meeting the eligibility requirements provided herein will be required to have picture identification cards. All contractors and personnel must carry and present said identification when responding to any towing scene in the Borough of Tuckerton.

§ 242-11. Complaints.

- A. The Chief of Police shall receive and file any complaints regarding the towing and storage contractors concerning excessive charges, damages to vehicles, disqualified contractors or any other complaint regarding performance under this chapter.
- B. The Chief of Police shall review all complaints and notify the governing body of his decision on such complaints.
- C. The Chief of Police shall notify the Mayor and Borough Council of any remedial or disciplinary action recommended in response to any complaint, which shall be subject to the approval of the Mayor and Borough Council.

§ 242-12. Disqualification and/or removal of contractors.

- A. A contractor shall be disqualified from being included on the Borough's towing list and will be removed therefrom for any of the following reasons:
 - (1) Criminal conviction of a crime involving moral turpitude.
 - (2) Incomplete or inaccurate information on an application for inclusion on the Borough's towing list.
 - (3) Insufficiency of equipment or facilities as required by this chapter.
 - (4) Failure to meet any of the requirements of this chapter.
- B. The Chief of Police shall notify the contractor of the disqualification or removal from the Borough's towing list, in writing, which may be reviewed through the complaint procedure set forth in this chapter.

Chapter 244**TREES****GENERAL REFERENCES**

Land use procedures — See Ch. 45.

Site plan review — See Ch. 220.

Shade Tree Commission — See Ch. 74.

Streets and sidewalks — See Ch. 229.

Building construction — See Ch. 107.

Subdivision of land — See Ch. 231.

Flood damage prevention — See Ch. 166.

Zoning — See Ch. 255.

§ 244-1. Purpose.

- A. It is hereby found and declared that indiscriminate, uncontrolled and excessive destruction, removal and clear-cutting of trees upon lots and tracts of land results in increased drainage control costs, increased soil erosion and sedimentation in the Borough's waterways, decreased fertility of the soil, degradation of water resources, decreased groundwater

recharge, increased buildup of atmospheric carbon and increased dust and decreased property values, all of which negatively impact the character of the Borough.

- B. Finding that the removal of trees adversely affects the health, safety and general welfare of its residents, the Borough desires to regulate and control indiscriminate and excessive cutting of trees by preserving the maximum possible number of trees in the course of the development of a site, ensuring that the health of the trees preserved on the site is maintained throughout the development process, protecting larger, older specimen trees and encouraging innovative design and grading to promote the preservation of existing trees. It is recognized that there is a strong relationship between the integrity of the Borough and area water resources, development on sloped terrain, tree removal, soil disturbance, stormwater management and the general use of land resources. Therefore, the appropriate management of these resources is an important health, safety and general welfare concern.

§ 244-2. Applicability.

With the exception of the exemptions set forth in this chapter, no tree shall be cut or otherwise removed from any public or private lands within the Borough of Tuckerton without a tree removal permit. All applications to the Land Use Board for approval of a major subdivision, minor subdivision or site plan requiring tree removal shall include an application for a tree removal permit. No tree that was planted or preserved as part of any landscape plan, streetscape project, or in accordance with any tree requirements approved in conjunction with a subdivision or site plan shall be removed, except for such trees directed to be removed pursuant to this chapter. Any property cleared of trees prior to the adoption of this chapter which must subsequently receive approvals by the Land Use Board will be subject to all provisions related to reforestation, landscape plans and replacement trees.

§ 244-3. Definitions and word usage.

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

BOARD — The Land Use Board, to whom applications for a tree removal permit are submitted, and to whom applications for appeals from the decisions of the Borough Zoning Officer for tree removal permits are submitted.

BUFFER AREA (also known as a **SCREENING STRIP**) — The distance from the side and rear property lines, beginning at the front setback line of the lot and running to the rear line, in the case of the side lines, and for the entire width of the rear line.

BUILDING PLOT — A parcel of land upon which a building has been or may be erected with the Zoning Ordinance.⁹⁶

CALIPER — Standard measure of tree size for trees newly planted. The measurement is taken six inches above the ground for trees four inches in diameter or less, and 12 inches above the ground for trees over four inches in diameter.

CLEAR-CUTTING — The removal of all standing trees on a lot or portion of a lot.

CLUSTER — Three or more trees with a caliper of 3.5 inches located not more than 10 feet apart.

96. Editor's Note: See Ch. 255, Zoning.

DIAMETER AT BREAST HEIGHT — Diameter of a tree measured 4 1/2 feet (forestry method) above ground level on the downhill side for existing trees. "Diameter at breast height" may appear as the abbreviation DBH.

DRIPLINE — A limiting line established by a series of perpendicular drop points marking the maximum radius of the crown of a tree but not less than six feet from the trunk, whichever is greater, and within which no construction or disturbance shall occur.

PERMIT — A license issued by the Zoning Officer to remove or destroy trees from any unimproved or vacant land as defined in this chapter.

REPLACEMENT TREE — A nursery-grown tree, properly balled, marked with a durable label indicating genus, species and variety, and satisfying the standards established for nursery stock and installation thereof set forth by the American Association of Nurserymen.

SELECTIVE CUTTING — The removal of trees on an individual basis while leaving other trees.

SHRUB — A woody plant that is never treelike in habit and produces branches or shoots from or near the base, such as kalmia, rhododendron, azalea, viburnum and similar species.

SILVICULTURE — The management of any wooded tract of land to ensure its continued survival and welfare, whether for commercial or noncommercial purposes, pursuant to a plan approved by the New Jersey Bureau of Forestry.

SPECIMEN TREE — The largest known individual trees of each species in the State of New Jersey. The NJDEP, Bureau of Forestry, maintains a list of such trees, which is now incorporated herein by reference. Any trees which are equal to or larger than said listed trees; also, any trees so designated by the Tuckerton Environmental Commission.

THINNING — The removal of undesirable, competitive, diseased or damaged trees so as to cultivate and improve the development of remaining trees on the lot.

TREE — Any self-supporting woody plant which reaches a typical mature height of 12 feet or more and has a typical DBH of four inches or greater.

TREE CANOPY — The top layer or crown of a mature tree.

WOODED ACRES PERMITTED FOR DEVELOPMENT — The wooded lands within a tract which are not specifically excluded from development by any federal, state, county or municipal law or ordinance, deed restriction or covenant running with the lands. For the purpose of this chapter, those lands specifically eliminated from consideration as wooded acres permitted for development include, but are not limited to, wetlands as defined by N.J.S.A. 13:9B-1 et seq.

§ 244-4. Permit required; application.

- A. Permit required. No person, entity or property owner, shall remove, suffer or cause to be removed or destroyed any tree on land within the Borough unless a permit is obtained for such removal or unless there is exemption for the property under this chapter.
- B. Application fee. The permit shall be obtained from the Zoning Officer upon an application being made and a fee of \$25 with each application.
- C. Application information where no building permit is requested. An application for a permit for removal or destruction of any tree or trees where no building permit is requested shall contain the name of the applicant, the name of the property owner (if different) with his/

her consent, the location of trees on a sketch of the property and the reason for the removal or destruction.

- D. Application information where building permit is sought. For an application for a permit for removal or destruction where a building permit for construction is being sought, the property owner shall file with the site plan a plan showing which trees on the property are to be removed.

§ 244-5. Issuance of permit.

- A. Issuance of permits. The permit for tree removal shall be issued by the Zoning Officer in conformance with the provisions of this chapter.
- B. Reforestation bonds. Prior to the clearing of land or removal of trees in an area in excess of 20,000 square feet, a zoning permit must be obtained from the Borough Zoning Officer, except where the clearing of land and removal of trees is solely for a single-family residence. Prior to the issuance of a zoning permit, the applicant shall have furnished the Borough with a reforestation bond assuring the reforestation of the property.

§ 244-6. Tree removal requirements for major and minor subdivisions and site plans.

Each application to the Land Use Board for approval of a major or minor subdivision or a site plan that requires the removal of trees shall include an application for a tree removal permit. The application and development proposal shall conform to the following provisions:

- A. Application form. The application form may be obtained from the Zoning Officer and shall include the following information:
- (1) Name and address (street, lot, block) of the owner of the premises and status of legal entity (individual, partnership, corporation).
 - (2) Description of the premises where removal is to take place, including lot and block numbers, street address as assigned.
 - (3) A list of all trees to be removed with a DBH equal to or greater than four inches by size and species, including total number of each species removed.
 - (4) Purpose for tree removal (new construction, street, driveway, utility easement, recreation area, parking, etc.).
 - (5) Proof that there are no delinquent property taxes or assessments due on the property for which the application is submitted.
 - (6) Such other information as may be deemed necessary to effectively process and decide such application.
- B. Landscape plan. The following shall be provided on a landscape plan prepared by a registered landscape architect or registered professional engineer and submitted with the application for tree removal. The landscape plan must be submitted prior to the tree removal permit being approved.
- (1) Location of existing tree canopy within the property boundaries.

- (2) Location of individual trees with DBH equal or greater than four inches identified by size and species within the area of development/limit or disturbance.
- (3) Location of individual trees with a DBH equal to or greater than four inches identified by size and species beyond the area of development/limit of disturbance.
- (4) Location of existing individual trees and their driplines noted for preservation within the area of development/limit of disturbance identified by size and species. Where clusters of trees exist on the site or are contiguous with adjacent sites, fragmentation of the clusters shall be avoided where possible.
- (5) Location of all required replacement trees.
- (6) Clear labeling of the area(s) intended for tree or vegetation removal.
- (7) Tree protection material details and limit of disturbance line.
- (8) Location of existing and proposed building/structures.
- (9) All bodies of water and wetlands, including water retention and detention areas.
- (10) Location of all existing driveways and parking areas.

C. Design requirements.

- (1) Only those trees necessary to permit the construction of buildings, structures, streets, driveways, infrastructure and other authorized improvements shall be removed. Existing vegetation shall be preserved to the greatest extent feasible.
- (2) No more than 60% of the existing canopy within the property boundaries shall be removed. The location of the remaining 40% of the tree canopy to be preserved shall be noted on the landscape plan. Steep slope limits of the disturbance shall supercede this section when appropriate.

§ 244-7. (Reserved)

§ 244-8. (Reserved)

§ 244-9. (Reserved)

§ 244-10. Exemptions.

The following are exempt from this chapter:

- A. Single-family residential lots.
- B. Any tree that is part of a cemetery.
- C. Trees directed to be removed by municipal, county, state or federal authority pursuant to law.
- D. Removal of trees which are dead, dying or diseased, or trees which have suffered damage, or any tree whose angle of growth makes them a hazard to structures, roads or human life, with written concurrence of the Zoning Officer.

- E. Removal of trees which appear to cause structural damage to buildings or foundations, with written concurrence of the Zoning Officer.
- F. Any tree growing on or over a public right-of-way or public land.
- G. Pruning or removal of trees within the right-of-way by utility companies for maintenance of utility wires or pipelines and the pruning of trees within sight easements.
- H. Those projects that have received major subdivision or site plan approval prior to the effective date of this chapter and amended major subdivision and site plans.

§ 244-11. Reforestation.

- A. The following standards shall apply:
 - (1) There shall be a minimum of one tree for every 1,500 square feet or part thereof.
 - (2) All trees shall have a minimum size of three to 3.5 inches caliper.
 - (3) The trees shall be planted not less than 15 feet apart, trunk to trunk.
- B. A combination of both the reforestation and existing landscaping shall be taken into consideration in order to meet the minimal requirements of this chapter.

§ 244-12. (Reserved)

§ 244-13. (Reserved)

§ 244-14. Enforcement; violations and penalties.

- A. Any person violating or failing to comply with any provision of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$2,000, by imprisonment for a term not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service as determined by the Municipal Court Judge. The continuation of the violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punishable as provided above for each offense. The court may also order replacement of trees illegally removed at the sole expense of the cited individual.
- B. The provisions of this chapter shall be enforced by the Borough's Zoning Officer, Code Enforcement Officer, Engineer and police department. When any violation of this chapter is observed, the proper official shall issue a stop-work order until all deficiencies are addressed.

Chapter 246

VEHICLES AND TRAFFIC

GENERAL REFERENCES

Towing and storage — See Ch. 242.

ARTICLE I
General Provisions

§ 246-1. Definitions.

Whenever any words and phrases are used in this chapter, the meanings respectively ascribed to them in Subtitle 1 of Title 39 of the Revised Statutes of New Jersey shall be deemed to apply to such words and phrases used herein.

§ 246-2. Violations and penalties.

Unless another penalty is expressly provided by New Jersey statute, or except as specifically provided in some other section of this chapter, every person convicted of a violation of a provision of this chapter or any supplement thereto shall be liable to a penalty of not more than \$50 or imprisonment for a term not exceeding 15 days, or both.

ARTICLE II
Stop and Yield Intersections

§ 246-3. Stop and yield intersections designated.

Pursuant to the provisions of N.J.S.A. 39:4-140, the intersections described in Schedule I (§ 246-9), attached to and made a part of this chapter, are hereby designated as stop or yield intersections, designated therein. Stop or yield signs shall be installed as provided therein.

ARTICLE III
Emergency No Parking

§ 246-4. Posting of signs.

Upon the declaration of an emergency, there shall be no parking upon streets or sections of streets where temporary emergency no-parking signs are displayed. The Director of Police, or in his absence the ranking police officer, is authorized to declare an emergency and to direct the posting of said emergency no-parking signs when weather conditions, accidents, fires or public celebrations dictate or require the avoidance of hazards or other conditions which interfere with the free flow of traffic.

§ 246-5. Removal of vehicles.

Any unoccupied vehicle parked or standing in violation of this article shall be deemed a nuisance and a menace to the safe and proper regulation of traffic, and any peace officer may provide for the removal of such vehicle. The owner shall pay the reasonable costs of the removal and storage which may result from such removal before regaining possession of the vehicle.

§ 246-6. Effectiveness of article.

The effectiveness of this article is contingent on signs being erected as required by law.

ARTICLE IV
Storage of Impounded Vehicles

§ 246-7. Collection of fees; disposition.

The Director of Police or his designated alternate is authorized to collect the fees assessed under this article and to deposit same in the treasury.

ARTICLE V
Traffic Control Signals

§ 246-8. Installation of signals.

The traffic signal installation shall be in accordance with the provisions of an Act Concerning Motor Vehicles and Traffic Violations, Subtitle 1 of Title 39 of the Revised Statutes of New Jersey, and shall conform to the design and shall be maintained in operation as authorized by the Department of Transportation of the State of New Jersey.

ARTICLE VI
Schedules

§ 246-9. Schedule I: Stop and Yield Intersections.

In accordance with provisions of § 246-3, the following described intersections are hereby designated as stop intersections:

| Intersection | Stop Sign On |
|---|---------------------|
| Absecon Terrace and Cedar Street North | Absecon Terrace |
| Absecon Terrace and Cedar Street South | Absecon Terrace |
| Absecon Terrace and Marine Street | Absecon Terrace |
| Anchor Road and South Green Street | Anchor Road |
| Angler Road and South Green Street | Angler Road |
| Bartlett Avenue and Great Bay Boulevard North | Bartlett Avenue |
| Bartlett Avenue and Great Bay Boulevard South | Bartlett Avenue |
| Bartlett Avenue and Western Avenue | Bartlett Avenue |
| Bass Road and South Green Street | Bass Road |
| Bay Avenue and Marshall Avenue | Bay Avenue |
| Bay Avenue and Otis Avenue | Bay Avenue |
| Beaumont and Marshall Avenue | Beaumont |
| Brigantine Terrace and Cedar Street North | Brigantine Terrace |
| Brigantine Terrace and Cedar Street South | Brigantine Terrace |
| Brigantine Terrace and Marine Street | Brigantine Terrace |
| Carroll Road and South Green Street | Carroll Road |
| Center Street and Maple Avenue North | Center Street |
| Center Street and Maple Avenue South | Center Street |
| Church Street and County Road 539 | Church Street |
| Church Street and Wood Street | Church Street |
| Clay Street and Cedar Street | Clay Street |
| Clay Street and Marine Street North | Clay Street |
| Clay Street and Marine Street South | Clay Street |
| Clay Street and South Green Street [Added 10-2-2000 by Ord. No. 16-2000] | Clay Street |
| Cox Avenue and Bay Avenue North | Cox Avenue |
| Cox Avenue and Bay Avenue South | Cox Avenue |
| Cox Avenue and Marine Street North | Cox Avenue |
| Cox Avenue and Marine Street South | Cox Avenue |

| Intersection | Stop Sign On |
|---|-----------------------------|
| Curlew Road and Little Egg Harbor Boulevard | Curlew Road |
| Dolphin Road and South Green Street | Dolphin Road |
| First Avenue and County Road 539 | First Avenue |
| Flamingo Road and Little Egg Harbor Boulevard | Flamingo Road |
| Heritage Way and Locust Street | Heritage Way |
| Heron Road and South Green Street | Heron Road |
| Kelly Avenue and Cedar Street North | Kelly Avenue |
| Kelly Avenue and Cedar Street South | Kelly Avenue |
| Kelly Avenue and Marine Street North | Kelly Avenue |
| Kelly Avenue and Marine Street South | Kelly Avenue |
| Kingfisher Road and South Green Street | Kingfisher Road |
| Lake Street and Fourth Avenue | Lake Street |
| Leeds Avenue and Great Bay Boulevard | Leeds Avenue |
| Leeds Avenue and Leifried Lane | Leeds Avenue |
| Leeds Avenue and Maple Avenue | Leeds Avenue |
| Little Egg Harbor Boulevard and Heron Road | Little Egg Harbor Boulevard |
| Maple Avenue and Bartlett Avenue | Maple Avenue |
| Marlin Road and South Green Street | Marlin Road |
| Otis Avenue and Cedar Street | Otis Avenue |
| Otis Avenue and Marine Street North | Otis Avenue |
| Otis Avenue and Marine Street South | Otis Avenue |
| Otis Avenue and South Green Street [Added 10-2-2000 by Ord. No. 16-2000] | Otis Avenue |
| Parker Road and South Green Street | Parker Road |
| Parkway and Admiral Drive | Parkway |
| Pharo Avenue and First Avenue | Pharo Avenue |
| Pharo Avenue and Fourth Avenue | Pharo Avenue |
| Pharo Avenue and Second Avenue East | Pharo Avenue |
| Pharo Avenue and Second Avenue West | Pharo Avenue |
| Pharo Avenue and Third Avenue East | Pharo Avenue |
| Pharo Avenue and Third Avenue West | Pharo Avenue |
| Second Avenue and County Road 539 | Second Avenue |
| Second Avenue and Lake Street | Second Avenue |
| Shore Way and Edgewater Drive | Shore Way |
| Shore Way and Fairway Drive | Shore Way |

Intersection

Tarpon Road and South Green Street
Third Avenue and County Road 539
Third Avenue and Lake Street
Western Avenue and Radio Road
Willow Landing and South Green Street
[Added 10-2-2000 by Ord. No. 16-2000]
Willow Landing Terrace and Marine Street

Stop Sign On

Tarpon Road
Third Avenue
Third Avenue
Western Avenue
Willow Landing
Willow Landing Terrace

ARTICLE VII

Closing of Municipal Streets for Preservation of Public Safety, Health or Welfare**§ 246-10. Purpose; statutory authority.**

In accordance with N.J.S.A. 40:67-16.9, the Mayor of the Borough of Tuckerton shall provide for the closing of any municipal street, or portion thereof, to motor vehicle traffic on any day or during any specified hours on any day whenever he finds that such closing is necessary for the preservation of the public safety, health or welfare.

§ 246-11. Determination of closure; warning signs.

- A. Prior to the closing of any municipal street, in accordance with this chapter, the Mayor shall confer with the Director of Police and the Council member in charge of streets and roads concerning the municipal street to be closed and the duration of the closure of said municipal street.
- B. In the event that the Mayor, acting under the authority of this chapter, determines that the municipal street, or portion thereof, should be closed for a specified period of time, the Mayor shall direct that proper warning signs of such closing be posted on any municipal street, or portion thereof, during the time that municipal street, or portion thereof, is closed.

§ 246-12. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine not to exceed \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.
- B. The violation of any provisions of this article shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

ARTICLE VIII
Snow Emergencies

§ 246-13. Definitions.

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

ESSENTIAL VEHICLE — Those vehicles that are vital or necessary for the safe and orderly operation of the Borough during a snow emergency, such as, but not limited to, police vehicles and public works vehicles.

SNOW — Any precipitation depositing any accumulation on the streets, roads or highways, including but not limited to, snow, sleet, hail or freezing rain.

SNOW EMERGENCY — Whenever snow has fallen and the accumulation is such that it covers a Borough street, an emergency shall exist and no vehicle shall be parked on any Borough street or portions thereof.

§ 246-14. Parking prohibited.

- A. Parking of any vehicle on any portion of a Borough road, street or highway improved, designated or ordinarily used for vehicular traffic is prohibited whenever snow has fallen and results in an accumulation sufficient to require plowing of Borough roads, streets or highways by the Borough of Tuckerton Department of Public Works.
- B. The above parking prohibitions shall remain in effect after the snow has ceased until the streets have been plowed sufficiently and to the extent that parking will not interfere with the normal flow of traffic.

§ 246-15. Removal of vehicles.

Any unoccupied vehicle parked in violation of this article shall be deemed a nuisance and a menace to the safe and proper regulation of traffic and any police officer may provide for the removal of such vehicle. The owner shall pay the reasonable costs of the removal and storage, which may result from such removal, before regaining possession of such vehicle.

§ 246-16. Driving regulations during snow emergency.

Driving restrictions may be imposed as warranted by the severity of the storm to ensure the safety of the general public.

§ 246-17. Construal of provisions.

- A. Nothing in this article shall be construed to permit parking at any time or place where it is forbidden by other provisions of the New Jersey Statutes or the Borough Code.
- B. Nothing in this article shall be construed to conflict with the provisions of the New Jersey Statutes pertaining to driving during emergencies.

§ 246-18. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punished by a fine not to exceed \$1,000, by imprisonment not

to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

- B. The violation of any provisions of this article shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

ARTICLE IX
Restrictions on Parking, Stopping and Standing
[Added 10-15-2001 by Ord. No. 18-2001]

§ 246-19. Trailer restrictions; weight restrictions; transport of flammable substances.

- A. No person, firm or corporation shall park a truck, tractor, trailer or omnibus having a gross vehicle weight of more than 15,000 pounds on any street located in a nonresidential zone in the Borough of Tuckerton between the hours of 9:00 p.m. and 6:00 a.m., prevailing time, of any day. This section shall not apply to self-propelled recreational vehicles. **[Amended 11-7-2005 by Ord. No. 28-2005]**
- B. No person, firm or corporation shall park a truck, tractor, trailer or omnibus having a gross vehicle weight of more than 15,000 pounds on any street in any residential zone in the Borough of Tuckerton, including public parking lots on restricted streets. This section shall not apply to self-propelled recreational vehicles. **[Amended 11-7-2005 by Ord. No. 28-2005]**
- C. No person shall permit any truck or other vehicle designed to transport flammable or toxic substances, and carrying such substances, to be parked within 200 feet of any residential zone except when making a delivery of such substance to a residential dwelling. If any truck or other vehicle is being used to deliver said flammable or toxic substance, it shall be permitted to park in the vicinity of the delivery place only for such time as is necessary to make such delivery.
- D. (Reserved)
- E. Nothing contained within this section shall be construed to prevent any such vehicle from making deliveries of merchandise or other property to the premises on the street along which said vehicle is so parked, nor to prevent the parking of any such vehicle by any public utility company in connection with the construction, installation, operation and maintenance of public utilities, nor to prevent the parking of vehicles attending to an emergency.
- F. Signs with the following specifications shall be posted on all streets and highways at the entrance to the Borough:
- (1) The signs shall be in red letters on white background and reflectorized, incorporated on a single plate 30 inches in width and 24 inches in height, with the legend COMMERCIAL TRUCKS AND BUSES, lettering to be six inches.
 - (2) On a plate below said COMMERCIAL TRUCKS AND BUSES, which plate shall be 36 inches in height and 30 inches in width, shall appear the legend NO PARKING ANY STREET 9:00 p.m. - 6:00 a.m., the lettering therefor to be five inches for NO PARKING and four inches for ANY STREET 9:00 p.m. - 6:00 a.m.
- G. For the purposes of this section, unless another meaning is clearly apparent, the classes of vehicles hereinabove enumerated shall be defined by the laws of the State of New Jersey, Motor Vehicles and Traffic Regulations, N.J.S.A. 39:1.1.⁹⁷

97. Editor's Note: See Subtitle 1 of Title 39 of the Revised Statutes of the State of New Jersey.

§ 246-20. Parking prohibited at all times on certain streets.

No person shall park a vehicle at any time upon any of the following described streets or parts thereof:

| Name of Street | Side | Location |
|--|-------------|--|
| Bartlett Avenue | Both | From Great Bay Boulevard to Western Avenue |
| Bartlett Avenue | North | Entire length from Great Bay Boulevard to Bartlett Landing |
| Center Street [Added 3-18-2002 by Ord. No. 4-2002] | Both | From West Main Street (U.S. Rt. 9) to Borough line |
| Church Street [Added 3-18-2002 by Ord. No. 4-2002] | East | Entire length |
| Great Bay Boulevard | North | From Leeds Lane to West Main Street (U.S. Route 9) |
| Great Bay Boulevard | South | From West Main Street (U.S. Route 9) to Radio Road |
| Leeds Lane | West | Entire length |
| Liefried Lane | North | Entire length |
| Maple Avenue [Added 3-18-2002 by Ord. No. 3-2002] | Both | From West Main Street (U.S. Rt. 9) to Bartlett Avenue |
| Water Street [Added 3-18-2002 by Ord. No. 4-2002] | Both | From West Main Street (U.S. Rt. 9) to Willow Landing |
| Water Street [Added 3-18-2002 by Ord. No. 4-2002] | South | Willow Landing to South Green Street |
| Western Avenue | West | Entire length |
| West Main Street (U.S. Route 9) | Both | From Water Street to Maple Avenue |
| Wood Street [Added 3-18-2002 by Ord. No. 4-2002] | Both | From West Main Street (U.S. Rt. 9) to Borough line |

ARTICLE X
One-Way Streets
 [Added 3-18-2002 by Ord. No. 4-2002]

§ 246-21. One-way streets designated.

The following described streets or parts of streets are hereby designated as one-way streets in the direction indicated. Parking on these streets will be permitted on the sides indicated below.

| Name of Street | Direction | Limits | Parking Permitted |
|-----------------------|------------------|---|--|
| Water Street | East | Entire length | (side) North from Willow Landing to South Green Street |
| Western Avenue | South | Entire length | East |
| Wood Street | West | From West Main Street (U.S. Rt. 9) to Church Street | None |

ARTICLE XI
Speed Limits
[Added 11-17-2003 by Ord. No. 14-2003]

§ 246-22. Speed limits established.

- A. The speed limits for both directions of traffic along the streets or parts thereof described below and made a part of this chapter are hereby established at the rate of speed indicated.
- B. Regulatory and warning signs shall be erected and maintained to effect the above designated speed limits as authorized by the Department of Transportation.

| Name of Street | Speed Limit | Location |
|-----------------------|--------------------|--|
| | (mph) | |
| U.S. Route 9 | 45 | Between 900 feet north of Locust Street and the northernmost Tuckerton Borough corporate line - Little Egg Harbor Township corporate line (approximate Milepost 63-27 to 64.13). |

ARTICLE XII
Pedestrian Crossing
[Added 12-15-2008 by Ord. No. 14-2008]

§ 246-23. Crossing roadways.

On roadways where traffic at intersections is controlled by a traffic control signal or by traffic or police officers, pedestrians shall not cross the roadway against the stop signal unless otherwise specifically directed to go by a traffic or police officer or official traffic control device. Where traffic is not controlled and directed by either a police officer or a traffic control signal, pedestrians shall cross the roadway within a crosswalk or, in the absence of a crosswalk, and where not otherwise prohibited, at right angles to the roadway. Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

§ 246-24. Use of designated crosswalks.

At intersections where traffic is directed by a police officer or traffic signal, no pedestrian shall enter upon or cross the roadway at a point other than a crosswalk.

§ 246-25. Drivers to yield to pedestrians at crosswalks; exceptions.

The driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within a marked crosswalk or within any unmarked crosswalk at an intersection, except at crosswalks when the movement of traffic is being regulated by police officers or traffic control signals, or where otherwise prohibited by municipal, county or state regulation. No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield. Nothing contained herein shall relieve a pedestrian from using due care for his safety. Every pedestrian upon a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

§ 246-26. Violations and penalties.

- A. For violation of any provision of this article, the fine shall not exceed \$500 nor be less than \$100.
- B. Where a summons is issued to an individual for violating this article, the issuing officer may, at the issuing officer's discretion and at the time the summons is issued, classify the summons as a payable offense. Should the issuing officer designate the summons as a payable offense, no mandatory court appearance shall be required for the violator.
- C. In designating the violation of this article as a payable offense, the municipal court is hereby authorized to include a violation of this section on the Local Supplemental Violations Bureau Schedule, pursuant to R. 7:12-4(c) of the New Jersey Court Rules.

ARTICLE XIII
Commercial Vehicles
[Added 6-15-2015 by Ord. No. 7-2015]

§ 246-27. Storage and parking of commercial vehicles and tractor-trailers.

- A. No commercial vehicle with a gross vehicle weight of 15,000 pounds or greater shall be parked on the street or in a driveway in any residential zone except to make deliveries or provide services to or for residents on said street. Only one vehicle with a gross weight between 10,000 and 15,000 pounds shall be permitted to park on a lot in any residential zone. Commercial vehicles of 15,000 pounds or greater engaged in construction activities may be parked or stored on an active construction site in a residential zone for a period of no longer than 90 days, whether consecutive or not, in a calendar year.
- B. No tractor-trailers or commercial trailers empowered by truck tractors as defined in N.J.S.A. 39:1-1 shall be stored or used as a storage facility on any property in the Borough except in accordance with a site plan approval or Land Use Board resolution and for a period not to exceed 160 days.

§ 246-28. Enforcement.

This article shall be enforced by the Police Department, Code Enforcement Officer or Zoning or Construction Official of the Borough.

§ 246-29. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine not to exceed \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.
- B. The violation of any provisions of this article shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

ARTICLE XIV

Parking Restrictions**[Added 12-7-2015 by Ord. No. 18-2015]****§ 246-30. Parking restricted.**

- A. Parking in the eight designated parking spaces immediately adjacent to the Tuckerton Volunteer Fire Department shall be restricted to active members of the Tuckerton Volunteer Fire Department only.
- B. Signs with the following specifications shall be posted in a clearly visible location immediately in front of the designated spaces: The signs shall be in red letters on white background with the following legend: "PARKING FOR FIRE COMPANY MEMBERS ONLY. ALL OTHERS SUBJECT TO FINE OF \$250 FOR A FIRST OFFENSE AND \$500 FOR A SECOND OFFENSE."

§ 246-31. Violations and penalties.

- A. For a violation of any provision of this article, the fine shall be \$250.
- B. Where a summons is issued to an individual for violating this article, the issuing officer may, at the issuing officer's discretion and at the time the summons is issued, classify the summons as a payable offense. Should the issuing officer designate the summons as a payable offense, no mandatory court appearance shall be required for the violator.
- C. In designating the violation of this article as a payable offense, the municipal court is hereby authorized to include a violation of this section on the Local Supplemental Violations Bureau Schedule, pursuant to R. 7:12-4(c) of the New Jersey Court Rules.

Chapter 249

WATER AND SEWERS

GENERAL REFERENCES

Plumbing Inspector — See Ch. 60, Art. VI.

Mobile home parks — See Ch. 196.

Certificates of occupancy — See Ch. 122.

Site plan review — See Ch. 220.

Uniform construction codes — See Ch. 132.

Streets and sidewalks excavations— See Ch. 229, Art. III.

Fire prevention — See Ch. 163.

Subdivision of land — See Ch. 231.

ARTICLE I
Water Emergency Situations

§ 249-1. Purpose.

The purpose of this article is to provide a means of regulating the use of water when, in the opinion of the Tuckerton Borough Council, a serious problem exists as to the adequacy of water supply and pressure within the Borough of Tuckerton.

§ 249-2. Powers of Council in water emergency situations.

In the event of such a situation, the Borough Council may, by resolution, enact regulations over the use of water in Tuckerton Borough, restricting use to essential purposes only, which, for the purposes of this article, shall be defined as cooking and sanitary needs. The Borough may prohibit the use of nonessential uses, which, for the purposes of this article, shall include but not be limited to the filling of swimming pools, the washing of automobiles, the watering of gardens and lawns and the use of water in general outdoor maintenance.

§ 249-3. Effective date of penalty provisions.

The penalty provisions contained herein shall not be effective until notice of such resolution is published in one of the Tuckerton Borough official newspapers.

ARTICLE II
Water and Sewer Connections

§ 249-4. Water connection by owners required. [Amended 7-3-1995 by Ord. No. 10-1995⁹⁸]

Whenever a public water main shall have been installed in any street located within the territorial limits of the Borough of Tuckerton, the owner of every house, dwelling, building or structure which is or may be occupied or used by human beings on any lot, tract or parcel of land fronting, abutting or touching any street and existing water main and which house, dwelling, building or structure is within 200 feet of said existing and abutting water main shall cause the water facilities of such house, dwelling, building or structure to be connected and hooked up to the water main in such street prior to the use or occupancy or continued use of occupancy of any house, dwelling, building or structure as aforesaid. Nothing herein shall be construed so as to require a property owner to obtain an easement over property owned by another in order to connect to a water main. The Borough Council may grant a waiver to the connection requirement where exceptional hardship exists.

§ 249-5. Industrial, commercial or recreational structures.

Connection to the water system, as provided in § 249-4, shall also be made where any newly constructed house, dwelling, building or structure may be used for industrial, commercial or recreational purposes, and the use of such premises for purposes other than dwelling inhabitation shall not alleviate the requirements of connecting to the water system.

§ 249-6. Sewer connection by owners required.

Whenever a public sanitary sewer main shall have been installed in any street or easement located within the territorial limits of the Borough of Tuckerton, the owners of every house, dwelling, building or structure which is or may be occupied or used by human beings on any lot, tract or parcel of land fronting, abutting or touching any street and existing sewer main and which lot, tract or parcel of land is within 200 feet of said existing and abutting sewer main shall cause the sewer facilities of such house, dwelling, building or structure to be connected and hooked up to the sewer main in such street prior to the use or occupancy of any house, dwelling, building or structure as aforesaid.

98. Editor's Note: This ordinance became effective on January 1, 2000.

ARTICLE III
Application for Water and Sewer Service
[Amended 10-17-2011 by Ord. No. 13-2011]

§ 249-7. Written application by owner.

- A. Water and/or sewerage service connections requests must be made by written application to the Borough Water and Sewer Department by the property owner or his properly authorized agent. Applications must be made in accordance with the Borough's Water and Sewer Department rules and regulations, copies of which may be purchased from the Clerk's Office and are available for review on the Borough's website.
- B. No application for service will be approved until the applicant has paid, or made satisfactory arrangements to pay, all arrears and charges due by the applicant at any premises now or heretofore occupied by him.
- C. The approved application shall constitute a contract between the Borough and the applicant, obligating the applicant to pay to the Borough its rates as established from time to time and to comply with its rules and regulations.
- D. Applications for service connections will be approved subject to there being existing mains in streets or rights-of-way abutting the premises to be served.
- E. When a prospective customer has made application for a new service or has applied for the reinstatement of an existing service, the piping and fixtures on the applicant's premises must be in good condition.
- F. A new application must be made and approved by the Borough upon any change in ownership of the property or in the service. The Borough shall have the right, upon five days' notice, to discontinue the sewer service until such new application has been made and approved. Although the property may be occupied or leased to a tenant and the tenant may have paid the sewer bills, the owner of the property is responsible for payment of any sewer bills not paid by the tenant.
- G. Applications are required for all development and are a condition of approval for any development required by the Municipal Land Use Law to submit application to the Borough's Land Use Board(s). All applications must be in conformance with the Borough Water and Sewer Department's rules and regulations and water and sewer specifications.

§ 249-8. (Reserved)

§ 249-9. (Reserved)

§ 249-10. (Reserved)

§ 249-11. Damage claims.

For general or special sewer service, it is expressly understood and agreed that no claims will be made against the Borough for damage to life or property by reason of the breaking of any service pipe or appliance within the customer's premises, unless caused by the negligence of the

Borough or its employees, nor for any damage done for any cause beyond the control of the Borough.

ARTICLE IV
Deposits

§ 249-12. General.

Deposits may be required from the customer taking service for a period of less than 30 days in an amount equal to the estimated gross bill for such temporary period plus the cost of making and discontinuing such service. Deposits may be required from any other customer who becomes habitually delinquent.

§ 249-13. Deposit not to apply to current bill.

Any customer having paid a deposit shall pay bills for service as rendered, and the deposit shall not be considered as payment on account of a bill during the time the customer is receiving service.

§ 249-14. Return of deposits.

Deposits shall be returned to the depositor when he shall have paid undisputed bills for service for a period of three consecutive years. Any customer having secured the return of a deposit will not be required to make a new deposit, unless the service has been discontinued and the customer's credit standing impaired.

ARTICLE V
Discontinuance of Service
[Amended 10-17-2011 by Ord. No. 13-2011]

§ 249-15. Continuance of service.

All agreements covering sewerage and/or water service shall continue in force.

§ 249-16. Reasons for discontinuance.

A. Service may be discontinued for any of the following reasons:

- (1) Misrepresentation in the application.
- (2) Molesting any service.
- (3) Neglecting to make or renew deposits or for nonpayment of any charge accruing under the application or other charge provided by this chapter.
- (4) Discharge of a substance deleterious to the system.
- (5) Violation of any of the ordinances or the water and sewer rules and regulations of the Borough.

B. When the service is discontinued for any of the above reasons, the service line will be capped and the service meter will be removed, all at the owner's expense. Costs will be assessed in accordance with the Borough's current Water and Sewer Schedule of Rates.

§ 249-17. Interruption of service due to emergency.

As necessity may arise in the event of breakdown, emergency or for any other unavoidable cause, the Borough shall have the right to make necessary repairs, but the Borough will use all reasonable and practical measures to notify the customer of such discontinuance of service. In such case, the Borough shall not be liable for any damage or inconvenience experienced by the customer, for any claim against it at any time for interruption in service or for any causes beyond its control. When service is to be temporarily interrupted, notice will be given, when practicable, to all customers affected by the temporary interruption of service, stating the probable duration and also the purpose of the interruption.

§ 249-18. Renewal of service.

Service will be renewed, under a proper application, when the conditions under which such service was discontinued have been corrected and upon the payment of all proper charges or amounts due from the applicant.

ARTICLE VI
Bills and Payments

[Amended 7-3-1995 by Ord. No. 11-1995; 12-21-1998 by Ord. No. 18-1998; 5-17-2004 by Ord. No. 10-2004; 6-6-2005 by Ord. No. 13-2005; 7-3-2006 by Ord. No. 12-2006; 7-7-2008 by Ord. No. 6-2008; 7-6-2010 by Ord. No. 16-2010; 10-17-2011 by Ord. No. 13-2011]

§ 249-19. Schedule of rates, fees and service charges.

The annual rates, fees and service charges, for water and sewer service for each year, or any portion thereof, furnished by the Borough to its customers for each unit shall be as follows, billable and payable in advance. The minimum rates below will apply whether water and/or sewer service is used, so long as the water and/or sewer service is connected:

- A. The annual rates for water and sewer service for each year or portion thereof furnished by the Borough to its customers for each unit shall be as follows, billable and payable in advance. The minimum rates below will apply whether water and/or sewer service is used, so long as the water and/or sewer service is connected: **[Amended 4-20-2015 by Ord. No. 5-2015]**
- (1) Basic water rate: \$4.66 per 1,000 gallons of water usage (minimum charge equals 73,000 gallons).
 - (2) Basic sewer rate: \$8.50 per 1,000 gallons of sewer usage (minimum charge equals 73,000 gallons).
 - (3) Excess water rate: \$4.87 per 1,000 gallons of water usage in excess of 73,000 gallons.
 - (4) Excess sewer rate: \$8.72 per 1,000 gallons of sewer usage in excess of 73,000 gallons.
- B. Connection fees.
- (1) The following connection fees shall be charged with application to connect to the Borough's service facilities:
 - (a) Water: \$2,200 per residential service unit.
 - (b) Water: \$4,400 per nonresidential service unit.
 - (c) Sewer: \$1,200 per residential service unit.
 - (d) Sewer: \$2,400 per nonresidential service unit.
 - (2) In no event shall an applicant be permitted to violate the five-year excavation moratorium for newly constructed or resurfaced road pavement as provided by Code § 229-15.
- C. Fire protection. There shall be an annual fee for all private fire hydrants connected to the Borough's facilities.
- (1) Private hydrant annual service fee: \$100.
- D. Service and miscellaneous charges. Overtime and Saturday/Sunday/holiday rates apply to all service requests outside of normal Water and Sewer Department hours.

- (1) Regular hours (Monday through Friday): \$50 per hour.
 - (2) Overtime hours (Monday through Friday): \$85 per hour.
 - (3) Saturday, Sunday, holidays: \$115 per hour.
 - (4) Meter removal/testing fee: \$50 each occurrence.
 - (5) Turn-off/turn-on fee: \$50 each occurrence.
 - (6) Service line inspect/reinspect: \$50 each occurrence.
 - (7) Service termination/shut-off: \$50 each occurrence.
 - (8) Service restoration/turn-on: \$50 each occurrence.
 - (9) Terminate/cap water service: \$500 each occurrence.
 - (10) Terminate/cap sewer service: \$500 each occurrence.
 - (11) Reconnect terminated service, water: \$500 each occurrence.
 - (12) Reconnect terminated service, sewer: \$500 each occurrence.
 - (13) Flow test observation: \$50 per hour.
 - (14) Tampering fee, first offense: \$250.
 - (15) Tampering fee, second offense: \$500.
 - (16) Tampering fee, third offense: \$1,000.
 - (17) Meter repairs: \$50 plus parts.
 - (18) Parts/materials: Cost plus 15%.
 - (19) Temporary meters: Usage excess rate with \$50 minimum plus \$200 deposit.
 - (20) Final meter read: \$50.
 - (21) Account search: \$10.
- E. Developer Fees. Developer fees are required for all service applications.
- (1) Preliminary application fees:
 - (a) Residential, one through four lots: \$50.
 - (b) Residential, five through 10 lots: \$100.
 - (c) Residential, 11 through 20 lots: \$200.
 - (d) Residential, 21 through 100 lots: \$300.
 - (e) Residential, over 101 lots: \$500.
 - (2) Final application fees: 50% of the preliminary fee.

- (3) Preliminary review fees:
 - (a) Escrow deposit, residential: \$120 per lot with \$750 minimum.
 - (b) Escrow deposit, nonresidential: \$0.05 per square foot with \$750 minimum.
- (4) Final review fee: 50% of the preliminary fee.
- (5) Construction inspection fees:
 - (a) Escrow deposit: 15% of estimated construction cost with \$750 minimum.

§ 249-20. Delinquent bills.

- A. The Borough shall read meters and bill customers for water and sanitary sewer service in accordance with § 249-19, Schedule of rates, fees and service charges. Bills are payable at the Borough's offices located at 140 E. Main Street, Tuckerton, NJ. All bills are due and payable by the due date indicated on the statement. Withholding payment for disputed charges involving meter readings, accuracy or other services shall not be an acceptable remedy.
- B. All connection and service charges shall draw the same interest from the time they become due, as taxes upon real estate in the municipality, and shall be a lien upon the premises connected until paid, and the municipality shall have the same remedies for the collection thereof with interest, cost and penalties as it has by law for collection of taxes upon real estate. If a bill remains unpaid 14 days after being classed as delinquent, service may be discontinued at any time after having given not fewer than 15 days' notice. If service is thus discontinued, it will not be restored until all unpaid bills and charges are paid.

ARTICLE VII
General Provisions
[Amended 10-17-2011 by Ord. No. 13-2011]

§ 249-21. Rules and regulations; complaints.

- A. The September 2011 rules and regulations of the Water and Sewer Department and the September 2011 water and sewer specifications of the Borough are hereby approved and incorporated herein by reference. Said rules and regulations and water and sewer specifications may be amended from time to time by resolution of the Mayor and Borough Council.
- B. Complaints with respect to the character of the service furnished, the reading of meters or the bills rendered must be made to the Borough, either orally or in writing, and a record of such complaint will be kept by the Borough, noting the name and address of the complainant, the date, the nature of the complaint and the remedy.

§ 249-22. Reasonable access required.

The properly identified authorized agents of the Borough shall have the right of access to the premises served at all reasonable hours for the purpose of examining fixtures and pipes and for any other purpose which is proper and necessary in the conduct of the business of this chapter.

§ 249-23. Prohibited acts.

No plumber, owner, tenant or other unauthorized person shall connect or disconnect a water and/or sewer connection without the written consent of the Borough.

§ 249-24. Oral agreements prohibited.

No agent or employee of the Borough has authorization to bind it by any promise, agreement or representation not provided for in these rules.

§ 249-25. Maintenance by customer.

- A. All connections, service laterals and fixtures furnished by the customer shall be maintained by him in good order, and all piping and connections furnished and owned by the Borough and on the property of the customer shall be protected properly and cared for by the customer. All leaks in the service lateral or any other pipe or fixture in or upon the premises served must be repaired immediately by the owner or occupant of the premises. The customer shall be responsible for notifying the Borough of the party engaged by said customer to do any maintenance work in the customer's service lateral prior to work being commenced, and said party shall not backfill any trench until the work has been inspected and approved by the Borough. Any work not acceptable shall be immediately removed and replaced by work which is acceptable.
- B. All dwelling, commercial, industrial or other buildings connected to the sewer system shall provide, as an integral part of the plumbing system, a stack vent not less than 10 feet above grade. Ground-level curb or yard vents are prohibited and shall not be connected to the sewer system.

- C. Sewer lateral blockage. Should there be a sewer lateral blockage, the following procedure shall occur:
- (1) The Borough's personnel will make an inspection at the subject property to determine if a sewer cleanout exists within the street right-of-way at the property line.
 - (2) At the time of inspection, should a sewer cleanout not exist, the property owner will be responsible, at the owner's expense, to clear the blockage from the structure to the main.
 - (3) At the time of inspection, should a sewer cleanout exist, the Borough's personnel will determine the location of the blockage.
 - (4) Should the blockage be between the cleanout and sewer main, the Borough will clear same at the Borough's expense.
 - (5) Should the blockage be located between the cleanout and structure, the property owner shall be responsible for clearing the blockage, at the owner's expense.

§ 249-26. Responsibility of Borough and customer.

The Borough shall in no way be responsible for maintaining any portion of the service lateral owned by the customer or for any damage done by sewage escaping therefrom or for lines or fixtures on the customer's property. The customer shall at all times comply with applicable municipal regulations with respect thereto and make changes therein required by reason of changes of grade, relocation of mains or otherwise.

§ 249-27. (Reserved)

§ 249-28. (Reserved)

§ 249-29. Grease, oil and sand separators.

- A. When, in the opinion of the Borough's Engineers, grease, oil and sand interceptors or oil reclaimers are required, they shall be provided and maintained at the expense of the owner in continuously efficient operating condition. Grease and oil interceptors shall be constructed of impervious materials, capable of withstanding abrupt and extreme change in temperature. They shall be watertight, substantially constructed and equipped with readily removable access covers. Where deemed necessary, cold water sprays shall be installed. The design and pertinent data shall be submitted to the Borough for review and approval prior to construction or installation. Separators must be constructed entirely on the property of the owner.
- B. Where such a device is required and constructed, maintenance records shall be submitted quarterly to the Borough.

§ 249-30. Damages to Borough system.

Anyone found to have discharged such prohibited substances to the sanitary sewer system shall be liable for, charged and shall pay for all damages to the system for cleanup, repairs and replacement of Borough facilities and the Borough's costs for investigation, detection and enforcement, in addition to fines and penalties as provided for in this chapter.

ARTICLE VIII
(Reserved)⁹⁹

§ 249-31. through § 249-35. (Reserved)

99. Editor's Note: Former Art. VIII, Service Laterals, was repealed 10-17-2011 by Ord. No. 13-2011.

§ 249-36

TOBACCO

§ 249-36

ARTICLE IX
(Reserved)¹⁰⁰

§ 249-36. through § 249-41. (Reserved)

100. Editor's Note: Former Art. IX, Industrial Wastes, was repealed 10-17-2011 by Ord. No. 13-2011.

ARTICLE X
Violations and Penalties

§ 249-42. Violations and penalties.

Any person violating any provisions of this chapter shall, upon conviction thereof, be subject to a fine not exceeding \$1,000 or imprisonment for a term not exceeding 90 days, or both, in the discretion of the court. Each and every day that such violation shall continue shall be a further and separate offense under the terms of this chapter, subject to the penalties herein prescribed.

Chapter 252**WEED CONTROL****GENERAL REFERENCES**

Brush, grass and weeds — See Ch. 103.

§ 252-1. Adoption of regulations by reference.

A code declaring ragweed and poison ivy to be a nuisance, providing for removal or abatement thereof and recovery of expenses incurred by the Board of Health in removing or abating such nuisance and prescribing penalties for violations is hereby established pursuant to Chapter 188, Laws of 1950.¹⁰¹ A copy of said code is annexed hereto and made a part hereof without the inclusion of the text thereof herein.

§ 252-2. Title.

Said code established and adopted by this chapter is described and commonly known as the "Weed Control Code of New Jersey (1953)."

§ 252-3. Copies on file.

Three copies of said Weed Control Code of New Jersey (1953) have been placed on file in the office of the Secretary of this local Board of Health upon the introduction of this chapter and will remain on file there for use and examination by the public so long as said chapter is in effect.

§ 252-4. Violations and penalties.

Any person who violates or fails or neglects to comply with any provision of this chapter or code established herein or notice issued pursuant thereto, shall, upon conviction thereof, be liable to a penalty of not less than \$5 nor more than \$500 for each violation.

Chapter 253**WILDLIFE FEEDING****§ 253-1. Purpose.**

To prohibit the feeding of unconfined wildlife in any public park or on any other property owned or operated by the Borough of Tuckerton so as to protect public health, safety and welfare, and to prescribe penalties for failure to comply.

§ 253-2. Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this chapter clearly demonstrates

101. Editor's Note: See N.J.S.A. 26:3-69.2.

a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

FEED — To give, place, expose, deposit, distribute or scatter any edible material with the intention of feeding, attracting or enticing wildlife. Feeding does not include baiting in the legal taking of fish and/or game.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

WILDLIFE — All animals that are neither human nor domesticated.

§ 253-3. Prohibited conduct.

No person shall feed, in any public park or on any other property owned or operated by the Borough of Tuckerton, any wildlife, excluding confined wildlife (for example, wildlife confined in zoos, parks or rehabilitation centers, or unconfined wildlife at environmental education centers).

§ 253-4. Enforcement.

This chapter shall be enforced by the Police Department and/or Code Enforcement Officer of the Borough of Tuckerton.

§ 253-5. Violations and penalties.

Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$1,000 or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

Chapter 255

ZONING

GENERAL REFERENCES

Land use procedures — See Ch. 45.

Landmarks preservation — See Ch. 187.

Building construction — See Ch. 107.

Mobile home parks — See Ch. 196.

Certificates of occupancy — See Ch. 122.

Site plan review — See Ch. 220.

Uniform construction codes — See Ch. 132.

Subdivision of land — See Ch. 231.

Fire prevention — See Ch. 163.

Water and sewers — See Ch. 249.

Junkyards — See Ch. 183.

ARTICLE I
General Provisions

§ 255-1. Title.

This chapter and its supplements and amendments shall be known as the "Zoning Ordinance of the Borough of Tuckerton."

§ 255-2. Purpose and authority.¹⁰²

- A. This chapter is adopted for the purpose of dividing the Borough into zones, restricting and regulating therein the location, erection, construction, reconstruction, alteration, and use of buildings, structures and land for trade, business, residence and other specified uses; to regulate the intensity of the use of lot areas and to regulate and determine the area of open spaces surrounding such buildings; to establish building lines and the location of buildings designed for specified business, residential and other uses within such areas; to fix standards to which buildings or structures shall conform therein; to prohibit uses, buildings or structures incompatible with the character of such zones, respectively; to prevent additions to and alterations or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed hereunder; to limit congestion in the public streets by providing for the off-street parking and loading of vehicles; providing for the gradual elimination of nonconforming uses of land, building and structures; and prescribing penalties for the violation of the chapter; to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to conserve the taxable value of land and buildings throughout the Borough; and to promote the public health, safety and general welfare.
- B. This chapter is adopted pursuant to the authority of the Municipal Land Use Law, Chapter 291, Laws of New Jersey, 1975, N.J.S.A. 40:55D-1 et seq.

§ 255-3. Interpretation of provisions.

In their interpretation, the provisions of this chapter shall be held to be minimum requirements. It is not the intent of this chapter to abrogate any permit previously issued pursuant to law relating to the use of buildings or land; nor shall it be interpreted to interfere with the provisions of existing codes, laws or ordinances regarding building construction, health, safety or sanitation, or with any private restrictions placed upon a property by covenant or deed; provided, however, that where this chapter requires a greater width or size of lot or of yards or other open spaces, or requires a lesser height, bulk or ground coverage for buildings, or in general imposes restrictions greater than those required in another law or local ordinance or regulation the provisions of this chapter shall govern.

§ 255-4. Definitions and word usage.

This chapter establishes definitions to be utilized in conjunction with the ordinances of the Borough of Tuckerton.

- A. Word usage. For the purpose of this chapter, certain terms and words are hereby defined; words used in the present tense shall include the future; words used in the singular number

102.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

shall include the plural number, and the plural the singular; the word "building" shall include the word "structure"; the word "lot" shall include the word "plot"; and the word "shall" is mandatory and not directory.

- B. Terms defined. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY USE OR BUILDING — A subordinate building or use which is located on the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use.

ACREAGE — Any tract or parcel of land which has not been subdivided and plotted.

ADMINISTRATIVE OFFICER — The Secretary of the Planning Board.

ALTERATION — As applied to a building or structure, a change or rearrangement in the structural parts of the existing facilities or any enlargement, whether by an extension of a side, an increase in height or a move from one location or position to another.

APPLICANT — A developer submitting an application for development.

APPLICATION FOR DEVELOPMENT — The application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit.

APPROVING AUTHORITY — The Planning Board of the municipality unless a different agency is designated by ordinance when acting pursuant to the authority of this Act.¹⁰³

AUTOMOBILE SALES AGENCY — A place of business where the primary purpose is the sale of new motor vehicles, having a building with showrooms, office space and repair and maintenance facilities, with or without a used car lot incidental thereto and on the same business premises or immediately adjacent thereto.

AUTOMOBILE SERVICE STATION — A building or place of business where gasoline, oil and greases, batteries, tires and automobile accessories are supplied and dispensed directly to the motor vehicle trade, at retail, and where minor repair service is rendered. Sale of new or used cars is prohibited.

AUTOMOTIVE REPAIR SHOP — A building and place of business where body and major repair work are performed on motor vehicles.

BASEMENT — A story partly or wholly underground where more than 1/2 of its height is above the average level of the adjoining ground. A basement shall be counted as a story for purpose of height measurement.

BASIC GRADE — The elevation in the center line of the street at the center line of the lot, which the plot fronts, as established or to be established by the Borough.

BED-AND-BREAKFAST — An owner-occupied structure renting individual rooms to guests for a maximum of two consecutive weeks, and having no cooking facilities directly available for use by the guests, shall constitute a bed-and-breakfast facility. Such structures located in the B-1 Zone would be permitted as a bed-and-breakfast. The availability of food service in the facility shall not disqualify the facility from this category so long as guests are not provided access to the cooking or food preparation facilities and food is prepared and served by the owner or an employee of the owner. **[Added 5-3-2004 by Ord. No. 5-2004]**

103. Editor's Note: "This Act" refers to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

BOARDINGHOUSE — A building in which not more than five rooms are used or intended to be used for compensation for the lodging of guests, with meals served to occupants only.

BOARD OF ADJUSTMENT — The Board established pursuant to Section 56 of the Municipal Land Use Law.

BREEZEWAY — A covered passageway extending between a main and an accessory building, and having a permanent floor and a permanent roof, designed so as to be or become an integral part of the design of the main building.

BUILDING — A combination of materials to form a construction adapted to permanent, temporary or continuous occupancy and having a roof.

BUILDING AREA — The area of the largest floor plan of the building, including covered porches, second floor entrance steps and any portion of the building extending beyond the foundation wall, excluding first floor entrance steps.

BUILDING HEIGHT — The vertical distance measured from the average elevation of the finished grade five feet from the foundation to the highest point of a flat roof, to the deck line of a mansard roof, and to the average distance between the ridge and eaves for gabled, hip or gambrel roofs. The height limitations shall not apply to church spires, noncommercial antennas, belfries, cupolas, chimneys, ventilators, skylights or widow walks, provided that no fire hazard is created, and provided that such exception covers not more than 10% of the roof area. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose that they serve. Minimum pitch on the pitched roof shall be 6 on 12. In flood zone areas as established by FEMA, the height elevations shall be measured as described herein with the average elevation of the finished grade being utilized as the flood elevation. **[Amended 12-17-2007 by Ord. No. 17-2007]**

BUILDING LINE — A line formed by the intersection of a horizontal plane at average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In the case of a cantilevered or projected section of a building, the vertical plane will coincide with the most projected surface. All yard requirements are measured to the building line, excluding those items mentioned in § 255-36.

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

CELLAR — A story having more than 1/2 of its height below the average level of the adjoining ground. A cellar shall not be counted as a story for the purposes of height measurement.

CERTIFICATE OF OCCUPANCY — A certificate issued by the Code Enforcement Officer and enforced by the Zoning Officer 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 adjustments thereon which have been granted by the Board of Adjustment, and all other applicable requirements have been complied with.¹⁰⁴ **[Amended 3-19-1979 by Ord. No. 2-1979]**

CIRCULATION — Systems, structures and physical improvements for the movement of people, goods, water, air, sewage or power by such means as streets, highways, railways, waterways, towers, airways, pipes and conduits, and the handling of people and goods by

104. Editor's Note: See Ch. 122, Certificates of Occupancy.

such means as terminals, stations, warehouses and other storage buildings or transshipment points.

COMMON OPEN SPACE — An open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

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

CONVENTIONAL — Development other than planned development.

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

COUNTY PLANNING BOARD — The Planning Board of Ocean County.

DAYS — Calendar days.

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

DEVELOPMENT — The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure; or of any mining, excavation or landfill, and any use or change in the use of any building or other structure or land or extension of use of land, for which permission may be required pursuant to this Act.¹⁰⁵

DEVELOPMENT REGULATION — A Zoning Ordinance, Subdivision Ordinance,¹⁰⁶ Site Plan Ordinance,¹⁰⁷ Official Map Ordinance or other municipal regulation of the use and development of land, or amendment thereto, adopted and filed pursuant to this Act.¹⁰⁸

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

DRIVEWAY — An opening in the curblineline or edge of street onto the street providing access to a lot for motor vehicles.

DWELLING — Any building or portion thereof which is designed for or occupied as a residence, except hotels or motels.

105.Editor's Note: "This Act" refers to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

106.Editor's Note: See Ch. 231, Subdivision of Land.

107.Editor's Note: See Ch. 220, Site Plan Review.

108.Editor's Note: "This Act" refers to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

DWELLING, SINGLE-FAMILY — A detached building designed for or occupied exclusively by one family.

DWELLING, TWO-FAMILY — A building designed for or occupied exclusively by two families living independently of each other.

DWELLING UNIT — A unit of a minimum of one room and bath providing complete living facilities for one family, including facilities or provision for facilities required in the storage, preparation and serving of food.

EFFICIENCY APARTMENTS — A dwelling unit consisting of one room and bath with kitchen facilities and occupied by one family.

ENCROACHMENT LIMITS — Lateral limits or lines behind which, in the direction of the river, stream or other body of water which delineates the area which restricts development and construction. Such lines shall encompass the entire area designated as floodway.

ENVIRONMENTAL COMMISSION — A municipal advisory body created pursuant to P.L. 1968, c. 245.¹⁰⁹

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

FAMILY — One or more persons related by blood or marriage occupying a dwelling unit and living and cooking as a single, nonprofit housekeeping unit, including servants. This definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie or organization.

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

FIRST FLOOR AREA — The living area of a home, including utility room, storage room and areas of habitation, but not to include the garage or attached building, which is located above the cellar or basement level and below the second floor.

FLOATING HOME — Any vessel which is in fact used, designed, or occupied as a permanent dwelling unit, business office or source of any occupation or for any private or social club of whatever nature, including but not limited to a structure constructed upon a barge, primarily immobile and out of navigation or which functions substantially as a land structure, while the same is moored or docked within the corporate limits of Tuckerton Borough; whether such vessel is self-propelled or not and whose volume coefficient is greater than 3,000 square feet. Volume coefficient is the ratio of the habitable space of a vessel measured in cubic feet and the draft of a vessel measured in feet of depth.**[Added 8-20-1984 by Ord. No. 10-1984]**

FLOATING HOME MARINA — That area within Tuckerton Borough, covered by any waterway within the Borough, where one or more sites or locations are rented or offered for rent, sold or offered for sale for the location of floating homes.**[Added 8-20-1984 by Ord. No. 10-1984]**

FLOOD HAZARD AREA — The floodway and any additional portions of the floodplain.

109. Editor's Note: See N.J.S.A. 40:56A-1.

FLOODPLAIN — The relatively flat area adjoining the channel of a natural stream, which has been or may be hereafter covered by floodwater.

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

FLOOR AREA RATIO — The ratio of the gross floor area to the lot area as determined by dividing the gross floor area by the lot area.**[Added 12-17-2007 by Ord. No. 17-2007]**

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

GOVERNING BODY — The Mayor and Borough Council of the Borough of Tuckerton.

GRADE, FINISHED — The completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

GROSS FLOOR AREA — The sum of the gross horizontal areas of the floor or several floors of a building measured between the outside face of exterior walls.**[Added 12-17-2007 by Ord. No. 17-2007]**

- (1) In the case of residential structures, such area shall be finished in accordance with the requirements of the Building Code.¹¹⁰ Any cellar, detached garage, crawl space, unfinished attic or space of any nature, or accessory building shall not be included. Any space with a clear ceiling height of six feet or less shall not be included.
- (2) In the case of a bi-level, multistory building, the first-floor area shall be considered to be the first level or levels of the structure over the full perimeter of the structure which are above the average finished grade of the adjoining ground and constructed on other than a concrete slab or other floor. Any floor area which is located at grade or on such a slab may, however, be included in the calculations of total floor area, provided it complies with the other terms of this definition.
- (3) In the case of all multistory buildings, the first-floor area shall be considered to be the first level or levels of the structure extending over the full perimeter of the structure and which is above the average finished grade of the adjoining ground, whether or not such level was constructed on a concrete slab or other floor area.
- (4) In flood-prone areas, the floor area shall include principal structures, sunrooms, enclosed porches, stairways, landings and decks.

GUEST HOUSE — Any accessory building used in whole or in part as a dwelling.

HABITABLE AREA OR ROOM — Any room within a building used for the purposes of sleeping, eating, preparation of food, offices, selling of merchandise, public gatherings or assembly lobbies. All habitable rooms within a dwelling unit shall have natural light, ventilation and heat. Garages, bathrooms, closets, storage areas, hallways and stairs are not considered to be habitable rooms.**[Added 12-17-2007 by Ord. No. 17-2007]**

110. Editor's Note: See Ch. 132, Construction Codes, Uniform.

HISTORIC SITE — Any building, structure, area or property that is significant in the history, architecture, archeology or culture of this state, its communities or the nation and has been so designated.

HOME OCCUPATION — Any gainful employment or occupation of one or more members of the resident family, which shall constitute, either entirely or partly, the means of livelihood of such member or members and which shall be conducted as clearly secondary or accessory to the primary residential use of the principal structure. Such occupation may be pursued in the principal dwelling structure or in an accessory building to such principal structure. Home occupations are normally in the field of work of the artisan, and may include such activities as dressmaking, millinery, watchmaking, electrical and radio repair and carpentry. The retail sale of goods or services in structures designed or altered to make such activities the primary use of any structure shall not be construed hereunder to be a home occupation.

HOTEL — A building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building as an accessory use.

HOUSEBOAT — Any vessel not designed primarily for residential dwelling units, designed primarily for pleasure craft, recreation and for independent navigation, whose volume coefficient is less than or equal to 3,000 square feet and not considered a floating home in accordance with the definition of floating home. **[Added 8-20-1984 by Ord. No. 10-1984]**

IMPROVED STREET — That street having a minimum pavement width of 24 feet with acceptable gravel base material with a bituminous surface treatment.

INTERESTED PARTY — In a criminal or quasi-criminal proceeding, any citizen of the State of New Jersey; and in the case of a civil proceeding in any court or in an administrative proceeding before a municipal agency, any person, whether residing within or without the municipality, whose right to use, acquire or enjoy property is or may be affected by any action taken under this Act or under any other law of this state or of the United States or whose right to use, acquire or enjoy property has been denied, violated or infringed by an action or a failure to act under this Act.¹¹¹

LAND — Improvements and fixtures on, above or below the surface.

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

LOT, CORNER — A parcel of land at the junction of and fronting on two or more intersecting streets.

LOT COVERAGE — That percentage of the lot area covered by the principal building area, sheds, accessory buildings, aboveground pools, hot tubs, decks whose average elevation is 12 inches above grade and all structures greater than 12 inches above grade. Exceptions would be mailbox foundations, landscape planters less than 30 inches above grade and air conditioning/heating units. **[Amended 12-17-2007 by Ord. No. 17-2007]**

LOT FRONTAGE — A lot line or portion thereof which is coexistent with a street line. In the case of a street of undefined width, said lot line shall be assumed to parallel the center

111. Editor's Note: "This Act" refers to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

line of the street at a distance of 25 feet therefrom. In the case of corner lots, the smaller of the two lot lines coexistent with street lines shall be considered as the frontage.

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

LOT, THROUGH — A lot other than a corner lot with frontage on two streets. All through lots as defined herein shall provide a front yard setback on both streets.

LOT WIDTH — The horizontal distance between the side lot lines, measured at right angles to its depth, and at a point 50 feet from the street line.

MAINTENANCE GUARANTY — Any security, other than cash, which may be accepted by a municipality for the maintenance of any improvements required by this Act.¹¹²

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

MARINA — A dock or base and operated for profit or to which public patronage is invited, providing moorings or marine services primarily for power yachts, launches or other water craft, other than floating homes, and which is also capable of removing any and all crafts moored within the marina out of the water for repair or as a result of emergent conditions.**[Added 8-20-1984 by Ord. No. 10-1984]**

MASTER PLAN — A composite of one or more written or graphic proposals for the development of the municipality as set forth in and adopted pursuant to N.J.S.A. 40:55D-1 et seq.

MAYOR — The chief executive of the municipality.

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

- (1) The creation of more than the maximum number of lots specifically permitted by ordinance as a minor subdivision;
- (2) Planned development;
- (3) Any new street;
- (4) Extension of any off-tract improvement.

MOTEL — A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units, designed primarily for transient automobile travelers and provided with accessory off-street parking facilities.

MULTIPLE-DWELLING GROUP — A structure or a group of structures providing dwelling units of two rooms or more to separate families, which is designed to be maintained and operated as a complex in single ownership by an individual, partnership, corporation or cooperative group, and which has, as herein set forth, certain facilities, yards and open spaces, recreation areas, garage and parking areas. This also includes the Condominium Act as established by N.J.S.A. 46:8B-1 to 46:8B-30 and amendments thereto.

MUNICIPALITY — The Borough of Tuckerton.

MUNICIPAL AGENCY — A municipal Planning Board or Board of Adjustment, or a governing body of a municipality when acting pursuant to this Act and any agency which

112. Editor's Note: "This Act" refers to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

is created by or responsible to one or more municipalities when such agency is acting pursuant to this Act.¹¹³

NONCONFORMING BUILDING — A building which in its design or location upon a lot does not conform to the regulations of this chapter for the zone in which it is located.

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.

NONCONFORMING STRUCTURE — 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 reason of such adoption, revision or amendment.

NONCONFORMING USE — A use or activity 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.

OFFICIAL COUNTY MAP — The map, with changes and additions thereto, adopted and established, from time to time, by resolution of the Board of Chosen Freeholders of the county.

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

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

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

ON SITE — Located on the lot in question.

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

OPEN SPACE — Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space, provided that such areas may be improved with only those building, structures, streets and off-street parking and other improvements that are designed to be incidental to the natural openness of the land. Further, open space is any area other than a required yard, screening strip or recreation area which may hereafter remain as private property or property dedicated to the Borough of Tuckerton and which shall have been designated as such on any plan requiring approval by the Borough of Tuckerton.

PARKING SPACE — Space within a parking area or parcel of land containing an area not less than 162 square feet, with minimum dimensions of nine by 18 feet, exclusive of access drives, aisles, ramps and columns for the storage of one passenger automobile or small commercial vehicle.

113. Editor's Note: "This Act" refers to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

PARTY IMMEDIATELY CONCERNED — For purposes of notice, any applicant for development, the owners of the subject property and all owners of property and government agencies entitled to notice.

PERFORMANCE GUARANTY — Any security which may be accepted by a municipality, including cash, provided that a municipality shall not require more than 10% of the total performance guaranty in cash.

PLANNING BOARD — The Planning Board of the Borough of Tuckerton.¹¹⁴

PLAT — A map or maps of a subdivision or site plan.

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

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

PROFESSIONAL OFFICE — The office of a member of a recognized profession, which shall include only the offices of doctors or physicians, dentists, optometrists, ministers, architects, landscape architects, professional engineers, lawyers, artists, authors, musicians and such other similar professional occupations which may be so designated by the Board of Adjustment upon finding by such Board that such occupation is truly professional in character by virtue of the need for similar training and experience as a condition for the practice thereof. The issuance of a state or local license for regulation of any gainful occupation, per se, is not necessarily indicative of professional status.

PUBLIC AREAS —

- (1) Public parks, playgrounds, trails, paths and other recreational areas.
- (2) Other public open spaces.
- (3) Scenic and historic sites.
- (4) Sites for schools and other public buildings and structures.

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

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

PUBLIC OPEN SPACE — An open space area conveyed or otherwise dedicated to a municipality, municipal agency, Board of Education, state or county agency or other public body for recreational or conservational uses.

QUORUM — The majority of the full authorized membership of a municipal agency.

114. Editor's Note: See Ch. 45, Land Use Procedures, Art. I, Planning Board.

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

RESIDENTIAL DENSITY — The number of dwelling units per gross acre of residential land area, including streets, easements and open space portions of a development.

RESUBDIVISION — The further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law, or the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, but does not include conveyances so as to combine existing lots by deed or other instrument.

ROOMING HOUSE — A building in which not more than five rooms are used, or intended to be used, for the lodging of guests for compensation, without meals.

SCREENING STRIP/BUFFER — Any concentration or group of trees and shrubbery placed and maintained for the purpose of screening unsightly use, uses, dust, noise and lights from adjoining property. **[Amended 12-17-2007 by Ord. No. 17-2007]**

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

SETBACK LINE — A line within any lot, usually marking the limits of any required yard space.

SIGN — Any structure or part thereof attached thereto or painted or represented thereon which shall display or include any letter, word, modern banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an announcement, direction or advertisement, but not including any flag, badge or insignia of any public, civic, charitable or religious group.

SIGN, ADVERTISING — A sign which directs attention to a business commodity, service, activity or entertainment not necessarily conducted, sold or offered upon the premises where such sign is located.

SIGN AREA — The area included within the frame or edge of the sign exclusive of the structure to support it properly and any trim and framing device and any appurtenances required by the Building Code.¹¹⁵ Where the sign has no such frame or edge, the area shall be defined by an enclosed four-sided geometric shape which most closely outlines said sign. On multiple-faced signs, the sign area shall be measured, for the purpose of complying with the regulations of this chapter, on the face having the greatest sign surface area.

SIGN, DIRECTIONAL — A sign, located on the same lot as the principal use, which may be reasonably necessary to the proper guidance and control of vehicular traffic entering or leaving the premises or for circulation of such traffic on the premises.

SIGN, FREESTANDING PREMISES — A sign which is supported by one or more supports, legs, braces or posts, made of wood, metal, stone or concrete, which are securely fixed in or upon the ground, and which is located on the same lot as the commodity, activity or service it advertises.

115. Editor's Note: See Ch. 107, Building Construction, and Ch. 132, Construction Codes, Uniform.

SIGN, PREMISES OR POINT OF SALE — Any sign, symbol, trademark, structure or similar device used to identify the product made or the activity pursued by any individual, business, service or commercial enterprise which is displayed upon the lot or premises occupied by such an enterprise for the purpose of apprising the public of the location of such enterprise and the type of activity in which it is engaged.

SIGN, PROJECTING — A sign which is attached to a building and extends beyond the line of said building, or beyond the surface or facade of that portion of the building to which it is attached, by more than one foot.

SIGN, WALL — A sign which is attached, painted or cut into any masonry surface of a building wall intending to direct attention to such building or uses in such building and which may constitute a single solid unit or individual letters, numbers or symbols.

SIGN, WINDOW — A sign placed, maintained or painted upon a window.

SITE PLAN — A development plan of one or more lots on which is shown:

- (1) The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, floodplains, marshes and waterways.
- (2) The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services landscaping, structures and signs, lighting and screening devices.
- (3) Any other information that may be reasonably required in order to make an informed determination.

STANDARDS OF PERFORMANCE — Standards:

- (1) Adopted by ordinance regulating noise levels, glare, earthborn or sonic vibrations, heat, electronic or atomic radiation, noxious odors, toxic matters, explosive and inflammable matters, smoke and airborne particles, waste discharge, screening of unsightly objects or conditions and such other similar matters as may be reasonably required by the municipality; and
- (2) Required by applicable federal or state laws or municipal ordinances.

STORY — That part of a building with at least six feet between the surface of any floor and the next floor above it or, in its absence, the finished ceiling or roof above it. A split-level story shall be considered a second story if the floor level is six feet or more above the level of the line of the finished floor next below it, except the cellar. The cellar shall not be counted as a story. (A cellar is considered to have greater than 1/2 of its surface below grade.)**[Amended 12-17-2007 by Ord. No. 17-2007]**

STREET — Any street, avenue, boulevard, road, parkway, viaduct, drive or other way which is an existing state, county or municipal roadway, or which is shown upon a plat heretofore approved pursuant to law, or which is approved by official action as provided by this chapter, or which is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a Planning Board and the grant to such Board of the power to review plats; and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

STREET LINE — That line determining the limit of the highway right of the public, either existing or contemplated. Where a definite right-of-way width has not been established, the street line shall be assumed to be at a point 25 feet from the center line of the existing pavement.

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

SUBDIVISION — The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this Act¹¹⁶ if no new streets are created: divisions of land found by the Planning Board, or Subdivision Committee thereof appointed by the Chairman, to be for agricultural purposes, where all resulting parcels are five acres or larger in size; divisions of property by testamentary or intestate provisions; divisions of property upon court order; and conveyances so as to combine existing lots by deed or other instrument. The term “subdivision” shall also include the term “resubdivision.”

USE — The specific purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained.

VARIANCE — Permission to depart from the literal requirements of a Zoning Ordinance.

YARD, FRONT — An open, unoccupied space, except as may be otherwise specified herein, on the same lot with the principal building, extending the full width of the lot and situated between the street line and the front line of the building.

YARD, REAR — An open, unoccupied space, extending across the full width of the lot and lying between the rear line of the lot and the nearest line of any principal building, except as may be otherwise specified herein. The depth of a rear yard shall be measured at right angles to the rear line of the lot, or, if the lot is not rectangular, then in the general direction of its side lot lines.

YARD, SIDE — An open, unoccupied space, except as may be otherwise specified herein, between the side line of the lot and the nearest line of a principal building and extending from the front yard to the rear yard or, in the absence of either of such yards, to the street or rear lot lines as the case may be. The width of a side yard will be measured at right angles to the side line of the lot.

116. Editor's Note: "This Act" refers to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

ARTICLE II
Zoning Districts

§ 255-5. Types of districts. [Amended 4-15-1985 by Ord. No. 4-1985; 9-19-1988 by Ord. No. 15-1988; 5-3-2004 by Ord. No. 5-2004]

For the purpose of this chapter, the Borough of Tuckerton is divided into the following types of zoning districts:

| | |
|---------|---|
| R-400 | Wetland Conservatory-Residential |
| R-100 | Single-Family Residential |
| R-200 | Single-Family Residential |
| R-100SC | Single-Family Senior Citizen Housing Option |
| R-75 | Single-Family Residential |
| R-50 | Single-Family Residential |
| MF | Multifamily Residential |
| PSC | Planned Senior Citizen Residential Development/Medium-Density Cluster Development |
| B-1 | Village Commercial and Office Professional |
| B-2 | Highway Business |
| B-3 | Marine Commercial |
| B-4 | Marine Commercial/Waterfront Cluster Development |
| SV | Seaport Village District |

§ 255-6. Zoning Map and boundaries. [Amended 9-19-1988 by Ord. No. 15-1988; 12-5-1988 by Ord. No. 20-1988]

The boundaries of these zoning districts are hereby established as shown on a map entitled "Zoning Map of the Borough of Tuckerton," dated November 7, 1988. This map, together with the Official Map of the Borough of Tuckerton, is hereby made a part of this chapter.¹¹⁷ Where uncertainty exists as to any of said boundaries as shown on said map, the following rules shall apply:

- A. Zone boundary lines are intended to follow the center line of streets, streams and lot or property lines as they exist on plats of record at the time of the passage of this chapter, unless such zone boundary lines are fixed by dimensions as shown on the Zoning Map.
- B. Where such boundaries are not fixed by dimensions and where they do not scale more than 10 feet distance therefrom, lot lines shall be construed to be such boundaries unless specifically shown otherwise.
- C. In the unsubdivided land and where a zone boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the scale appearing thereon.

117. Editor's Note: The Zoning Map is on file in the Borough offices.

§ 255-7. Schedule.

The schedule accompanying this chapter is part of this chapter,¹¹⁸ and the areas and dimensions presented therein are minimum areas and dimensions.

118.Editor's Note: The schedule is included at the end of this chapter.

ARTICLE III
District Regulations

§ 255-8. R-400 Wetland Conservatory-Residential District.

The following regulations shall apply in all R-400 Districts:

- A. Permitted uses.
- (1) One-family dwellings.
 - (2) Churches and similar places of worship, parish houses and convents, subject to the conditions specified in Article VI.
 - (3) Public and private nonprofit schools and institutions conducting study and research of wildlife, ecological study, etc.
 - (4) Municipal parks, playgrounds and other such municipally owned buildings.
 - (5) Farming.
 - (6) Golf courses.
- B. Permitted accessory uses.
- (1) A home occupation, as defined in § 255-4.
 - (2) Private garages.
 - (3) Professional home offices.
- C. Yard, area and building requirements: as specified for this district in the schedule, § 255-7 of this chapter, unless modified in accordance with the standards set forth in § 255-49.
- D. Off-street parking, loading and vehicular access: as per Article VII of this chapter as defined for that particular use.
- E. Signs: as per Article VIII of this chapter.
- F. Conditional uses. The following uses may be permitted by the Planning Board subject to the conditions as specified for each use in Article IV and the conditional use procedures.
- (1) Public utility installation.
 - (2) Public and quasi-public philanthropic and charitable uses.
 - (3) Quasi-public building and recreation areas.
 - (4) Medium-density cluster development (MDCD), as per Article III, § 255-14D, of this chapter; provided, however, that such conditional use shall not be permitted by cross-reference in any other zoning district. **[Added 4-15-1985 by Ord. No. 4-1985]**

§ 255-9. R-200 Single-Family Residential. [Added 5-3-2004 by Ord. No. 5-2004]

The following regulations shall apply in all R-200 Districts:

- A. Permitted uses.
 - (1) One-family dwellings.
 - (2) Churches and similar places of worship, parish houses and similar accessory uses, subject to the conditions specified in Article VI.
 - (3) Public and private nonprofit schools and institutions of higher learning.
 - (4) Municipal parks, playgrounds and other such municipal buildings. The minimum land area shall not be less than 1/2 acre.
- B. Permitted accessory uses.
 - (1) Private garage space for the storage of motor vehicles.
 - (2) Professional home offices.
- C. Area, yard and building requirements; as specified for this district in the schedule, § 255-7 of this chapter, unless modified in accordance with the standards set forth in Article VI.
- D. Off -street parking, loading and vehicular access.
 - (1) As per Article VII of this chapter as defined for that particular use.
 - (2) Off-street parking space, together with appropriate access thereto, shall be provided on the same lot as the building it is intended to serve in accordance with the standards set forth in Article VII.
- E. Signs: as per Article VIII of this chapter.
- F. Conditional uses. The following uses may be permitted by the Planning Board subject to the conditions as specified for each use in Article IV and the conditional use procedures.
 - (1) Public utility installation.
 - (2) Public and quasi-public philanthropic and charitable uses.
 - (3) Quasi-public building and recreation areas.

§ 255-10. R-100 Single-Family Residential and R-100SC Senior Citizen Housing Option Districts.

The following regulations shall apply in all R-100 and R-100SC Districts:

- A. Permitted uses.
 - (1) One-family dwellings.
 - (2) Churches and similar places of worship, parish houses and similar accessory uses, subject to the conditions specified in Article VI.
 - (3) Public and private nonprofit schools and institutions of higher learning.
 - (4) Municipal parks, playgrounds and other such municipal buildings. The minimum land area shall not be less than 1/2 acre.

- B. Permitted accessory uses.
 - (1) Private garage space for the storage of motor vehicles.
 - (2) Professional home offices.
- C. Area, yard and building requirements: as specified for this district in the schedule, § 255-7 of this chapter, unless modified in accordance with the standards set forth in Article VI.
- D. Off-street parking, loading and vehicular access.
 - (1) As per Article VII of this chapter as defined for that particular use.
 - (2) Off-street parking space, together with appropriate access thereto, shall be provided on the same lot as the building it is intended to serve in accordance with the standards set forth in Article VII.
- E. Signs: as per Article VIII of this chapter.
- F. Conditional uses.
 - (1) Senior citizen development: as per § 255-14 of this chapter, except that the minimum required lot size shall be 20 acres. All other development regulations shall prevail.
 - (2) Same as permitted in the R-400 District.

§ 255-11. R-75 Single-Family Residential District.

The following regulations shall apply in all R-75 Districts:

- A. Permitted uses: same as those specified for the R-100 District.
- B. Permitted accessory uses: same as those specified for the R-100 District.
- C. Area, yard and building requirements: as specified for this district in the schedule, § 255-7 of this chapter, unless modified in accordance with the standards set forth in Article VI.
- D. Off-street parking, loading and vehicular access.
 - (1) As per Article VII of this chapter as defined for that particular use.
 - (2) Off-street parking space, together with appropriate access thereto, shall be provided on the same lot as the building it is intended to serve in accordance with the standards set forth in Article VII.
- E. Signs: as per Article VIII of this chapter.
- F. Conditional uses: same as specified in the R-400 District.

§ 255-12. R-50 Single-Family Residential District.

The following regulations shall apply in all R-50 Districts:

- A. Permitted uses: same as those specified for the R-100 District.
- B. Permitted accessory uses.

- (1) Professional home offices.
 - (2) Private garages, private boathouses or similar storage structures.
- C. Area, yard and building requirements. **[Amended 12-5-1988 by Ord. No. 20-1988]**
- (1) R-50 zones generally: as specified for this district in the schedule, § 255-7 of this chapter, unless modified in accordance with the standards set forth in § 255-49.
 - (2) Tuckerton Beach area: as specified for the R-50 District in the schedule, § 255-7 of this chapter, unless modified in accordance with the standards set forth in § 255-49; except that in the Tuckerton Beach area, said area being that portion of the Borough of Tuckerton in the R-50 Districts located south of Bass Road, the maximum height limitation shall be 28 feet above the eight-foot base flood elevation, as referenced to the National Geodetic Vertical Datum of 1929.
- D. Off-street parking, loading and vehicular access.
- (1) As per Article VII of this chapter as defined for that particular use.
 - (2) Off-street parking space, together with appropriate access thereto, shall be provided on the same lot as the building it is intended to serve in accordance with the standards set forth in Article VII.
- E. Signs: as per Article VIII of this chapter.
- F. Conditional uses: none.

§ 255-13. MF Multifamily Residential District.

The following regulations shall apply in all MF Districts:

- A. Permitted uses.
- (1) Mobile home parks.¹¹⁹
 - (2) Multifamily dwellings.
 - (3) Single-family residences.
- B. Permitted accessory uses: same as those specified for the R-100 District. Such noncommercial facilities related to recreation, social activities or laundry facilities which are solely for the residents of a mobile home park or apartment project shall also be an accessory use.
- C. Area, yard and building requirements: as specified for this district in the schedule, § 255-7 of this chapter.
- D. Off-street parking, loading and vehicular access. Off-street parking space, together with appropriate access thereto, shall be provided on the same lot as the building it is intended to serve in accordance with the standards set forth in Article VII.
- E. Signs: as per Article VIII of this chapter.

¹¹⁹Editor's Note: See Ch. 196, Mobile Home Parks.

- F. Conditional uses: none.
- G. Other regulations and requirements.
- (1) Driveways for ingress and egress for a garden apartment project shall not be located within 200 feet of an existing intersection or create any other hazardous conditions. Acceleration and deceleration lanes shall be installed where a traffic hazard exists or where substantial traffic congestion shall be created.
 - (2) All buildings shall be placed on a site in such a manner that they are located in a nonuniform pattern and the distances between buildings are varied. In no instance shall one building be closer than 30 feet to another.
 - (3) The facades of multiple dwelling units shall be varied by changed front yard setback and variation of materials or design in such a manner so that no more than three abutting buildings will have the same front yard setback and the same or essentially the same architectural treatment of facades and rooflines. In a building exceeding eight units per building, the rooflines shall be broken and the building line shall be broken to provide varied setbacks. There shall not be more than 12 living units in any one building.
 - (4) No common hall will be permitted except foyers at exterior entrances for no more than two dwelling units.
 - (5) No basement or below-grade dwelling unit shall be permitted.
 - (6) Each dwelling unit shall be considered a one-family living unit, and combining separate households into one dwelling unit regardless of relationship is prohibited.
 - (7) All units shall be provided with public water, sanitary sewers and electric and telephone services provided by means of underground cable. One master television antenna shall be provided per building.
 - (8) Provision shall be made for collection of refuse in enclosed storage areas which shall be centrally located and easily accessible to all units.
 - (9) Appropriate areas shall be set aside for recreational needs of residents and shall not be less than 10% of the gross acreage to be developed. Recreation areas shall include improved playground areas, outdoor grills, benches or sitting areas.
 - (10) No certificate of occupancy shall be issued until the recreational areas are completed.¹²⁰
 - (11) Concrete curbing shall be constructed along existing street frontages, on access streets or driveways and around parking areas. All access streets or drives and parking areas shall have a bituminous surface. Sidewalks shall be constructed along existing or proposed public streets.
 - (12) No building, existing or proposed, shall be located closer than 25 feet to a curblineline to be constructed on site for private street or driveway or 15 feet to parking areas.

120. Editor's Note: See Ch. 122, Certificates of Occupancy.

- (13) Distance between curbs shall not be less than 25 feet on all driveways or private streets used for access to or from the project.
- (14) Outdoor lighting. Lighting fixtures shall be provided for walks, steps, parking areas and driveways to assure safe and convenient nighttime use.
- (15) All existing trees, shrubs, evergreens and ground cover shall be retained to the extent that they enhance the project, are effective as a screen planting or are useful in protecting slopes. If existing vegetation is not acceptable, the site shall be landscaped to provide a minimum of 12 deciduous trees per acre and 24 evergreen trees per acre.
- (16) A twenty-foot-wide buffer strip shall be provided where the site adjoins commercial, single-family residential, office or manufacturing uses. Said strip is to be planted with evergreen shrubbery to a minimum height of six feet, approved by the Board.
- (17) In addition to such storage which may be provided inside individual units, there shall be provided in the basement or the ground floor 100 square feet of storage for each unit where personal effects and belongings may be stored. Such storage shall be conveniently located and shall be capable of being kept locked and separate from the belongings of other occupants. There shall be a further minimum common storage area of 200 cubic feet per dwelling unit in each building for bicycles, perambulators and similar types of equipment.

§ 255-14. PSC Planned Senior Citizen Residential Development/Medium-Density Cluster Development District (MDCD). [Amended 4-15-1985 by Ord. No. 4-1985]

The following regulations shall apply in all PSC Planned Senior Citizen Residential Development/Medium-Density Cluster Development Districts:

- A. Permitted uses: planned senior citizen residential development.
- B. Conditional uses: medium-density cluster development (MDCD).
- C. The following regulations shall apply in all PSC planned senior citizen residential developments:
 - (1) No building, structure or land shall be used and no building or structure shall hereafter be erected, structurally altered, enlarged or maintained except for a planned senior citizen residential community as defined hereinafter. Specifically, such planned senior citizen community shall include the following:
 - (a) Dwellings.
 - (b) Recreational and cultural facilities for the sole use of residents and their guests, including at least one of each of the following: clubhouse, shuffleboard courts, picnic grounds and necessary accessory buildings for maintenance and administration. Provisions shall be made for off-street parking. The applicant may propose additional facilities; however, such facilities shall be for the sole purpose of enhancing the residential characteristics of the area, and no commercial advertising shall be permitted, except for advertising related to the sale of units in the residential community.

- (c) Definition. A "planned senior citizen residential community" (PSC) is defined as a development of a land area having a contiguous total acreage of at least 40 acres. Said land, through its corporation, association or owners, shall restrict use of the property therein by deed, covenants and restrictions of record and bylaws and rules and regulations for use of 50% of the units by permanent residents of 55 years of age or older. The ownership of the residential units and the area comprising the PSC may be by fee simple, with common land or open space to be maintained through assessments against property owners within the confines of said community or development, in accordance with the provisions of N.J.S.A. 46:8B-1 et seq., or as rental units. **[Amended 9-16-2002 by Ord. No. 13-2002]**
 - (d) Nonprofit homeowners' association. A nonprofit homeowners' association is an association of homeowners within a PSC to which all homeowners, by deed restrictions, covenants, restrictions, bylaws or otherwise, automatically belong and become members. The purpose of the association is to own, maintain and preserve the common lands, properties and facilities to be deeded to the owners or their association and to provide the basic services and administer the enforcing of the covenants, restrictions and bylaws, the costs thereof to be shared equitably by the homeowners.
- (2) Development standards.
- (a) Minimum area. The minimum area of a PSC shall be 40 acres.
 - (b) Residential density. There shall be no more than eight dwelling units per acre.
 - (c) Residential building coverage. No more than 20% of the total area shall be covered by residential buildings.
 - (d) Open space. No less than 50% of the total area shall be devoted to open space as defined in this chapter.
 - (e) Height of buildings. The maximum height of any habitable building shall be 20 feet.
 - (f) Buildings and minimum gross floor area. Each building shall contain no more than six dwelling units. The minimum gross floor area for a unit shall be 600 square feet.
 - (g) Setbacks. No building, other than entrance gate houses, walls and fences, shall be located within 50 feet of any exterior boundary line of the tract nor closer than 100 feet to any street classified as other than a local street in the adopted Master Plan of the Borough of Tuckerton.
 - (h) Distance between buildings. There shall be a minimum distance of 12 feet between all buildings.
 - (i) Roads. Interior roads shall be private streets and shall have a paved width of 28 feet and shall be constructed according to ordinance pertaining to roads for subdivision. Culs-de-sac shall have minimum radius of 50 feet.

- (j) Off-street parking. Two spaces for each dwelling unit plus one space per five dwellings for visitor parking shall be provided. Individual driveway connections to garages attached to a dwelling for purposes of this section shall be construed to meet this standard.
 - (k) Front yards, side yards and rear yards. All buildings within a PSC development shall have a minimum front yard of 25 feet from the curb of a private street; and, further, no building shall be located within 25 feet of another.
 - (l) Utilities. A PSC shall be serviced by common water supply and public sewerage system in accordance with local and state regulations, and the applicant shall grant public easements to the municipality or the Tuckerton Municipal Utility Authority (TMUA), or both, for all public utilities which shall be regulated and controlled by said municipality in accordance with its applicable ordinances.
 - (m) No dwelling unit or other structure shall have a driveway connection to a public street.
 - (n) All on-site, off-site and off-tract drainage shall be provided for in accordance with Borough ordinances pertaining to subdivision of lands,¹²¹ as well as applicable state statutes and regulations. Documents required by this chapter shall provide that any common lands or open lands, recreational facilities and properties intended to be deeded or conveyed to a homeowners' association must be deeded to the nonprofit corporation of an analogous body immediately upon its incorporation and organization and must be free and clear of any encumbrances or liens at the time of passing of controls to the Board of Trustees.
 - (o) Where a PSC is a fee simple development, covenants and restrictions and plot plans shall indicate that recreational areas and green areas shall be dedicated to a homeowners' association or its equivalent.
 - (p) Site and subdivision plan approval. No building permit shall be issued for the construction or use of any building in a PSC except in accordance with the approved site plan¹²² and subdivision plat.
- (3) Permit notification. In addition to the foregoing, it shall be mandatory for any applicant to provide the Planning Board with a copy of all submissions to be made to any state agency pursuant to the PSC Full Disclosure Act¹²³ at all stages of development and in keeping with the state's right to regulate such community in matters not relating to local planning issues, which regulations of said state agency shall be controlling.

D. The following regulations shall apply in all medium-density cluster developments.

- (1) Guiding principles. Recognizing that medium-density cluster development uses, activities and structures are necessary to serve the needs and provide for the convenience of the citizens of the Borough of Tuckerton and at the same time, appreciating the fact that such uses may be or may become inimical to the public

121. Editor's Note: See Ch. 231, Subdivision of Land.

122. Editor's Note: See Ch. 220, Site Plan Review.

123. Editor's Note: See N.J.S.A. 45:22A-21 et seq.

health, safety and general welfare of the community if located without due consideration to the existing conditions and surroundings, such uses are designated as conditional uses subject to the standards and regulations hereby established. The standards and regulations which follow herein are intended to provide the Planning Board with a guide for reviewing applications for medium-density cluster development as provided for by this chapter. As a result of the review procedure, the applicant may be required to meet additional standards and regulations imposed by the Planning Board during site plan review, which are in keeping with and which shall further the intent of these standards and regulations. Such standards and regulations shall be provided for and maintained as a condition of the establishment and maintenance for any use to which they are a condition of approval.

- (2) Definitions. As used in this subsection, the following terms shall have the following meanings: **[Amended 6-8-1988 by Ord. No. 6-1988; 9-16-2002 by Ord. No. 13-2002]**

MEDIUM-DENSITY CLUSTER DEVELOPMENT (MDCD) — A development of single-family attached dwellings which is located in the PSC Zone, R-400 Zone or B-2 Zone.

OWNERSHIP — A medium-density cluster development may have attached townhouse units and may be owned as follows:

- (a) Each unit is owned in fee simple along with a percentage of the commonly owned land.
 - (b) All the units are owned and managed by one entity for the purpose of rental and are comprised of a mix of 50% single-family townhouse units and 50% age restricted senior citizen townhouse units.
- (3) Schedule of minimum requirements.
- (a) In order to preserve the existing planning scheme of the creeks of Tuckerton, all MDCD shall be a minimum distance of 200 feet from said creek beds and main arteries, with the exception of access drives, which may be approved by the Planning Board and which shall also apply to recreational areas. "Creeks" are defined as existing natural waterways.
 - (b) Minimum lot area. An MDCD must consist of at least one or more contiguous tracts of land containing not less than five acres.
 - (c) Schedules of limitations. Area, yard and building requirements shall be as specified in the schedule accompanying § 255-7 of this chapter applicable to the PSC Planned Senior Citizens Residential Development District, except that the minimum lot area requirement shall be five acres and the maximum height requirement shall be 2 1/2 stories (30 feet).
 - (d) Unit density per acre. The number of dwelling units to be constructed on a tract of land for medium-density cluster development shall not exceed eight dwelling units per acre of gross area. "Gross area" is defined as the number of acres in the entire tract, excluding land under permanent bodies of water or flowing streams of water.

- (e) Units per structure. The number of dwelling units within each structure in a medium-density cluster development shall not exceed six per structure.
- (f) Maximum bedroom number. No dwelling unit in a medium-density cluster development shall be permitted with more than two bedrooms per unit.
- (g) Bedroom designation. All rooms, exclusive of living rooms, dining rooms, kitchens and bathrooms, which contain 70 square feet or more of floor area shall be considered bedrooms. Any dining room not directly accessible from and adjacent to the kitchen shall also be considered a bedroom.
- (h) Water and sewerage. All dwelling units shall be connected to approved and functioning water and sanitary sources prior to the issuance of a certificate of occupancy.¹²⁴
- (i) Building coverage. Building coverage shall not exceed 20% of the entire tract area. However, where garages for each unit are to be constructed, building lot coverage may be increased to 25% of the entire tract area.
- (j) Width of units. No townhouse dwelling unit shall be less than 17 feet wide.
- (k) Parking.
 - [1] All parking facilities shall be on-site, that is, located upon the same tract of land as the building they are to service.
 - [2] All parking facilities shall be located within 100 feet of the nearest entrance of the building such parking spaces are intended to serve.
 - [3] Parking spaces shall be provided on-site, in areas designed specifically for parking.
 - [4] Parking along interior streets shall be prohibited.
 - [5] The total area devoted to parking shall not exceed 20% of the entire tract.
 - [6] The total aggregate area devoted to both parking and interior streets shall not exceed 35% of the entire tract.
 - [7] Each individual medium-density cluster development unit shall be provided with a minimum of two parking spaces per unit. An attached garage to a dwelling unit shall be counted as parking space.
- (l) On-site improvements. All street improvements, both internal and external, including grading and paving, driveways, parking areas, sidewalks, curbs, gutters, streetlighting, shade trees, water mains, water systems, culverts, storm sewers, sanitary sewers, pumping stations, drainage structures, recreational facilities and such other improvements as may be necessary to protect the public interest shall be installed at the expense of the developer and shall be completed in accordance with Borough ordinances.

124. Editor's Note: See Ch. 122, Certificates of Occupancy, and Ch. 249, Water and Sewers.

- (m) Recreation area. A recreation area for use by the residents of the development shall be constructed by the developer. Land area equal to at least 250 square feet for each dwelling unit shall be specified on the site plan and improved by the developer as active recreation areas. Such areas shall be an integral part of the development, and each shall be at least 10,000 square feet in size, at least 100 feet wide and have a grade less than 5%, with no improvement within 200 feet of creek. Where the medium-density cluster development ownership option for a 50/50 mix is selected, the recreational facilities shall provide activities for all age groups such as but not limited to tot-lots and basketball for the single-family unit activities and tennis, bocce, and shuffleboard for the age-restricted units. These facilities may be located in separate areas throughout the development or may be located in the same area, provided they are separated by buffers which shall include landscaping and fencing. **[Amended 9-16-2002 by Ord. No. 13-2002]**
- (n) Architecture and design. Each dwelling unit and combined complex of dwelling units shall have a compatible architectural theme with variations in design to provide a desirable visual environment through development techniques and good civic design and arrangement and to promote the conservation of open space and valuable natural resources and to prevent the degradation of the environment through improper use of land. The developer shall include in his plans consideration of appropriate landscaping techniques, building orientation to the site and to other structures, topography of the site, natural features of the site and individual dwelling unit design. The design of individual dwelling units shall provide for varying unit widths, staggering unit setbacks, differing exterior materials, changing roof designs, altering building heights and changing types of windows, shutters, doors, porches, colors and vertical or horizontal orientation of the facades, singularly or in combination, for each dwelling unit.
- (o) Soundproofing. All residential buildings shall be designed and constructed with a soundproofing barrier between adjoining units, with a Sound Transmission Class 50 as tested by the American Society for Testing and Materials, E-90. Floor plans of each typical unit shall be required.
- (p) Landscaping. All portions of the tract not utilized by buildings or paved surfaces shall be landscaped utilizing combinations such as landscaped fencing, shrubbery, lawn area, ground cover, rock formations, contours, existing foliage and planting of conifers and/or deciduous trees native to the area in order to either maintain or reestablish the tone of the vegetation in the area and lessen the visual impact of the structures and paved areas. The established grades on any site shall be planned for both aesthetic and drainage purposes. The grading path, drainage facilities and landscaping shall be coordinated to prevent erosion and silting as well as assuring that the capacity of any natural or man-made drainage system is sufficient to handle the water generated and anticipated both from the site and contributing upstream areas.
- (q) Outside drying. No outside area or equipment shall be provided for the hanging of laundry or the outside airing of laundry in any manner. Sufficient area and equipment shall be made available within each dwelling unit for the laundering and artificial drying of laundry of occupants of each dwelling unit.

- (r) Master antenna. No individual exterior television antennas shall be permitted, except that a master antenna for the development shall be permitted.
- (4) Site plan. No conditional use shall be granted under this chapter except as part of a contemporaneous site plan application for review and approval.
- (5) Ownership, preservation and maintenance of common open space. The developer shall make provisions which ensure that the open-space land shall continue as such and be properly maintained in perpetuity. The developer shall utilize the following method to ensure the preservation and maintenance of common open-space land:
 - (a) The developer shall provide for and establish an organization for the ownership and maintenance of all common open-space land. The organization shall be a nonprofit homeowners' corporation.
 - (b) The organization shall be organized by the developer and operated with financial subsidization by the developer, if necessary, before the sale of any units within the development.
 - (c) Membership in the organization shall be mandatory for all residents of the MDCD.
 - (d) The organization shall be responsible for maintenance of insurance and payment of taxes on common open space.
 - (e) The members of the organization shall be responsible for bearing equitably the costs of maintaining and developing common open space in accordance with procedures established by them.
 - (f) The organization shall have or hire adequate staff to administer common facilities and maintain the common open space.
 - (g) In the event that the organization established to own and maintain a common open space, or any successor organization, shall at any time after establishment of the MDCD fail to maintain the common space in reasonable order and condition, and/or in accordance with the development plan, the Borough may serve written notice upon such organization or upon the residents and owners of the MDCD, setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. Said notice shall include a demand that deficiencies of maintenance be cured within 30 days thereof and shall state the date and place of a hearing thereon, which shall be held within 14 days of the notice. At such hearing, the Borough may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within said 30 days or any extension thereof, the Borough, in order to preserve the taxable values of the properties from becoming a public nuisance, may enter upon said common open space and maintain the same for up to one year. Said entry and maintenance shall not vest in the public any rights to use the common open space, the use of which shall be restricted to the residents of the MDCD who are members of the homeowners' corporation, except when the common open space is voluntarily dedicated to the public by the residents and owners and said

dedication is accepted. Before the expiration of the one-year term, the Borough shall, upon its own initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice to such organization or to the residents and owners of the MDCD to show cause why such maintenance by the Borough shall not, at the election of the Borough, continue for a succeeding year. If the Borough shall determine that such organization is not ready and able to maintain said common open space in a reasonable condition, the Borough may, in its discretion, continue to maintain said common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter. The decision of the Borough in any such case shall constitute a final administrative decision subject to judicial review.

- (h) The cost of such maintenance by the Borough shall be assessed ratably against the properties within the MDCD that have a right of enjoyment of the common open space and shall become a tax lien on said properties.
- (i) Provisions of the development plan relating to the use, bulk and location of buildings and structures; the quantity and location of buildings and structures; the quantity and location of common open space; and the intensity of use or the density of residential units shall run in favor of the Borough and shall be enforceable in law or in equity by the Borough without limitation on any power of regulation otherwise granted the Borough by law. The development plan shall specify which of its provisions run in favor of and are enforceable by the residents of the MDCD, and, in addition, the manner in which such residents may modify or release such rights.
- (j) The nonprofit homeowners' corporation shall be incorporated pursuant to the provisions of Title 15 of the New Jersey Statutes. The corporation shall be directed by a Board of Trustees of not fewer than seven nor more than 11 persons. The organization, procedures and duties of officers of the Board of Trustees shall be in accordance with bylaws initially approved by the Planning Board. Said bylaws shall provide a mechanism for amendment by favorable vote of a specified majority.
- (k) The initial Board of Trustees shall be appointed by the developer, and at least one member thereof shall be a resident of the development. In the event that there are not yet any residents at the time of appointment, at least one position shall be reserved for the later appointment of a resident, which appointment shall occur within 90 days of the first day of occupancy by a resident who is other than an employee of the developer.
- (l) The terms of the initial appointees of the Board of Trustees shall be staggered among terms of not less than one year and not more than three years. Thereafter, all appointed or elected terms shall be for a period of three years.
- (m) The developer shall have the exclusive right to nominate and elect the members of the Board of Trustees, or any number thereof, for a period of two years from the date of the first sale or until the occupancy of 75% of all proposed units is effectuated, whichever shall first occur; provided, however, that at least one member of the Board of Trustees shall be a resident of the development.

- (n) After more than 75% of all proposed units in the development are occupied or after two years from the date of the first sale, whichever shall first occur, the replacement of the members of the Board of Trustees who resign or whose terms expire shall be by election by the resident members; provided, however, that the developer shall be assigned at least two seats on the Board of Trustees, to which it may appoint a person of its choice until all the units in the proposed development have been occupied.
- (o) Regardless of the manner in which common open-space land is occupied or developed, all areas of the development which are not occupied by buildings, public streets or other required and/or approved public improvements, or by lots which are plotted for sale, shall be deeded to the homeowners' corporation for maintenance.

§ 255-15. B-1 Village Commercial and Office Professional District. [Amended 10-2-1989 by Ord. No. 16-1989; 9-5-1990 by Ord. No. 17-1990; 4-6-1992 by Ord. No. 4-1992; 8-7-1995 by Ord. No. 12-1995; 12-15-1997 by Ord. No. 9-1997; 5-3-2004 by Ord. No. 5-2004]

The following regulations shall apply in all B-1 Districts:

A. Permitted uses.

- (1) Single-family dwellings.
- (2) Restaurants and other food service establishments.
- (3) Retail establishments (including indoor or outdoor display of goods).
- (4) Personal service shops.
- (5) Business and professional offices.
- (6) Banks.
- (7) Churches and other similar places of worship, parish houses and similar accessory uses subject to conditions specified in Article VI.
- (8) Bed-and-breakfasts.
- (9) Combined residential and commercial uses permitted in this subsection in one structure, provided that the square footage of the residential unit shall not exceed the square footage of the commercial unit, and further provided that all buildings utilizing said mixed or combined uses shall comply with the local fire code.¹²⁵
- (10) Marine supplies and equipment sales.
- (11) Bait and tackle sales.
- (12) Public and private nonprofit schools and institutions of higher learning.

125.Editor's Note: See Ch. 163, Fire Prevention.

- (13) Municipal parks, playgrounds and other such municipal buildings. The minimum land area shall not be less than 1/2 acre.
- B. Permitted accessory uses.
 - (1) Private garages.
- C. Conditional uses. The following uses are defined as conditional uses and may be permitted subject to the requirements as set forth in Article IV.
 - (1) Utility installations.
 - (2) Theaters.
 - (3) Rooming house and boardinghouses and tourist homes.
- D. Area, yard and building requirements.
 - (1) As specified in the schedule¹²⁶ except as modified in Article VI.
 - (2) A minimum landscape area of 10% of the lot area shall be provided.
- E. Off-street parking, loading and vehicular access. Off-street parking space for the use of patrons and employees of a permitted business use shall be provided in accordance with Article VII of this chapter.
- F. Signs: as per Article VIII of this chapter.

§ 255-16. B-2 Highway Business District. [Amended 4-18-1988 by Ord. No. 4-1988; 6-8-1988 by Ord. No. 6-1988; 4-6-1992 by Ord. No. 4-1992; 8-7-1995 by Ord. No. 12-1995; 12-15-1997 by Ord. No. 9-1997]

The following regulations shall apply in all B-2 Districts:

- A. Permitted uses.
 - (1) Churches and similar places of worship.
 - (2) Public schools and institutions of higher education.
 - (3) Public libraries and municipal buildings.
 - (4) Public parks and playgrounds and similar recreation areas not operated for gain.
 - (5) Restaurants and other food service establishments.
 - (6) Retail and wholesale establishments (including indoor and outdoor display of goods).
 - (7) Professional offices.
 - (8) Personal service shops.
 - (9) Business and professional services.

126.Editor's Note: The schedule is included at the end of this chapter.

- (10) Motels and hotels.
 - (11) New car dealership, inclusive of used car sales, provided that outdoor display and storage of used cars is less than half the total car display and storage area.
 - (12) Commercial recreation facilities limited to indoor theaters, tennis and racquetball courts, skating rinks and bowling alleys.
 - (13) Single-family residences.
 - (14) Banks.
 - (15) Nursing homes licensed by the State of New Jersey.
 - (16) Marine supplies and equipment sales.
 - (17) Boat sales.
 - (18) Marine engine sales and repairs.
 - (19) Bait and tackle sales.
 - (20) Residential and commercial combined uses.
- B. Permitted accessory uses.
- (1) Private garages.
- C. Conditional uses. The following uses are defined as conditional uses and may be permitted, subject to the requirements as set forth for each particular use in Article IV.
- (1) Same as those specified for the B-1 District.
 - (2) Gasoline service stations.
 - (3) Medium-density cluster development (MDCD), as per Article III, § 255-14D of this chapter; provided, however, that such conditional use shall not be permitted by cross-reference in any other zoning district.
- D. Area, yard and building requirements: as specified in the schedule, § 255-7 of this chapter, unless modified in accordance with Article VI.
- E. Off-street parking, loading and vehicular access. Off-street parking space for the use of patrons and employees shall be provided as further detailed in Article VII.
- F. Signs: as per Article VIII of this chapter.
- G. Other provisions and requirements.
- (1) Landscaping and buffer requirements.
 - (a) Total landscaped area shall be a minimum of 15% of the total lot area.
 - (b) Wherever the property line of an occupied lot in the B-2 District abuts or is directly across a street from a residential zone, a buffer area of 15 feet is required.

- (c) The entire buffer area shall be planted with grass seed or sod and other shrubbery or trees.

§ 255-17. B-3 Marine Commercial District. [Amended 8-7-1995 by Ord. No. 12-1995; 12-4-1995 by Ord. No. 18-1995; 12-15-1997 by Ord. No. 9-1997; 11-4-2002 by Ord. No. 18-2002]

The following regulations shall apply in all B-3 Districts:

- A. Permitted uses.
- (1) Single-family residences.
 - (2) Marine services, such as dockage, boat landing, boat repairs and marine gasoline stations on docks or bulkheads.
 - (3) Boat sales.
 - (4) Marine engine sales and repairs.
 - (5) Marine supplies and equipment sales.
 - (6) Bait and tackle sales.
 - (7) Shipbuilding yards and ways.
 - (8) Retail fish markets.
 - (9) Outside and indoor storage of boats in conjunction with marine operations.
 - (10) Motels and hotels when associated with marinas.
 - (11) Restaurants and food service establishments.
 - (12) Residential and commercial combined uses when associated with marinas.
 - (13) Seasonal cottages when associated with marinas.
 - (14) Recreational vehicles when associated with marinas.
- B. Permitted accessory uses: no other accessory uses or buildings are permitted with the exception of outdoor storage sheds in accordance with the provisions of § 255-44 of this chapter.
- C. Conditional uses. The following uses are defined as conditional uses and may be permitted subject to the requirements as set forth for each particular use in Article IV.
- (1) Same as those specified for the B-2 District, excluding gasoline service stations which shall not be a conditional use in the B-3 Marine Commercial District.
- D. Area, yard and building requirements: as specified in the schedule, § 255-7 of this chapter, unless modified in accordance with Article VI. Multiple principal structures are permitted on site; however, the maximum building lot coverage shall be 40%.
- E. Off-street parking, loading and vehicular access. Off-street parking spaces for the use of patrons and employees shall be provided as further detailed in Article VII of this chapter.

- F. Signs: as per Article VIII of this chapter.
- G. Other provisions and requirements.
- (1) No gasoline pump, gasoline storage tank or any structure used for storing any fuel or oil shall be situated nearer than 100 feet to adjacent residential or commercial lands except other boatyards and marinas.
 - (2) Said boatyards and marinas may construct a lagoon, provided that the following standards and conditions are compiled with:
 - (a) The lagoon shall be soundly bulkheaded.
 - (b) The edge of said lagoon shall not be within 30 feet of a public street.
 - (c) The plans therefor shall have previously been submitted to the Borough Engineer and certified by him not to involve any unreasonably hazardous conditions with respect to private rights and property or to individuals or to navigation or to increase the risk of damage by storm.
 - (3) Nothing in this section shall be construed to prevent community or neighborhood boat docks or slips, which may be on a cooperative or proprietary basis, provided that they shall offer nothing for sale other than space for wet and dry storage and no repair facilities other than devices of capacity not over three tons for launching and recovering boats.
 - (4) A minimum buffer of 15 feet shall be required adjacent to residential uses. Buffers must be planted with a combination of evergreen and deciduous trees, shrubs, annuals and bulbs. Evergreen plantings must be a minimum height of six feet upon installation. Shrubs must be a minimum of three gallons upon installation.
 - (5) Flat roofs are not permitted. Roofs must have a minimum slope of 3:12.
 - (6) Storage of boats are permitted in front, side or rear yard setbacks.

§ 255-18. B-4 Marine Commercial/Waterfront Cluster District. [Added 9-19-1988 by Ord. No. 15-1988; amended 8-7-1995 by Ord. No. 12-1995; 12-15-1997 by Ord. No. 9-1997]

The following regulations shall apply in all B-4 Districts:

- A. Permitted uses: the same as those specified for the B-3 District.
- B. Permitted accessory uses: the same as those specified for the B-3 District.
- C. Conditional uses. The following uses are defined as conditional uses and may be permitted subject to the requirements as set forth for each particular use in Article IV:
 - (1) The same as those specified for the B-2 District, excluding medium-density cluster development (MDCD) and gasoline service stations which shall not be a conditional use in the B-4 Marine Commercial/Waterfront Cluster District.
 - (2) Waterfront cluster housing (MC/WC).

- D. Area, yard and building requirements: the same as those specified for the B-3 District in § 255-7 of this chapter and the schedule of area, yard and building requirements referred to therein, unless otherwise modified in accordance with Article VI.
- E. Off-street parking, loading and vehicular access: the same as those specified for the B-3 District.
- F. Signs: the same as those specified for the B-3 District.
- G. Other provisions and requirements: the same as those specified for the B-3 District.
- H. The following regulations shall apply in all waterfront cluster housing developments:

(1) Guiding principles.

- (a) Recognizing that waterfront cluster development uses, activities and structures are necessary to serve the needs and provide for the convenience of the citizens of the Borough of Tuckerton and at the same time appreciating the fact that such uses may be or may become inimical to the public health, safety and general welfare of the community if located without due consideration to the existing conditions and surroundings, such uses are designated as conditional uses subject to the standards and regulations hereby established. The standards and regulations which follow herein are intended to provide the Planning Board with a guide for reviewing applications for waterfront cluster development as provided for by this chapter. As a result of the review procedure, the applicant may be required to meet additional standards and regulations imposed by the Planning Board during site plan review which are in keeping with and which shall further the intent of these standards and regulations. Such standards and regulations shall be provided for and maintained as a condition of the establishment and maintenance for any use to which they are a condition of approval.
- (b) It shall be the underlying, basic requirement that, all other provisions notwithstanding, any development application pursuant to the MC/WC provisions shall be required to maintain an equal or greater number of boat slips than existed on the parcel prior to such development.

(2) Definitions. As used in this section, the following terms shall have the following meanings:

OWNERSHIP — A waterfront cluster may have townhouse units in which each unit is owned in fee simple or in which the owner of each individual unit owns his individual townhouse and boat slip along with a percentage of the commonly owned land.

WATER ACCESS — Access to boat dockage facilities. Such boat dockage facilities shall be located on Tuckerton Creek, its tributaries south of Route 9 or upon lagoons.

WATER FRONTAGE — See "water access."

WATERFRONT CLUSTER DEVELOPMENT — A development of single-family attached dwellings which is located on Tuckerton Creek or its tributaries or a lagoon or which otherwise has water frontage.

- (3) Schedule of minimum requirements.
- (a) Boat dockage facilities. Boat dockage facilities shall be contained on site. Boat dockage facilities shall be bulkheaded and have a dock or a slip suitable for docking a personal pleasure craft. Each waterfront cluster development dwelling unit shall be provided with a minimum of one slip. Ownership of each slip shall be by the owner of each waterfront cluster development unit for which it has been constructed, it being the intention of this provision that ownership of each waterfront cluster development unit shall perpetually include ownership of the boat slip constructed to service said unit and that ownership of the slips cannot be separated from the dwelling units.
 - (b) Minimum size of dockage facilities. Each boat dockage facility shall be a minimum of 25 feet for a parallel dock or 15 feet for a perpendicular slip.
 - (c) Minimum lot area. An MC/WC must consist of at least one or more contiguous tracts of land containing not less than two acres in total acreage.
 - (d) Schedules of limitations. The schedule of limitations provided by § 255-7 of the Borough of Tuckerton Code for the B-3 Zone is hereby made a part of this section providing for waterfront cluster development and shall be applicable to all waterfront cluster development construction including but not limited to the standards of minimum yard and bulk requirements.
 - (e) Unit density per acre.
 - [1] Gross density. The number of dwelling units to be constructed on a tract of land for waterfront cluster development shall not exceed the 8.5 dwelling units per acre of gross area. "Gross area" is defined as the number of acres in the entire tract, excluding land under permanent bodies of water or flowing streams of water. In the event that this formula results in a permitted fractional unit, the total shall be rounded up to the nearest whole number.
 - [2] Net density. Notwithstanding the provisions of gross density provided hereinabove by Subsection H(3)(e)[1], the number of dwelling units to be constructed on buildable land within a tract of land to be developed for waterfront cluster development shall not exceed 10 dwelling units per acre of buildable area. "Buildable area" is defined as the number of acres in the entire tract, excluding:
 - [a] Wetland, as defined or regulated by Borough, state or federal regulation.
 - [b] Land under permanent bodies of water or flowing streams of water.
 - (f) Units per structure. The number of dwelling units within each waterfront cluster development structure shall not exceed five per structure. Buildings shall be spaced a minimum of 25 feet between any two buildings.
 - (g) Maximum bedroom number. No waterfront cluster development dwelling shall be permitted with more than two bedrooms per unit.

- (h) Bedroom designation. All rooms, exclusive of living rooms, dining rooms, kitchens and bathrooms, which contain 70 square feet or more of floor area shall be considered bedrooms. Any dining room not directly accessible from and adjacent to the kitchen shall also be considered a bedroom.
- (i) Water and sewerage. All dwelling units shall be connected to approved and functioning water and sanitary sources prior to the issuance of a certificate of occupancy.¹²⁷
- (j) Width of units. No townhouse dwelling unit shall be less than 17 feet wide.
- (k) Parking.
 - [1] All parking facilities shall be on site, that is, located upon the same tract of land as the building they are to service.
 - [2] All parking facilities shall be located within 100 feet of the nearest entrance of the building such parking spaces are intended to serve.
 - [3] Parking spaces shall be provided on site in areas designed specifically for parking.
 - [4] Parking along interior streets shall be prohibited.
 - [5] Each individual waterfront cluster development unit shall be provided with a minimum of two parking spaces per unit. An attached garage to a dwelling unit shall be counted as one parking space. Driveways may not be counted as parking space.
- (l) On-site improvements. All street improvements, both internal and external, including grading and paving, driveways, parking areas, sidewalks, curbs, gutters, streetlighting, shade trees, water mains, water systems, culverts, storm sewers, sanitary sewers, pumping stations, drainage structures, recreational facilities and such other improvements as may be necessary to protect the public interest, shall be installed at the expense of the developer and shall be completed in accordance with Borough ordinance.
- (m) Recreation area. A recreation area for use by the residents of the development shall be constructed by the developer. Land area equal to at least 250 square feet for each dwelling unit shall be specified on the site plan and improved by the developer as active recreation area. Such areas shall be an integral part of the development, and each shall be at least 5,000 square feet in size, at least 50 feet wide and have a grade of less than 5%.
- (n) Architecture and design. Each dwelling unit and combined complex of dwelling units shall have a compatible architectural theme with variations in design to provide a desirable visual environment through development techniques and good civic design and arrangement and to promote the conservation of open space and valuable natural resources and to prevent the degradation of the environment through improper use of land. The developer shall include in his plans consideration of appropriate landscaping techniques, building orientation

127. Editor's Note: See Ch. 122, Certificates of Occupancy.

to the site and to other structures, topography of the site, natural features of the site and individual dwelling unit design. The design of individual dwelling units shall provide for varying unit widths, staggering unit setbacks, differing exterior materials, changing roof design, altering building heights and changing types of windows, shutters, doors, porches, colors and vertical or horizontal orientation of the facades, singularly or in combination for each dwelling unit.

- (o) Soundproofing. All residential buildings shall be designed and constructed with a soundproofing barrier between adjoining units with a sound transmission Class 50 as tested by the American Society for Testing and Materials, E-90. Floor plans of each typical unit shall be required.
 - (p) Landscaping. All portions of the tract not utilized by buildings or paved surfaces shall be landscaped utilizing combinations, such as landscaped fencing, shrubbery, lawn area, ground cover, rock formations, contours, existing foliage and planting of conifers and/or deciduous trees native to the area in order to either maintain or reestablish the tone of the vegetation in the area and lessen the visual impact of the structures and paved areas. The established grades on any site shall be planned for both aesthetic and drainage purposes. The grading plan, drainage facilities and landscaping shall be coordinated to prevent erosion and silting as well as assuring that the capacity of any natural or man-made drainage system is sufficient to handle the water generated and anticipated both from the site and contributing upstream areas.
 - (q) Outside drying. No outside area or equipment shall be provided for the hanging of laundry or the outside airing of laundry in any manner. Sufficient area and equipment shall be made available within each dwelling for the laundering and artificial drying of laundry of occupants of each dwelling unit.
 - (r) Antennas. No exterior antennas shall be permitted.
 - (s) Winterization. Each dwelling unit shall have the ability to be winterized without affecting another unit; for example, if the drain lines and/or waterlines of Unit A run through Unit B, Unit A can still function even if Unit B has no heat and is winterized.
 - (t) Trash and refuse. All trash and refuse shall be kept in metal containers or the equivalent, to prevent scavenging by insects or wildlife.
 - (u) Utilities. All utilities will be installed underground.
 - (v) Fire walls. All residential buildings shall be designed and constructed with a fireproof barrier between adjoining units with a fire rating of a two-hour burn. Such walls shall extend to the roof of the structure.
- (4) Site plan. No conditional use shall be granted under this chapter except as part of a contemporaneous site plan application for review and approval.
- (5) Ownership, preservation and maintenance of common open space. The developer shall make provisions which ensure that the open-space land shall continue as such and be properly maintained in perpetuity. The developer shall utilize the following method to ensure the preservation and maintenance of common open-space land:

- (a) The developer shall provide for and establish an organization for the ownership and maintenance of all common open-space land. The organization shall be a nonprofit homeowners' corporation.
- (b) The organization shall be organized by the developer and operated with financial subsidization by the developer, if necessary, before the sale of any units within the development. After the sale, the developer's obligation shall be reduced ratably according to the number sold.
- (c) Membership in the organization shall be mandatory for all residents of the MC/WC.
- (d) The organization shall be responsible for maintenance of insurance and payment of taxes on common open space.
- (e) The members of the organization shall be responsible for bearing equitably the costs of maintaining and developing common open space in accordance with procedures established by them.
- (f) The organization shall have or hire adequate staff to administer common facilities and maintain the common open space.
- (g) In the event that the organization established to own and maintain a common open space or any successor organization shall at any time after establishment of the MC/WC fail to maintain the common space in reasonable order and condition and/or in accordance with the development plan, the Borough may serve written notice upon such organization or upon the residents and owners of the MC/WC setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. Said notice shall include a demand that deficiencies of maintenance be cured within 30 days thereof and shall state the date and place of a hearing thereon, which shall be held within 14 days of the notice. At such hearing, the Borough may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within said 30 days or any extension thereof, the Borough, in order to preserve the taxable values of the properties within the MC/WC and/or to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for up to one year and assess the cost thereof to the residents proportionally to each unit's share of the common element. Said entry and maintenance shall not vest in the public any rights to use the common open space, the use of which shall be restricted to the residents of the MC/WC who are members of the homeowners' corporation, except when the common open space is voluntarily dedicated to the public by the residents and owners and said dedication is accepted. Before the expiration of the one-year term, the Borough shall, upon its own initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice to such organization or to the residents and owners of the MC/WC to show cause why such maintenance by the Borough shall not, at the election of the Borough, continue for a succeeding year. If the Borough shall determine that such organization is not ready and able to maintain said common open

space in a reasonable condition, the Borough may, in its discretion, continue to maintain said common open space during the next succeeding year and, subject to a similar hearing and determination in each year thereafter. The decision of the Borough in any such case shall constitute a final administrative decision subject to judicial review.

- (h) The cost of such maintenance by the Borough shall be assessed ratably against the properties within the MC/WC that have a right of enjoyment of the common open space and shall become a tax lien on said properties.
- (i) Provisions of the development plan relating to the use, bulk and location of buildings and structures, the quantity and location of buildings and structures, the quantity and location of common open space and the intensity of the use or the density of residential units shall run in favor of the Borough and shall be enforceable in law or in equity by the Borough without limitation on any power of regulation otherwise granted the Borough by law. The development plan shall specify which of its provisions run in favor of and are enforceable by the residents of the MC/WC and, in addition, the manner in which such residents may modify or release such rights.
- (j) The nonprofit homeowners' corporation shall be incorporated pursuant to the provisions of Title 15 of the New Jersey Statutes. The corporation shall be directed by a Board of Trustees of not less than seven nor more than 11 persons. The organization, procedures and duties of officers of the Board of Trustees shall be in accordance with bylaws initially approved by the Planning Board. Said bylaws shall provide a mechanism for amendment by favorable vote of a specified majority.
- (k) The initial Board of Trustees shall be appointed by the developer, and at least one member thereof shall be a resident of the development. In the event that there are not yet any residents at the time of appointment, at least one position shall be reserved for the later appointment of a resident, which appointment shall occur within 90 days of the first day of occupancy by a resident who is other than an employee of the developer.
- (l) The terms of the initial appointees of the Board of Trustees shall be staggered among terms of not less than one year and not more than three years. Thereafter, all appointed or elected terms shall be for a period of three years.
- (m) The developer shall have the exclusive right to nominate and elect members of the Board of Trustees, or any number thereof, for a period of two years from the date of the first sale or until the occupancy of 75% of all proposed units is effectuated, whichever shall first occur; provided, however, that at least one member of the Board of Trustees shall be a resident of the development.
- (n) After more than 75% of all proposed units in the development are occupied or after two years from the date of the first sale, whichever shall first occur, the replacement of the members of the Board of Trustees who resign or whose terms expire shall be by election by the resident members; provided, however, that the developer shall be assigned at least two seats on the Board of Trustees, to which it may appoint a person of its choice until all the units in the proposed development have been occupied.

- (o) Regardless of the manner in which common open space is occupied or developed, all areas of the development which are not occupied by buildings, public streets or other required and/or approved public improvements or by lots which are plotted for sale shall be deeded to the homeowners' corporation for maintenance.

§ 255-19. SV Seaport Village District. [Added 5-3-2004 by Ord. No. 5-2004]

The following regulations shall apply in the SV-Seaport Village District:

A. Permitted uses.

- (1) Restaurants and other food service establishments.
- (2) Retail establishments.
- (3) Personal service shops.
- (4) Business and professional offices.
- (5) Banks.
- (6) Churches and other similar places of worship.
- (7) Combined residential and commercial uses permitted in this subsection in one structure, provided that the square footage of the residential unit shall not exceed the square footage of the commercial unit, and further provided that the requirements of the current fire code shall be followed.¹²⁸
- (8) One-family dwellings.
- (9) Municipal buildings, parks, playgrounds, and other such municipal uses.

B. Permitted accessory uses.

- (1) Private garages.

C. Conditional uses.

- (1) Utility installations.
- (2) Bed-and-breakfast houses and inns.

D. Area, yard and building requirements.

- (1) As specified in the schedule¹²⁹ except as modified in Article VI.
- (2) A minimum landscape area of 10% of the lot area shall be provided where setbacks permit. Planters, benches, and street side trees shall be substituted where front yard setback does not permit landscaping.

128.Editor's Note: See Ch. 163, Fire Prevention.

129.Editor's Note: The schedule is included at the end of this chapter.

- (3) Building appearance and characteristics must match the appearance of other buildings in the Seaport Village District, subject to the recommendation of the Landmarks Commission.
- E. Off-street parking, loading, and vehicular access.
- (1) There will be no parking permitted in the front of the building.
 - (2) Off-street parking for the use of patrons and employees of a permitted business use shall be provided in accordance with Article VII of this chapter.
- F. Signs.
- (1) Signs will follow Article VIII of this chapter.

ARTICLE IV
Conditional Uses

§ 255-20. Purpose of standards.

These standards are intended to provide the Planning Board with a guide for the purpose of reviewing applications for conditional uses as provided for by district. In reviewing an application, the Planning Board may act on site plans submitted to it or may suggest modifications and changes. In approving an application, the Planning Board may require, in addition to features specified, such other features or design, in keeping with the intent thereof, that will further the purpose of these standards and regulations. Such features shall be provided and maintained as a condition of the establishment and maintenance of any use to which they are a condition of approval.

§ 255-21. Public utilities.

- A. Uses such as high-voltage transmission lines, towers and substations, sewage pumping stations, wells and sewage treatment plants, but no service or storage yards, may be permitted. The provisions of this section shall not apply to any existing or proposed building, structure or use or extensions thereof used or to be used by public utilities in furnishing service if, upon petition of the public utility, the Public Utility Commission shall, after public hearing, decide that the present or proposed location in question is reasonably necessary for the convenience and welfare of the public.
- B. The use shall clearly demonstrate the need to serve the health, safety and welfare of the community and surrounding municipalities.

§ 255-22. Philanthropic or charitable uses.

Philanthropic or charitable uses not otherwise specifically permitted by zone or set forth elsewhere in this article, except correctional institutions, may be permitted, provided that the following standards and conditions are complied with. The lot upon which such use is proposed shall conform to the following standards and requirements.

- A. Minimum lot area: two acres.
- B. Minimum front, rear and side yard areas: 50 feet.
- C. Maximum lot coverage: 25%.
- D. Off-street parking space shall be required in accordance with the following standards: Philanthropic and charitable uses, one space for each 400 square feet of gross floor area.
- E. The proposed use will in no way be detrimental to the surrounding property rights and the structure or use proposed will serve a useful purpose in the Borough and otherwise promote the general welfare of its residents.

§ 255-23. Quasi-public buildings and recreation areas.

Quasi-public buildings and recreation areas, including clubhouses, parks and playgrounds, golf courses, swimming pools, tennis courts and such other activities operated by nonprofit

membership organizations, may be permitted, provided that the following standards and conditions are complied with.

- A. The proposed use is to be operated by a bona fide nonprofit organization created solely for the recreation and enjoyment of the members of said organization.
- B. 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 or otherwise adversely affect the value of adjacent properties, that the design of any structures erected in connection with such use is in keeping with the general character of the area, and that sufficient landscaping, including trees, shrubs and lawns, are provided to serve as a buffer, as required by this chapter, between said use and adjoining residential properties and to ensure an attractive appearance for the use.
- C. The property proposed to be occupied by such use shall have a minimum lot area of five acres. Not more than 20% of the land area shall be occupied by the buildings and structures.
- D. No building, structure or active recreation facilities shall be located within 100 feet of an adjacent residential property line.
- E. The maximum membership limit of said organization shall be fixed at the time of application and shall be commensurate to the amount of land to be used and the exact nature of the use. No further expansion of said membership shall be made unless supplemental approval is granted by the Planning Board.
- F. Off-street parking space shall be provided at a ratio of one space for each two memberships permitted under the terms of the conditional use.

§ 255-24. Gasoline filling stations.

- A. The use shall be located on a lot of no less than one acre, and no more than three service stations shall be permitted within one linear mile as measured along existing public streets.
- B. All filling pumps and structures shall be located at least 25 feet from the front, side and rear property lines and at least 50 feet from the boundary of a residentially zoned lot.
- C. The proposed use shall in no way be detrimental to the health, safety and general welfare of the Borough, nor shall it result in a depression of any established property values in the general area.
- D. Prior to the issuance of final site plan approval by the Planning Board, the developer shall first obtain approval of the site plan by the Landmarks Commission in accordance with the criteria of Chapter 187 of the Borough Code. [Added 9-5-1990 by Ord. No. 17-1990]

§ 255-25. Commercial recreation activities.

Commercial recreation uses and activities, limited to miniature golf courses, golf courses, driving ranges and swimming pools, indoor and outdoor tennis and racquetball courts, may be permitted, provided that the following standards and conditions are complied with:

- A. The proposed use shall comply with all yard and area requirements for the B-2 District regardless of the zone in which located.

- B. Whenever the property abuts or is across the street from a residential zone, a buffer area shall be established conforming to the requirements set forth for such areas in the B-2 District.
- C. Any signs to be erected shall conform to the requirements set forth for other uses in the B-2 District in Article VIII.
- D. The proposed use shall in no way be detrimental to the health, safety and general welfare of the Borough, nor shall it result in a depression of any established property values in the general area.
- E. No portion of the outdoor recreation area shall encroach upon the required setbacks.

ARTICLE V
General Regulations

§ 255-26. Compliance required; as-built surveys. [Amended 8-4-2008 by Ord. No. 9-2008]

- A. No building shall hereafter be erected and no existing building shall be moved, structurally altered, added to or enlarged or rebuilt nor shall any land be designed, used or intended to be used for any purpose other than those included among the uses listed as permitted uses in each zone by this chapter and unless it meets the requirements as set forth by the Schedule of Area, Yard and Building Requirements, appended hereto and constituting a part of this chapter; nor shall it be reduced in any manner, except in conformity to the yard, lot area, building location, percentage of lot coverage, required off-street parking space and such other regulations designated in said schedule and this chapter for the zone in which such building or space is located. In the event of any such unlawful encroachment or reduction, such building shall be deemed to be in violation of the provisions of this chapter, and any certificate of occupancy for such building shall thereupon become null and void. Where applicable, no building shall hereinafter be erected and no existing building shall be moved, structurally altered, rebuilt, added to or enlarged, unless said building complies with the requirements of the New Jersey Wetlands Act and Floodplains Act.¹³⁰
- B. A foundation compliance certificate from the Zoning Officer shall be required for all new construction. An as-built survey of the location of the foundation shall be required at the earliest practical time after the foundation work has been completed. This requirement is for all new buildings, substantial improvements, or additions to existing buildings. This survey is to be submitted to the Zoning Officer, with a foundation compliance application and a zoning review fee of \$35.
- C. In flood zones and flood hazard areas, a flood elevation compliance certificate from the Zoning Officer shall be required for all new construction. An as-built flood elevation survey certificate shall be required at the earliest practical time after the foundation work has been completed. This requirement is for all new buildings, substantial improvements or additions to existing buildings. This certificate is to be submitted to the Zoning Officer, with an elevation compliance application and a zoning review fee of \$35.
- D. An applicant may seek relief from either or both the as-built foundation compliance certificate or the as-built flood elevation compliance certificate from the Zoning Officer. The request for relief must be in writing, clearly stating that the applicant understands that continued performance of work shall be at his or her own risk, that no relief will be granted for any nonconformity that may result from the failure to obtain the aforementioned compliance certificates in a timely manner, and that the granting of this relief will still require the submission of an accurate as-built documentation prior to the issuance of a certificate of occupancy. This request is to be submitted to the Zoning Officer with a compliance certificate waiver application and a zoning review fee of \$35.
- E. Applications for compliance certificates and waivers shall be on forms prescribed by the Zoning Officer, setting forth all information required for zoning permits generally.

130. Editor's Note: See N.J.S.A. 13:9A-1 et seq.

§ 255-27. Utility distribution or collection lines excepted.

The provisions of this chapter shall not apply to utility distribution or collection lines for water, gas, sewerage and electric and telephone services which are located in a public street or which provide service to private property; provided, however, that public utilities and authorities shall be subject to the provisions of Article IV for the installation of any facilities except collection or distribution lines.

§ 255-28. Frontage required; principal buildings.

- A. Every principal building shall be built upon a lot with frontage upon a private or public street which has been improved in accordance with the appropriate Borough standards or for which such improvement has been ensured by the posting of a performance guaranty pursuant to the Land Subdivision Ordinance of the Borough of Tuckerton.¹³¹
- B. No residential lot shall have erected upon it more than one principal building except as otherwise provided in this chapter.

§ 255-29. Off-street parking areas.

Off-street parking space shall be provided as specified in Article VII of this chapter and shall be provided with necessary passageways and driveways. All such space shall be deemed to be required space on the lot on which the principal use is situated and shall not thereafter be encroached upon or reduced in any manner. Such parking areas shall be surfaced with a dustless, durable, all-weather pavement, surrounded by concrete curbing, clearly marked for car spaces, except when provided in connection with one-family residential uses, and shall be adequately drained, subject to the approval of the Borough Engineer.

§ 255-30. Sign limitations.

- A. The limitations on signs as set forth in Article VIII of this chapter shall not apply to signs erected by the federal, state, county or municipal government, or agency thereof, nor to any no-trespassing sign erected in accordance with the applicable statutes of the State of New Jersey.
- B. The limitations on sign area as set forth by this chapter for business zones shall not apply to parking lot markers, directional signs and entrance and exit signs which are erected on the premises, provided that each sign does not exceed two square feet in area and does not contain any advertising of the use on the premises, and further provided that the number and location of said signs are approved by the Planning Board.

§ 255-31. Topsoil removal.

No person, firm or corporation shall strip, excavate or otherwise remove topsoil or any other soft material for use off tract unless he shall obtain a permit from the Borough Council as provided in a separate ordinance.

131. Editor's Note: See Ch. 231, Subdivision of Land.

§ 255-32. Yard requirements for accessory buildings.

An accessory building attached to the principal building shall comply in all respects with the yard requirements of this chapter in respect to the principal building. Detached accessory buildings shall be located to the rear of the front building line of the principal building, unless specific provisions of the schedule permit otherwise.

§ 255-33. Yard and open space restrictions.

No yard or other open space provided about any buildings for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space for any other building.

§ 255-34. Irregularly shaped lots.

In the case of irregularly shaped lots, the minimum lot width requirements specified in the schedule shall be measured at the rear line of the required front yard setback parallel to the street line, provided that in no case shall the frontage or the distance between side lot lines at the property line be reduced to less than 20% of the minimum frontage requirement, provided that the requirement for square foot area for the zone in which the lot is located is met.

§ 255-35. Yards.

All yard areas facing on a public street shall be considered as front yards and shall conform to the minimum front yard requirements for the particular zone. The rear yard shall be deemed to be the area opposite the narrower lot frontage, and the remaining lot yard areas shall be side yards.

§ 255-36. Visibility at intersections.

On a corner lot in any residential district, no fence, wall, hedge or other structure or planting more than 2 1/2 feet in height shall be erected, placed or maintained within the triangular area formed by the intersecting street lines and a straight line adjoining said street lines at points which are 25 feet distant from the point of intersection measured along said street lines.¹³²

§ 255-37. Yard encroachments. [Amended 6-3-2013 by Ord. No. 4-2013]

Every part of a required yard shall be open and unobstructed from its lowest level to the sky, except for the ordinary projection of sills, belt courses, chimneys, flues, buttresses, ornamental features and eaves; provided, however, that none of the aforesaid projects shall project into the minimum side yards more than 24 inches. Unroofed entrance porches or terraces which do not rise above the height of the floor level of the ground floor may extend into any yard, provided that the total area of all such porches which extend into such yards does not exceed 300 square feet.

§ 255-38. Proposed street widening.

Where a building lot has frontage upon a street which, in the Official Map or Master Plan of Tuckerton Borough or any official plan or proposal of Ocean County or the State of New Jersey,

132. Editor's Note: See also Ch. 229, Streets and Sidewalks, Art. IV, Visual Obstructions Near Roadways.

is contemplated for right-of-way widening, the required front yard shall be measured from the proposed future right-of-way boundary.

§ 255-39. Previously issued building permits.

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

§ 255-40. Corner lots.

Corner lots shall provide the minimum front yard requirements for the respective zone for both intersecting streets and shall otherwise conform to the standards and conditions of this chapter.

§ 255-41. Setback conflicts.

Whenever a required setback as established by this chapter conflicts with another regulation of this chapter, such as landscaping, screening or such other similar requirements, the greater dimensions or requirements shall apply.

§ 255-42. Height limitations.

The height limitations of this chapter shall not apply to church spires, silos, belfries, cupolas and domes not used for human occupancy nor to chimneys, ventilators, skylights, water tanks, bulkheads and similar features and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purposes they are to serve and then only in accordance with any other governmental regulations.

§ 255-43. Nonconforming lots.

- A. Where two or more abutting nonconforming lots are held in one ownership, either legal or equitable, or subsequently come to be held in one ownership, and said lots are not created by an approved subdivision by the Tuckerton Planning Board, they shall be considered a single lot of record for the purpose of this chapter, and the provisions of this chapter shall not thereafter be circumvented or avoided by the willful sale or conveyance of a part or portion of any parcel or parcels.
- B. Where two or more abutting nonconforming lots are held in one ownership, either legal or equitable, or subsequently come to be held in one ownership, and said lots were created by an approved subdivision by the Tuckerton Planning Board, they shall be called conforming lots of record for the purpose of this chapter, provided that the applicant shall comply with all other provisions of this chapter.
- C. Where the owner of a nonconforming lot created by an approved subdivision by the Tuckerton Planning Board, such lot may be used by said owner as a building site and shall be considered a conforming lot, provided that the required open space and other provisions in this chapter conform to the requirements of the zone in which the lot is located.

§ 255-44. Accessory buildings and uses.

- A. Accessory buildings or structures, except as otherwise permitted in this chapter, shall be subject to the following regulations:
- (1) Where an accessory building or structure is structurally attached to a main building, it shall be subject to and must conform to all regulations of this chapter applicable to the principal building.
 - (2) No detached accessory building or structure shall be located closer than 10 feet to any principal building.
 - (3) No accessory building or structure shall be erected, nor any use be permitted, prior to the establishment or construction of the principal use building and issuance of a certificate of occupancy. **[Amended 4-6-2015 by Ord. No. 1-2015]**
 - (4) Accessory buildings or structures shall not exceed one story or 15 feet in height unless altered by special exception. No habitable area shall be permitted above the first story. See the definition of "building height." **[Amended 12-17-2007 by Ord. No. 17-2007]**
 - (5) Accessory buildings or structures may not occupy more than 30% of a required rear yard.
- B. Accessory uses.
- (1) Professional offices. When such office is combined with a residence, the office shall be the individual office of one member, and one member only, without associates or partners and with office personnel limited to not more than two. The area of said office shall not exceed 50% of the total floor area of the building. This section shall only apply to those professional offices located in a residential zone. **[Amended 4-20-1981 by Ord. No. 2-1981]**
- C. Outdoor storage sheds. **[Added 6-4-2001 by Ord. No. 8-2001; amended 9-18-2006 by Ord. No. 22-2006]**
- (1) "Outdoor storage shed" shall be defined as any structure that is used for storage of personal property, including storage containers, bins or other similar enclosures which are in excess of four feet in height.
 - (2) An outdoor shed shall not exceed 100 square feet. **[Amended 3-21-2016 by Ord. No. 2-2016]**
 - (3) An outdoor storage shed shall be located in any yard area other than the front yard and shall conform with all side and rear yard setbacks of the zone. If, however, the outdoor storage shed is located on a lot which is adjacent to a navigable lagoon area, the outdoor storage shed shall be located within three feet of the existing principal structure and conform with all side and rear yard zoning requirements. The rear deck area may be considered part of the principal structure. The shed, however, must be a minimum of 10 feet from the lagoon mean high line or bulkhead even if attached to an existing structure. A "navigable lagoon" shall be defined as recognized by the United State Army Corps of Engineers or NJDEP applicable regulations.
 - (4) The outdoor shed shall not exceed a building height of 10 feet above existing grade.

- (5) Notwithstanding any provision to the contrary, there shall be no more than one outdoor storage shed per lot, with a total aggregate not to exceed 100 square feet per residential lot. **[Amended 3-21-2016 by Ord. No. 2-2016]**
 - (6) An outdoor shed shall be freestanding and shall not be attached to a permanent foundation; however, all sheds located in flood zones shall be properly restrained to prevent movement in the event of floodwaters. **[Added 3-21-2016 by Ord. No. 2-2016]**
- D. Outdoor pools. **[Added 6-4-2001 by Ord. No. 9-2001]**
- (1) All pools must conform to the following setbacks:
 - (a) Six feet side and rear property line;
 - (b) If on a lagoon or water front, 10 feet from the bulkhead;
 - (c) Ten feet from any street property line;
 - (d) Five feet from a house that is on a foundation or up on piling;
 - (e) Ten feet from a house with a basement.
 - (2) All other requirements from the BOCA National Building Code.
- E. Storage of up to two currently registered boats may be allowed on lots located in the R-50 and R-75 Zones for seasonal storage from September 1 to May 31. Said boats may be allowed to encroach into the front and rear yard setbacks. **[Added 4-6-2015 by Ord. No. 1-2015; amended 2-16-2016 by Ord. No. 3-2016]**

§ 255-45. Outdoor display of goods. [Amended 4-6-1992 by Ord. No. 4-1992]

All commercial, retail and wholesale establishments and businesses which display or offer for sale any goods, wares, motor vehicles, equipment, trailers, boats, shrubbery or merchandise of any kind whatsoever shall comply with the following standards and requirements:

- A. No item for sale shall be displayed, stored or parked, nor shall any vehicle, trailer, stand or movable or immovable display or sales facility be placed, located or parked, in the B-1 or B-2 Zoning Districts closer than 20 feet from any street right-of-way line nor 25 feet from an intersection of two street right-of-way lines, between the hours of 9:00 p.m. (10:00 p.m. daylight saving time) and 6:00 a.m.
- B. No person shall stand, locate, place or park, nor permit or suffer to be located, placed or parked upon any public or private property, any vehicle, trailer, stand, cart or movable or immovable display facility within the business or commercial zoning districts without first having complied with all Borough zoning and land use ordinances. For the purpose of this subsection, any motor vehicle, trailer or movable display facility which remains on one lot for more than one day shall be considered a use of land requiring site plan approval from the Planning Board.
- C. No commercial, retail and wholesale establishment or business shall display or offer goods for sale from a motor vehicle, trailer, cart, stand or movable or immovable display facility without first having obtained site plan approval from the Planning Board.

§ 255-46. Prohibited uses.

The following uses and activities are specifically prohibited in the Borough of Tuckerton:

- A. The use of any premises or building in such a manner that the health, morals, safety or welfare of the community may be endangered specifically in the Borough of Tuckerton.
- B. Floating homes and floating home marinas are hereby prohibited in any zone within the Borough of Tuckerton. No marina shall permit the in-water or out-of-water storage of any floating home. No person, firm or corporation shall operate or cause to be operated a floating home marina or rent, hold out for rent or sell any site or space for the location of a floating home. No marina shall use or permit to be used more than 5% of the total number of its approved boat slips or moorage sites for houseboats. **[Added 8-20-1984 by Ord. No. 10-1984]**

§ 255-47. Open space requirements.

Any land so designated as open space shall conform to the following standards and regulations:

- A. Such land shall not have been mined, dredged or otherwise have had its natural land contours altered or leveled or the existing vegetation removed or destroyed except by prior permission of the Borough of Tuckerton.
- B. No such land so dedicated shall be located in such remote area as to render it unusable for any purpose, including but not limited to scenic, recreation or natural study and function.
- C. Such land, prior to being dedicated for open space, shall not have been used by such person or persons making said dedication for the disposal of debris or fill, nor shall such materials be stored or deposited on said lands during the development of adjoining land.
- D. Not more than 50% of such land dedicated shall be entirely covered by water.

§ 255-48. Garage or yard sales. [Added 12-19-1994 by Ord. No. 20-1994; amended 5-20-2013 by Ord. No. 3-2013]

All outdoor sales of household goods and property, commonly known as "garage or yard sales," shall comply with the following standards and requirements:

- A. All sales shall be conducted on the premises of the person having the sale.
- B. All sales shall be limited in time to no more than the daylight hours of three consecutive days.
- C. Any and all signs posted to identify the time, date or place of such sales, including but not limited to signs or posters with directions regarding the location of the sale, shall be removed by the end of daylight on the day following which the sale ends.
- D. The maximum number of sales per property owner/resident shall be three per calendar year.
- E. All sales shall be in conformance with Borough Code § 255-45.

§ 255-48.1. Storage and placement of construction equipment, construction vehicles and commercial trailers on rights-of-way and residential lots. [Added 10-7-2014 by Ord. No. 9-2014]

- A. The following items are prohibited from being stored or placed upon all rights-of ways within the Borough of Tuckerton: trailers (not attached to a registered vehicle), construction equipment and construction vehicles.
- B. The following items are prohibited from being stored or placed upon all residential lots within the Borough of Tuckerton: commercial trailers, construction equipment and construction vehicles. Exceptions: The foregoing items may remain on a residential lot for which there is an active construction permit for a period not to exceed 30 days or issuance of a certificate of occupancy, whichever occurs first. The thirty-day period may be extended at the discretion of the Construction Official for a period not to exceed 90 days total. For purposes of calculating the time set forth above, the time commences on the day the item is first placed or stored on the premises and continues for 30 consecutive calendar days (or any approved extension) regardless if the item is temporarily removed and returned to the premises. No credit is provided for days in which the item may not be on the premises.
- C. The following items may be placed upon a residential lot upon issuance of a permit by the construction office: temporary storage units, equipment storage boxes and dumpsters. No permit shall issue unless there is an open construction permit issued for the subject property. Permitted items may remain upon said property for the period of time specified in the permit which time shall not exceed 90 days or until issuance of a certificate of occupancy, whichever is earlier:
- D. No storage is permitted on any unimproved lot which is not contiguous with a developed lot under common ownership.
- E. All permitted placement or storage shall comply with the setbacks of the zone in which the property is located.
- F. Definitions. As used in this section, the following terms shall have the meanings indicated:
- COMMERCIAL TRAILER — Any trailer, open or closed, with a surface area in excess of 40 square feet or any trailer bearing a commercial registration.
- CONSTRUCTION EQUIPMENT — Any item used for construction, erection, renovation, remodeling, demolition, landscaping and/or storage including, but not limited to, storage containers, dumpsters, ladders, scaffolding and other similar items.
- CONSTRUCTION VEHICLE — Any wheeled equipment or vehicle, whether self-propelled or towed, and used for construction, erection, renovation, remodeling, demolition, grading, landscaping and/or storage including but not limited to backhoes, bulldozers, compactors, rollers, graders, cranes, excavators, dump trucks, dump trailers, tractors, rolloffs, tar kettles, low bed trailers, wood chippers and other similar items.
- RIGHT-OF-WAY — Improved roads of the Borough of Tuckerton.

§ 255-48.2. (Reserved)¹³³

133. Editor's Note: Former § 255-48.2, Storage of boats, trailers and commercial vehicles, added 9-18-2006 by Ord. No. 21-2006, was repealed 4-6-2015 by Ord. No. 3-2015.

§ 255-48.3. Storage of tractor trailers or commercial trailers. [Added 9-18-2006 by Ord. No. 21-2006]

No tractor-trailers or commercial trailers empowered by truck tractors as defined in N.J.S.A. 39:1-1 shall be stored or used as a storage facility on any property in the Borough except in accordance with a site plan approval or Land Use Board resolution and for a period not to exceed 182 days.

§ 255-48.4. Enforcement. [Added 9-18-2006 by Ord. No. 21-2006]

Sections 255-48.2 and 255-48.3 shall be enforced by the Police Department, Code Enforcement Officer or Zoning or Construction Official of the Borough.

ARTICLE VI

Permitted Modifications and Exceptions**§ 255-49. Height modifications.**

- A. Public and quasi-public buildings, such as schools, churches and other similar permitted institutional uses, may exceed the height limitations of this chapter, provided that such uses shall increase the front, rear and side yards one foot for each foot for which such building exceeds the height limit herein established for such zone in which it is located, and further provided that in no case shall any building have a height greater than 50 feet.
- B. Conditional use permits will be required for all freestanding television or radio towers in excess of 40 feet above ground level. Application for a conditional use permit shall be made to the Planning Board.

ARTICLE VII
Parking, Loading and Vehicular Access

§ 255-50. Off-street parking requirements.

In all zones, in connection with every commercial, professional, residential or any other use, there shall be provided off-street parking spaces and parking lot standards in accordance with the following requirements:

- A. Size and access. Parking spaces open to the general public shall be nine by 18 feet and shall have an aisle width of 24 feet.
- B. All large parking areas shall be paved with bituminous concrete or portland cement and shall be clearly marked and shall include barrier lines, lane lines, directional arrows and stop lines. Small parking areas shall be either bituminous concrete, portland cement or a dust-controlling substance.
- C. Entrance and exit drives shall have a minimum width of 12 feet for those designed for one-way traffic and 18 feet for those carrying two-way traffic.
- D. All access drives shall provide a minimum corner curb radius of five feet.
- E. No driveway shall be located less than five feet from the side property line or within 30 feet of an existing drive on the same property, whichever is greater.
- F. No property having a frontage of less than 100 feet shall have more than one two-way driveway or two one-way driveways on any one street. No property having less than a one-thousand-foot frontage shall have more than two two-way driveways on any one street. Any frontage greater than 1,000 feet may have more than two drives on one street; however, the number, location, size and design shall be subject to approval of the body, agency or official having jurisdiction over the plan.

§ 255-51. Location of parking; safety islands.

Whenever parking is allowed between the front building line and the street line, whether by ordinance or variance, a safety island or raised median shall be provided, separating the public street from the parking area in accordance with the following minimum requirements:

- A. The width of the safety island shall be that width between the proposed street curbline to a point five feet inside the property line.
- B. Safety islands shall be raised a minimum of six inches above the adjacent parking area.
- C. Safety islands shall be topsoiled and seeded or otherwise landscaped, except that they may, in the alternative, be constructed of maintenance-free materials which provide a clear and unmistakable distinction between the parking area and the safety island.
- D. Notwithstanding the use of maintenance-free materials, there shall be provided at least one deciduous tree two inches diameter at breast height and three evergreen-type shrubs for each 600 square feet of island area.
- E. No commercial signs, light standards or other aboveground obstructions other than plantings shall be permitted in the safety islands.

F. All safety islands and landscaped areas shall be enclosed with concrete curbs.

§ 255-52. Small parking areas.

Parking lots having less than 25 spaces shall be designed to provide the following minimum design requirements: not more than one two-way access drive or two one-way access drives on any one street.

§ 255-53. Large parking areas.

Parking lots which have a capacity for parking more than 25 vehicles shall incorporate the following minimum design standards:

- A. All access drives located along one-way streets or divided highways shall be separate one-way drives. Said drives shall be located so that vehicles enter the parking area at the beginning of the property and exit at the far end of the property unless other considerations, such as median opening, dictate otherwise.
- B. A main access drive shall be provided from points of ingress-egress. No parking shall be permitted on the main access drive nor shall it serve as an access aisle to adjacent parking spaces.
- C. Any parking area providing space for more than 300 cars shall, in addition, provide concrete sidewalks within the parking area for pedestrian movement. Sidewalks shall be at least four feet wide and shall be located in such a manner that will prevent them from being blocked by overhanging cars. A portion of any landscaped dividing strip may be used for sidewalk construction.
- D. Landscaped dividing strips or planting areas shall be provided within the parking area in addition to safety islands and screening strips at a minimum area of 10% of the total land area to be developed. The minimum width of said strips or planting areas shall be determined by the affect of vehicle overhang into these areas.

§ 255-54. Landscaping of parking area.

Additional plantings shall be required within the parking area and shall be considered exclusive from any other plantings that may be required for screening, foundation planting or safety islands. The following criteria shall apply for internal landscaping:

- A. Dividing strips.
 - (1) They may be seeded and topsoiled. The use of other maintenance-free material other than topsoil may be permitted if same provides a safe and attractive alternative.
 - (2) They shall be planted with three evergreen shrubs and one deciduous tree of two inches diameter at breast height on each 600 square feet of landscaped area. All trees shall be planted in the dormant state.
- B. Retaining walls and landbanks.
 - (1) In the event that parking is proposed on a lot or site having a slope greater than 10%, regardless of size, it shall be terraced, utilizing retaining walls or properly reinforced landbanks, and providing for adequate safety, stability and drainage. At no

time should a landbank that is not reinforced, or any other earthen material having a greater elevation than the adjacent parking area, have a slope exceeding two to one.

- (2) When retaining walls or landbanks or similar types of earthen material are necessitated adjacent to or within the parking area, they shall be kept in good repair or otherwise maintained so as to keep the parking area free of debris and dirt.

§ 255-55. Screening of refuse area.

- A. Those areas adjacent to or within the parking area designated as refuse storage and pickup shall be properly screened to prevent the unsightly display and the scattering of debris.
- B. The following minimum requirements shall apply:
 - (1) The area shall be surrounded on at least three sides by a solid uniform fence or wall not less than five feet nor more than eight feet in height and maintained in good condition. The wall of an adjacent building may serve as one side. Said fence shall be exempt from the provisions of any ordinance of this municipality regulating the height of fences and requiring permits therefor.
 - (2) The opening in said screening wall or fence shall be so located as to prevent the visual display of refuse from any adjacent parking area or street.

§ 255-56. Screening of equipment or machinery.

- A. When the effective operation of a building or structure or equipment within a building or structure necessitates placing machinery, motors or generators or similar devices for cooling, heating or general purposes, outside, visible from ground level on, they shall be screened from public view. Said screening may consist of any of the following materials:
 - (1) Densely planted evergreen shrubs which shall grow to not less than five feet after one growing season.
 - (2) A solid and uniform fence at least five feet in height on four sides of said equipment.
 - (3) Masonry wall at least five feet in height on four sides of said equipment.
 - (4) Any similar type of solid or uniform screening which will prevent exposure of such equipment to public view.
- B. The above requirements shall not be construed to prevent an opening in any required screening for maintenance purposes. However, any such opening shall be made as inconspicuous as is possible so as not to present any unsightly display of said equipment to public view.

§ 255-57. Number of spaces required. [Amended 5-3-1993 by Ord. No. 7-1993]

- A. Off-street parking spaces shall be provided in the following ratios:

| Use | Number of Parking Spaces |
|---|--|
| Automotive repair, garage or body shop | 1 for each 600 square feet of gross floor area |
| Automotive sales | 1 for each 1,000 square feet of gross floor area for exclusive use of customers |
| Automotive service | 3 for each service bay, exclusive of vehicle service area. In no instance shall there be fewer than 3 off-street parking spaces. |
| Bank, savings and loan association, etc. | 1 for each 300 square feet of gross floor area |
| Bar or cocktail lounge | 1 for each 3 seats/occupants permitted under maximum occupancy limits |
| Barber- and beauty shop | 3 for each chair |
| Bowling alley | 3 for each alley. Other commercial uses within the same building shall be computed separately in accordance with this chapter. |
| Business office | 1 for each 225 square feet of gross floor area |
| Car wash | 5 for employees, plus off-street storage space equal to at least 5 times the number of cars that can be in the wash process at one time. For self-wash or self-service car washes, the requirement for employee parking shall be eliminated. |
| Church, temple or chapel | 1 for each 4 seats in the main auditorium. Where no individual seats are provided, 20 inches of bench shall be considered as 1 seat. |
| Community center or library | 1 for each 200 square feet of gross floor area. |
| Community club, private club, lodge, etc. | 1 for each 100 square feet of gross floor area, plus 1 1/2 for each boat slip where applicable. |
| Dental or medical office | 2 for each doctor, plus 1 for each 300 square feet of gross floor area. |
| Drive-in restaurant | 1 for each 50 square feet of enclosed floor area, plus parking space for each 4 seats |
| Furniture, appliance stores or similar types of uses requiring large amounts of storage | 1 for each 600 square feet up to 4,000, plus 1 for each 1,200 square feet of gross floor area above 4,000 |
| Government, county or municipal office | 4 for each 1,000 square feet of gross floor area |

| Use | Number of Parking Spaces |
|---|--|
| Hardware or auto supply store | 1 for each 600 square feet of gross floor area |
| Hotel or motel | 1 for each rental unit. Each commercial use within the building shall be computed separately according to this section. |
| Laundromat or similar coin-operated cleaning establishment | 1 for each 4 cleaning units or fraction of 4 cleaning units |
| Marina, boatyard or boat sales [Amended 11-4-2002 by Ord. No. 18-2002] | 1 for each boat slip, plus 1 for each employee; where no boat slip exists, 1 for each 300 square feet of gross floor area, plus 1 for each employee |
| Mortuary or funeral home | 1 for every 50 square feet in slumber rooms, parlor and funeral service rooms |
| Personal service establishment | 1 for each 250 square feet of gross floor area, plus 1 for each vehicle used in connection with the business |
| Professional office, such as architectural, clerical, engineering, legal and similar uses | 1 for each 225 square feet of gross floor area |
| Public and private utilities, electrical substation, gas regulator, waterworks, etc. | 1 for each vehicle stored on the premises, plus 1 for each employee on the shift which has the greatest number of employees |
| Restaurant, cafe, diner, etc. | 1 for each 5 seats/occupants permitted under maximum occupancy limits |
| Retail store, except as otherwise specified | 1 for each 200 square feet gross floor area |
| Shopping center | 4 for each 1,000 square feet of gross floor area for centers having less than 100,000 square feet. Shopping centers having more than 100,000 square feet shall provide parking at the rate of 5.5 spaces for each 1,000 square feet of gross floor area. |
| Warehouse, wholesale machinery or large-equipment sales | 1 for each 1,500 square feet of gross floor area, plus spaces to accommodate all vehicles used in connection with the business |

B. In computing the number of the above-required parking spaces, the following rules shall govern:

- (1) Where fractional spaces result, the required number shall be construed to be the nearest whole number.
- (2) The parking space requirements for a use not specifically mentioned herein shall be the same as required for a use of similar nature, as determined by the Planning Board, based upon that use enumerated herein which is most similar to the proposed use. If an applicant does not disclose in the application information sufficient to determine

similarity of a proposed use to an enumerated use to enable the Planning Board to establish rational parking requirements, the Planning Board may, in its discretion, direct the applicant to furnish the Planning Board with such data as may be necessary to enable the Planning Board to establish rational parking requirements.

- (3) Nothing in the above requirements shall be construed to prevent the joint use of off-street parking facilities by two or more uses on the same site, provided that the total of such spaces shall not be less than the sum of the requirements for various individual uses computed separately by the above requirements.
- (4) No part of off-street parking required by a structure or use shall be included as part of an off-street parking requirement of another use, unless substantial proof and assurances are presented and it is determined by the Planning Board that the use of this parking will not be simultaneous.
- (5) None of the off-street parking facilities, as required in this section, shall be required for any existing building or use not now conforming to these requirements, unless said building or use shall be enlarged, in which case the provisions of this section shall apply.

ARTICLE VIII

Signs

[Amended 3-19-1979 by Ord. No. 2-1979; 4-20-1981 by Ord. No. 2-1981; 8-3-2009 by Ord. No. 5-2009]

§ 255-58. Applicability.

Unless prohibited by other Borough ordinances, the erection and maintenance of signs shall be subject to the regulations as set forth in this article. All signs requiring applications must have the proper approval and permitting from the Construction and Zoning Offices, and proper usage fee (if applicable) paid in full before proceeding with the construction and placement of a sign.

§ 255-59. Definitions.

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

BACKLIT SIGN — Any sign which is lit from within the sign structure, with no lighting source visible.

DIRECTIONAL SIGN — Any sign that is designed and erected solely for the purpose of traffic or pedestrian direction that is placed on the property to which or on which the public is directed. Such signs may contain a business or professional name, but no advertising copy. Such design shall not exceed three square feet, except in residential districts where such signs shall not exceed one square foot, and as otherwise specified herein.

DISPLAY AREA — The portion of the sign on which the message should be placed.

FREESTANDING SIGN — Any sign that is not attached to a building structure; is self-supported by a secure sign structure.

POLITICAL SIGN — A temporary sign which advertises candidates for public office or statements on issues for which residents of the Borough are eligible to vote. Political signs shall be removed not later than one week after the election.

PREMISES — Any building within which a permitted commercial use is located, whether such business use occupies the entirety or any portion of the building.

REAL ESTATE SIGN — Any sign pertaining to the sale, lease or rental of lands or buildings.

SIGN — Any device that is intended to provide visual communication to others. A "sign" may have any and/or all of the following elements:

- A. Display area.
- B. Decorative features, such as ornamental flourishes, which are neither part of the display area nor covering for the structure.
- C. Other appurtenances, such as lamps or lighting.

SIGN AREA — The area in square feet of a rectangle drawn so as to include the entire sign face. Any area with any logo, trademark, or otherwise protected design, image or wording shall count towards sign area.

SIGN BILLBOARD — Any commercial sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

SIGN FACE — A plane consisting of the total area of the display area and decorative features as viewed from a point of optimal visibility of the display area and decorative features. No sign shall have more than two sign faces.

SIGN STRUCTURE — Any structure that supports, has supported or is capable of supporting a sign, including decorative cover.

STATIONERY SIGNS — Any sign constructed of paper, cardboard, paperboard, poster board, construction paper and all those similar.

TEMPORARY SIGN — A sign that is made of light material, designated to be removed daily. A temporary sign shall not be homemade, except as is otherwise allowed in this chapter.

§ 255-60. General regulations.

- A. Signs in all zones, whether permitted or nonconforming, shall be kept in good repair, which shall include replacement or repair of broken or malfunctioning structural elements, casings, facings or lighting elements, and the maintenance of legibility. Upon determination that a sign has become structurally unsafe or endangers the safety of the building or the public, the Zoning Officer shall order such sign to be made safe or removed. Such order shall be complied with within 10 days of the receipt thereof by the owner of the building or premises upon which such unsafe sign is affixed or erected.
- B. In residential districts, no stationery signs shall be permitted except for real estate signs not larger than eight square feet, when placed on properties offered for rent or sale, customary signs identifying any building or use permitted under this chapter and signs necessary for public welfare. Directional signs not located on the subject property offered for sale will not be permitted. All residential signs must conform to § 255-63.5.
- C. In the business districts, no stationery signs shall be permitted except for those permitted in the residential districts and signs in accordance with the section on sign area set forth in § 255-63.3 and shall not be exceeded except for as follows:
 - (1) Within a structure having a separate front wall, entry and postal designation, each unit shall be considered a premises; or
 - (2) Where there are multiple uses within a single premises, any business served solely by a separate entrance and having a separate front wall from the primary entrance to the premises may erect a wall mounted sign not to exceed six square feet on the wall on which the entrance is located and within five feet of the entrance.
- D. Projecting signs may extend over the sidewalk or other public way. All signs must maintain a distance of six inches back from any known curb abutments. All signs must be erected at least 9.5 feet above sidewalks. The maximum area shall be 15 square feet. A sign erected in this fashion shall be considered a single sign face, even if lettered on both sides. Sign hanging hardware or sign structure must either be of creative design or simple so as not to detract from the sign but add to the sign's physical appearance.
- E. Advertising display on a building or structure shall be governed by the regulations listed in this article.

- F. Directional signs must have a minimum setback of five feet from any property line, unless it is less than two square feet. All directional signage shall have proper approvals from the Borough.
- G. No sign using red, green, blue or amber illumination in a beam, beacon, spotlight, floodlight or flashing form, resembling emergency lights, shall be erected in any location.
- H. No sign that fails to conform to these regulations shall be rebuilt, repaired, enlarged, changed or moved. Preexisting nonconforming signs protected by the provisions of N.J.S.A. 40:55D-68 may be restored, repaired or rebuilt to their present size, in their present location.
- I. No sign, except temporary signs and political signs, shall be erected or maintained prior to the approval of the size, location and design by the Zoning Official and the issuance of a permit.
- J. Signs governed by the USDOT Manual of Uniform Traffic Control Devices for Motor Vehicles, Pedestrian Safety and USADA Compliance shall be permitted.
- K. No signs of any type shall be placed in, or in any way restrict the view in, the sight triangle of any public street or public or private driveway.

§ 255-61. Prohibited signs.

The following are prohibited in all zones:

- A. Any sign which does not advertise a permitted business or use located on the same premises.
- B. Roof signs and signs extending above the wall to which they are attached.
- C. Permanent marquees extending over the sidewalk beyond the street line.
- D. Signs posted on fences, posts, utility poles or trees.
- E. Signs posted on Borough property, except where specifically authorized by the Borough Council.
- F. Signs installed or painted on sidewalks or curbs.
- G. Signs using mechanical or electrical devices or wind to revolve, flash or display movement or the illusion of movement or to spell alternating messages or images.
- H. Signs on abutments, retaining walls or embankments.
- I. Wall signs painted directly on buildings which obstruct any windows.
- J. Pylon signs, except as permitted herein.
- K. Signs that constitute a hazard to the traveling public by obstructing driving vision, regulatory directional signage or signals.
- L. Automobile trailers, attached or unattached, or vehicles of any nature bearing signs or advertisements, parked or left stationary for more than 24 hours upon any vacant land or

- public street, or parked between the hours of 9:00 p.m. and 7:00 a.m. in any residential zone.
- M. Signs using any lighting or control mechanism that may cause radio or television interference.
 - N. Illuminated signs where the source of light is directly visible from adjoining properties or streets.
 - O. Banners except as detailed in § 255-62F of this chapter.
 - P. No provision contained herein shall be construed to prohibit signs, not larger than two feet by two feet, that issue warnings or safety messages, such as, but not limited to, "no hunting," "no trespassing," "beware of dog" or traffic directional signs.
 - Q. All temporary signs, except as set forth herein.
 - R. Signs containing profane or obscene language.
 - S. Neon "open" signs.

§ 255-62. Temporary signs and banners.

- A. Not more than one temporary sign shall be permitted on any lot identifying architects, engineers, builders, brokers, contractors or others connected with the construction of any building or structure on such lot. No signs shall be displayed beyond the effective date of any certificate of occupancy affecting the premises. Unless affixed to the principal building, such signs shall not exceed eight square feet in area, and must be set back 10 feet from the property line.
- B. One temporary sign may be erected or installed on each road front or lagoon bulkhead without a permit announcing that the property on which it is located is for sale or rent. Such sign shall not exceed eight square feet. The sign shall be set back a distance equal to 1 1/2 times its area in square feet. The "for sale" or "for lease" sign shall be removed within seven days following the completion of the transaction.
- C. One sign may be installed, with the issuance of a permit, for the announcement of grand opening or business closure, and use of rope (streamer type) flags (with a state-issued going-out-of-business permit). The sign display shall not exceed 30 days of total consecutive signage for any of the above purposes. At the end of 30 days, all signage must be removed by business owner.
- D. No temporary sign shall be permitted that is homemade in construction as outlined in prohibited signs section of the article,¹³⁴ except yard sale or garage sale signs which are permitted to be placed for a maximum of three days. Yard or garage sale signs must be less than two square feet and must be located at least five feet from any property line.
- E. Flags shall be festive in design and creative in use. No flag shall be used that relays a message other than "open" or "welcome," such as "grand opening," "open for business," "closed," "going out of business," and any flag not mentioned, roped (streamer type) flags or flags connected together to form a line. Acceptable individual flags are American flags,

134. Editor's Note: See § 255-61, Prohibited signs.

"open" flags, "welcome" flags, seasonal flags or flags that use pictures to describe what type of business is located inside. Individual flag size shall not exceed three feet by five feet or 15 square feet. Flags shall not interfere with public flow of traffic or other businesses. Flags shall not block windows and doors. No more than two flags are permitted to be flown simultaneously for single occupancy commercial spaces, and up to four flags for multiple occupancy commercial spaces. The American flag may be flown at any time in accordance with proper flag etiquette.

- F. Banners are permitted for use by the Borough and its approved committees or organizations to advertise events, attractions and to provide visual vitality.
- G. Any sign displayed and not in compliance with § 255-62 of this chapter may be removed by the Borough and properly disposed of.

§ 255-63. Political signs.

Temporary political signs shall be permitted in all zones for a period of two months prior to a primary, general or special election and for one week thereafter. The sign shall not exceed 32 square feet.

§ 255-63.1. Window lettering and window signs.

Window lettering and window signs shall be permitted only in the commercial zones: Seaport Village, B-1, B-2, B-3 and B-4. For the purpose of enforcing this chapter, window lettering and signs shall be subject to the following restrictions:

- A. All window lettering and signs shall be considered as a sign as defined in this chapter.
- B. Permanent window lettering or signs shall be permitted only if the rectangle or circle confining such lettering or sign or the background upon which it appears does not exceed 20% of the window area and further, that no window sign shall exceed the total window area permitted for a sign. Any painted area of any window shall be construed as window lettering or signs, whether or not such area actually contains lettering or background advertising.
- C. Window letters can be no greater than eight inches high.
- D. Interior hung panels fall under the same category.
- E. Temporary window lettering or signs advertising special sales or events shall be removed within seven days following the advertised event or within 30 days after affixing of the same, whichever is earlier. Such temporary window lettering or signs, in conjunction with any permanent window lettering shall not cover more than 50% of the window area nor exceed the area permitted for a sign. Only one temporary window sign or lettering per calendar quarter is permitted.
- F. All window lettering must be approved and permitted through the Zoning Office.
- G. The following window lettering and signs are specifically prohibited:
 - (1) Those having an exterior source of illumination that is not permanently installed in accordance with the National Electrical Code.

(2) Moving signs.

- H. All window lettering and signs shall be kept in good repair.
- I. The Zoning Officer shall have the authority to order the removal of any window lettering or sign that does not conform to these specifications. Any owner or tenant not complying within 10 days of such order shall be in violation of the provisions of this chapter and subject to the penalties set forth herein.

§ 255-63.2. Freestanding signs.

Freestanding signs shall not be permitted without special consideration given to each application received due to the diversity of setbacks that exist in various zones. Freestanding signs shall not be permitted where they pose hazards to the public. Freestanding signs must be approved by the Zoning Official. The following standards will apply where a freestanding sign is permitted:

- A. Signs can be no larger than 10% of the building facade fronting the roadway, or 50 square feet in area and a maximum of 10 feet wide or five feet high measuring from the surrounding grade to the top of the sign, for single occupancy commercial spaces, or up to 100 square feet in area and a maximum of 10 feet wide or 10 feet high measuring from the surrounding grade to the top of the sign, for multiple occupancy commercial spaces. Whichever is smaller shall take precedence.
- B. A freestanding sign may be backlit.
- C. In the Historic Landmarks District, and the Seaport Village District, a freestanding sign shall incorporate special design attributes if it is to be lit, such as downturned gooseneck lighting, shadow box lighting, projection box lighting which consists of a fluorescent tube shielded from sight, aiming the light onto the sign. All illuminated signage must have proper electrical permits. Signs in these districts must comply with the use of the suggested sign styles and shapes and sign enhancement features as set forth in Schedule A of this article, which is on file with the Borough Clerk and which is incorporated herein by reference, as well as conform to the colors shown for background colors, lettering colors, and lettering style as set forth in Schedule A. Any proposed sign that does not conform to these Schedules must have the Landmarks Commission approval, and the issuance of its certificate of appropriateness, prior to application to the Zoning Office.
- D. The use of A-frame sidewalk signs or sandwich board signs will be permitted and are permitted in the Seaport Village District, Landmarks District, B-1, B-3 and B-4 Districts and must follow the guidelines set forth herein.
- (1) The sign shall be no larger than two feet wide by three feet high, generally in keeping with Schedule A, thoughtful and of sturdy construction.
 - (2) The sign shall not be illuminated and must be taken down at the end of the business day.
 - (3) The sign shall be placed out of the main flow of pedestrian traffic, in front of the building associated with the A-frame sign.
 - (4) No permit is needed.
 - (5) There shall be a limit of one A-frame sidewalk sign per building or lot.

§ 255-63.3. Wall signage.

The maximum sign area is 100 square feet with a maximum height of three feet, or 10% of the wall area of the building it is attached to; whichever is smaller shall take precedence. This type of signage shall be permitted only in the Seaport Village, B-1, B-2, B-3 and B-4 Zones.

- A. Building wall sign letters shall be less than 15 inches tall, filling no more than 60% of the sign surface area.
- B. Wall lighting for building wall signs must follow the same lighting standards as freestanding sign lighting.
- C. Wall signs in the Historic Landmarks District, and the Seaport Village District shall conform to § 255-63.6 of this chapter.

§ 255-63.4. Permits.

- A. No sign shall be erected, enlarged or relocated except in accordance with the provisions of this section and until a permit has been issued.
- B. All applications for sign permits shall be submitted directly to the Zoning Officer for review and approval. The approved design must then be forwarded to the Construction Department for permitting and final approvals. Such applications shall be accompanied by sketches and scaled drawings showing details of construction, design, supports and attachments and shall delineate the size, shape, design, coloring, lettering, lighting and position in relation to the building from or upon which it shall be displayed.
- C. In addition, the issuance of a sign permit hereunder shall not relieve the owner or the lessee of the premises from the duty to apply for a construction permit, if required by the Uniform Construction Code, nor relieve the permittee from the duty of maintaining any structure in a safe condition.
- D. The following signs shall be permitted without the required sign permit:
 - (1) Signs designating entrance to or exit from parking areas for institutional public use, limited to one sign with the maximum area of two square feet for each such exit or entrance. One additional sign per parking area designating the conditions of use or identity thereof, with a maximum area of four square feet, shall be permitted.
 - (2) Signs identifying the names of schools, colleges, churches or other similar public or semipublic institutions, provided that:
 - (a) The area of any freestanding sign shall not exceed 10 square feet and not more than one such sign shall be placed along any street on which such property fronts.
 - (b) Not more than two additional such signs may be located on the walls of any structures on the site. The area of such signs shall not exceed the lesser of 25 square feet or 2% of the area of the wall to which it is affixed. The wall area shall be measured from the ground level to the bottom of the roof eaves and from one side of the building to the other.
 - (3) Any sign erected by the Borough, county, state or federal government.

- (4) Signs used for protection of the public during construction, repairs or emergencies.

§ 255-63.5. Signs in residential districts.

Only the following signs shall be permitted in any residential district:

- A. In residential districts, no stationery signs shall be permitted, except for real estate signs not larger than eight square feet, when placed on properties offered for rent or sale, and customary signs identifying any building or use permitted under this chapter.
- B. Signs of a temporary nature which direct attention to the sale of new lots, homes or dwelling units in a residential development shall be permitted, provided that the total area of such signs shall not exceed 32 square feet, and the signs are not closer than 10 feet to the front property line and are removed immediately upon the sale or occupancy of the last lot or house or dwelling unit in such development.
- C. One home occupation announcement sign not over two square feet in area for each dwelling unit conducting a lawfully operating home occupation. Such signs shall not be illuminated.
- D. One professional office announcement sign not over two square feet in area for each lawfully operating professional office.
- E. Yard sale signs as detailed in § 255-62.

§ 255-63.6. Seaport District and Landmarks District.

All signs within the designated district must be in keeping with the area, style and architecture of the property on which it is placed. The Construction Official shall refer any application for a sign to the Land Use Board for its approval prior to the issuance of a permit. The Land Use Board shall refer any application for a sign to the Landmarks Commission for its comment prior to issuing a permit in the Landmarks District. Real estate signs are exempt from this requirement.

§ 255-63.7. Enforcing Officer.

The Construction Officer, the Code Enforcement Officer, the Zoning Officer, all Borough Inspectors and the Borough Police Department shall enforce the provisions hereof.

ARTICLE IX
Nonconformance

§ 255-64. Extension or enlargement.

- A. A nonconforming use of a structure, a nonconforming use of land or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this chapter by attachment on a building or premises of additional signs intended to be seen from off the premises or by the addition of other uses of a nature which would be prohibited generally in the zone involved.
- B. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been diligently carried on.

§ 255-65. Continuance.

Upon the adoption or amendment of this chapter, if a lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued as long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption.
- B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption of this chapter.
- C. If any such nonconforming use of land ceases for any reason for a period more than 10 years, any subsequent use of such land shall conform to the regulations specified by this chapter for the zone in which subject land is located. **[Amended 3-19-1979 by Ord. No. 2-1979]**

§ 255-66. Nonconforming structures.

Where a lawful structure exists at the effective date of adoption of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, years or other characteristics of the structure or its location on the lot, such structure may be continued as long as it remains otherwise lawful, subject to the following provisions:

- A. No such structure may be enlarged or altered in a way which increases its nonconformity.
- B. Should such structure be partially destroyed by any means, said structure can be restored or repaired, provided that there is compliance with the provisions of § 255-65 of this chapter. **[Amended 4-20-1981 by Ord. No. 2-1981; 7-6-1992 by Ord. No. 11-1992]**
- C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone in which it is located after it is moved.

§ 255-67. Repairs and maintenance.

- A. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement

of nonbearing walls, fixtures, wiring or plumbing, provided that the cubic content of the building as it existed at the time of passage or amendment of this chapter shall not be increased.

- B. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

ARTICLE X
Administration

§ 255-68. Enforcement. [Amended 3-19-1979 by Ord. No. 2-1979]

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

§ 255-69. Certificates and permits.

- A. Conditional use permits. Applications for any conditional use permit as permitted by this chapter shall be made to the Planning Board. In approving any such application, the Planning Board may impose any conditions that it deems necessary to accomplish the reasonable application of the standards as provided in Article IV and may deny any such application not in accordance with said standards.
- B. Certificate of occupancy.¹³⁵ **[Amended 3-19-1979 by Ord. No. 2-1979]**
- (1) Certificates of occupancy shall be issued by the Code Enforcement Officer in the manner prescribed in the Borough Building Code¹³⁶ and shall be signed by the Code Enforcement Officer.
 - (2) Upon serving of notice, by the Code Enforcement Officer to the owner, of any violation of any of the provisions or requirements with respect to any building or use thereof or of land, as specified in this chapter, a new certificate of occupancy¹³⁷ shall be required for any further use of such building or land.
- C. Zoning permits. Zoning permits shall hereafter be secured from the Zoning Inspector's office prior to the issuance of a building permit for the construction, erection or alteration of a structure or sign or part of a structure or upon a change in the use of a structure or land. **[Amended 3-19-1979 by Ord. No. 2-1979]**
- D. Temporary use permits. It is recognized that it may be in accordance with the purpose of this chapter to permit temporary activities for a limited period of time, which activities may be prohibited by other provisions of this chapter. If such uses are of such a nature and are so located that, at the time of petition, they will in no way exert a detrimental effect upon the uses of land and activities normally permitted in the zone, and they will contribute materially to the welfare of the Borough, particularly in a state of emergency, under conditions peculiar to the time and place involved, then the Board of Adjustment may, subject to all regulations for the issuance of use permits elsewhere specified, direct the Building Inspector or Zoning Officer, as applicable, to issue a permit for a period not to exceed six months. However, such a permit for a temporary construction trailer may be

135.Editor's Note: See Ch. 122, Certificates of Occupancy.

136.Editor's Note: See Ch. 107, Building Construction, and Ch. 132, Construction Codes, Uniform.

137.Editor's Note: See Ch. 122, Certificates of Occupancy.

issued by the Building Inspector or Zoning Officer as appropriate. The Building Inspector or Zoning Officer may issue this permit provided that various requirements established by checklist of the Tuckerton Zoning Offices are met. Should the applicant not meet the requirements of the checklist, then application to the Board of Adjustment is required. Such a permit may not be issued for a period longer than six months. Further, in the event that such a permit is needed for a trailer on a temporary basis until construction of a residence or other building is completed, said trailer must be removed within 30 days after issuance of a certificate of occupancy¹³⁸ for the permanent construction. In the event that a storage or construction trailer is needed for a period after six months, after the initial six months period has expired, the applicant must apply to the Board of Adjustment for a permit for any period longer than the initial six-months approved by the Building Inspector or Zoning Officer. It is recommended that all applicants contact their appropriate insurance carrier to determine whether any extent of any homeowners and property insurance will apply to any temporary storage or construction trailers. **[Amended 12-7-1998 by Ord. No. 15-1998]**

- E. Fee schedule. **[Added 12-4-1989 by Ord. No. 26-1989; amended 5-2-2005 by Ord. No. 3-2005; 5-2-2011 by Ord. No. 9-2011]**
- (1) Zoning permit application: \$35.
 - (2) Foundation as-built review: \$35.
 - (3) Flood elevation certificate as-built review: \$35.
 - (4) Interpretation of zoning application or map: \$50.
 - (5) Letter of interpretation: \$150.
 - (6) Certificate of compliance: \$150.
 - (7) Certificate of preexisting nonconformity: \$150.
 - (8) New home/substantial improvement zoning permit: \$200.
 - (9) Commercial tenant change/commercial change of use: \$200.
 - (10) Resolution compliance (post-certificate of occupancy) enforcement fee: \$400.

§ 255-70. Violations and penalties.

- A. Any owner, contractor, agent or any person or corporation who shall violate any of the provisions of this chapter or fail to comply therewith or with any of the requirements thereof, or who shall erect, structurally alter, enlarge, rebuild or move any building or buildings or any structure, or who shall refuse reasonable opportunity to inspect any premises, shall be subject, upon conviction, to a fine of not more than \$500 or to imprisonment for not more than 90 days, or to both such fine and imprisonment. Each and every day such violation continues shall be deemed a separate and distinct violation.
- B. The owner of any building or structure, lot or land or part thereof in or on which anything in violation of this chapter shall be placed or shall exist, and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted

138. Editor's Note: See Ch. 122, Certificates of Occupancy.

in the commission of any such violation, shall be guilty of a separate offense and, upon conviction thereof, shall each be liable to the fine or imprisonment, or both, hereinbefore specified.

§ 255-71. Amendability.

The Borough Council of the Borough of Tuckerton may, at any time, after a public hearing, add to or amend any portion of this chapter in accordance with N.J.S.A. 40:55D-1 et seq.

Derivation Table**Chapter DT****DERIVATION TABLE****Disposition List****Chapter DL****DISPOSITION LIST****§ DL-1. Disposition of legislation.**

| Adoption | | | |
|-----------------|-------------|--|--------------------|
| Ord. No. | Date | Subject | Disposition |
| 15-2004 | 7-7-2004 | Economic Development Committee amendment | Ch. 21 |
| 1-2005 | 2-23-2005 | Pride and Celebration Committee | Ch. 65 |
| 2-2005 | 5-2-2005 | Land use procedures amendment | Ch. 45 |
| 3-2005 | 5-2-2005 | Zoning amendment | Ch. 255 |
| 5-2005 | 5-2-2005 | Rental property amendment | Ch. 122, Art. I |
| 6-2005 | 5-2-2005 | Environmental Commission amendment | Ch. 26 |
| 13-2005 | 6-6-2005 | Water and sewers amendment | Ch. 249 |
| 19-2005 | 10-3-2005 | Adoption of Code | Ch. 1, Art. I |
| 20-2005 | 10-3-2005 | Wildlife feeding | Ch. 253 |
| 21-2005 | 10-3-2005 | Improper disposal of waste | Ch. 217, Art. I |
| 22-2005 | 10-3-2005 | Pet waste | Ch. 93, Art. II |
| 23-2005 | 10-3-2005 | Littering amendment | Ch. 193 |
| 24-2005 | 10-3-2005 | Containerized yard waste | Ch. 223, Art. III |
| 25-2005 | 10-3-2005 | Solid waste amendment | Ch. 223 |
| 26-2005 | 11-7-2005 | Property offenses | Ch. 201, Art. IV |
| 27-2005 | 11-7-2005 | Construction and maintenance | Ch. 229, Art. IV |
| 28-2005 | 11-7-2005 | Vehicles and traffic amendment | Ch. 246 |
| 29-2005 | 11-7-2005 | Obstruction of streets | Ch. 229, Art. V |
| 30-2005 | 11-7-2005 | Docks and wharves amendment | Ch. 142 |
| 1-2006 | 2-6-2006 | Environmental Commission amendment | Ch. 26 |

| Adoption | | | |
|-----------------|-------------|---|----------------------------|
| Ord. No. | Date | Subject | Disposition |
| 2-2006 | 3-6-2006 | Uniform construction codes amendment | Ch. 132 |
| 6-2006 | 3-20-2006 | Subdivision of land amendment | Ch. 231 |
| 7-2006 | 4-17-2006 | Trees | Ch. 244 |
| 11-2006 | 8-20-2006 | Site plan review amendment; subdivision of land amendment | Chs. 220 and 231, Art. III |
| 12-2006 | 7-3-2006 | Water and sewers amendment | Ch. 249 |
| 14-2006 | 7-17-2006 | Police Department amendment | Ch. 64 |
| 18-2006 | 8-21-2006 | Land use procedures amendment | Ch. 45 |
| 20-2006 | 9-18-2006 | Flood damage prevention | Ch. 166 |
| 21-2006 | 9-18-2006 | Zoning amendment | Ch. 255 |
| 22-2006 | 9-18-2006 | Zoning amendment | Ch. 255 |
| 2-2007 | 3-5-2007 | Flood damage prevention amendment | Ch. 166 |
| 8-2007 | 5-21-2007 | Affordable housing: development fees | Ch. 80, Art. I |
| 13-2007 | 8-20-2007 | Waterways Commission | Ch. 250 |
| 14-2007 | 9-5-2007 | Pride and Celebration Committee amendment | Ch. 65 |
| 15-2007 | 12-17-2007 | Site plan review amendment | Ch. 220 |
| 16-2007 | 12-17-2007 | Subdivision of land amendment | Ch. 231 |
| 17-2007 | 12-17-2007 | Zoning amendment | Ch. 255 |
| 18-2007 | 12-17-2007 | Other officers and employees amendment | Ch. 60, Art. V |
| 1-2008 | 3-3-2008 | Uniform construction codes amendment | Ch. 132 |
| 2-2008 | 3-3-2008 | Plumbing Inspector amendment | Ch. 60, Art. VI |
| 3-2008 | 3-3-2008 | Other officers and employees amendment | Ch. 60, Art. V |
| 6-2008 | 7-7-2008 | Water and sewers amendment | Ch. 249 |
| 8-2008 | 7-21-2008 | Solid waste: recycling; debris recovery plan | Ch. 223, Arts. II, IIA |
| 9-2008 | 8-4-2008 | Zoning amendment | Ch. 255 |
| 11-2008 | 11-17-2008 | Property maintenance: International Property Maintenance Code | Ch. 210, Art. III |
| 12-2008 | 12-1-2008 | Waterways Commission amendment | Ch. 77 |

Adoption

| Ord. No. | Date | Subject | Disposition |
|-----------------|-------------|---|--------------------|
| 14-2008 | 12-15-2008 | Vehicles and traffic amendment | Ch. 246 |
| 15-2008 | 12-15-2008 | Towing and storage | Ch. 242 |
| 16-2008 | 12-15-2008 | Municipal Engineer amendment | Ch. 60, Art. II |
| 17-2008 | 12-15-2008 | Municipal Tax Collector; Deputy Tax Collector amendment | Ch. 60, Art. III |
| 5-2009 | 8-3-2009 | Zoning amendment | Ch. 255 |
| 7-2009 | 9-8-2009 | Municipal Tax Collector; Deputy Tax Collector amendment | Ch. 60, Art. III |
| 9-2009 | 9-21-2009 | Recycling | Ch. 223, Art. II |
| 10-2009 | 10-5-2009 | Landmarks preservation amendment | Ch. 187 |
| 12-2009 | 11-16-2009 | Municipal Housing Liaison | Ch. 60, Art. VII |
| 13-2009 | 12-7-2009 | Land use procedures amendment | Ch. 45 |
| 3-2010 | 3-1-2010 | Subdivision of land amendment | Ch. 231 |
| 4-2010 | 3-15-2010 | Streets and sidewalks: construction and maintenance amendment | Ch. 229, Art. IV |
| 5-2010 | 5-3-2010 | Administration of government amendment | Ch. 6 |
| 6-2010 | 5-3-2010 | Court amendment | Ch. 15 |
| 7-2010 | 5-3-2010 | Court amendment | Ch. 15 |
| 8-2010 | 5-3-2010 | Other officers and employees amendment | Ch. 60, Art. V |
| 10-2010 | 5-3-2010 | Administration of government amendment | Ch. 6 |
| 16-2010 | 7-6-2010 | Water and sewers amendment | Ch. 249 |
| 18-2010 | 8-2-2010 | Administration of government amendment | Ch. 6 |
| 22-2010 | 9-7-2010 | Refuse containers and dumpsters | Ch. 223, Art. IA |
| 23-2010 | 9-7-2010 | Private storm drain inlet retrofitting | Ch. 166, Art. II |
| 24-2010 | 11-1-2010 | Public records and documents amendment | Ch. 66 |
| 27-2010 | 12-6-2010 | Waterways Commission amendment | Ch. 77 |
| 4-2011 | 4-4-2011 | Docks and wharves amendment | Ch. 142 |
| 5-2011 | 5-2-2011 | Recycling Coordinator | Ch. 60, Art. VIII |
| 6-2011 | 5-2-2011 | Trees amendment | Ch. 244 |

| Adoption | | | |
|-----------------|-------------|---|---|
| Ord. No. | Date | Subject | Disposition |
| 8-2011 | 5-2-2011 | Other officers and employees amendment; Plumbing Inspector repealer; building construction repealer; Uniform Construction Codes amendment | Ch. 60, Art. V; Ch. 60, Art. VI, reference only; Ch. 107, reference only; Ch. 132 |
| 9-2011 | 5-2-2011 | Zoning amendment | Ch. 255 |
| 12-2011 | 9-6-2011 | Land use procedures amendment | Ch. 45 |
| 13-2011 | 10-17-2011 | Water and sewers amendment | Ch. 249 |
| 14-2011 | 11-7-2011 | Public records and documents amendment | Ch. 66 |
| 16-2011 | 12-19-2011 | Land use procedures amendment | Ch. 45 |
| 1-2012 | 2-6-2012 | Pride and Celebration Committee amendment | Ch. 65 |
| 9-2012 | 10-5-2012 | Brush, grass and weeds amendment | Ch. 103 |
| 10-2012 | 12-3-2012 | Flood damage prevention amendment | Ch. 166, Art. I |
| 12-2012 | 12-3-2012 | Other officers and employees amendment | Ch. 60, Art. V |
| 1-2013 | 4-1-2013 | Flood damage prevention amendment | Ch. 166, Art. I |
| 3-2013 | 5-20-2013 | Zoning amendment | Ch. 255 |
| 4-2013 | 6-3-2013 | Zoning amendment | Ch. 255 |
| 5-2013 | 6-3-2013 | Flood damage prevention amendment | Ch. 166, Art. I |
| 6-2014 | 8-19-2014 | Peace and good order: smoking prohibited | Ch. 201, Art. V |
| 7-2014 | 8-19-2014 | Peace and good order: consumption and possession of alcoholic beverages by underage persons on private property | Ch. 201, Art. VI |
| 8-2014 | 9-2-2014 | Floodplain management: flood damage prevention amendment | Ch. 166, Art. I |
| 9-2014 | 10-7-2014 | Zoning amendment | Ch. 255 |
| 1-2015 | 4-6-2015 | Zoning amendment | Ch. 255 |
| 2-2015 | 4-6-2015 | Floodplain management: flood damage prevention amendment | Ch. 166, Art. I |
| 3-2015 | 4-6-2015 | Zoning amendment | Ch. 255 |
| 5-2015 | 4-20-2015 | Water and sewers amendment | Ch. 249 |

| Adoption | | | |
|-----------------|-------------|---|--------------------|
| Ord. No. | Date | Subject | Disposition |
| 6-2015 | 6-15-2015 | Animals: tethering of dogs | Ch. 93, Art. III |
| 7-2015 | 6-15-2015 | Vehicles and traffic amendment | Ch. 246 |
| 8-2015 | 6-15-2015 | Land use procedures: Planning Board amendment | Ch. 45, Art. I |
| 9-2015 | 7-6-2015 | Site plan review amendment | Ch. 220 |
| 12-2015 | 8-3-2015 | Peddling and soliciting: charitable solicitations on roadways | Ch. 204, Art. II |
| 13-2015 | 8-17-2015 | Uniform construction codes amendment | Ch. 132 |
| 15-2015 | 11-2-2015 | Land use procedures: landmarks preservation | Ch. 45, Art. II |
| 16-2015 | 11-16-2015 | Peace and good order: unified electronic reporting system for dealers in precious metals and other secondhand goods | Ch. 201, Art. VII |
| 17-2015 | 11-16-2015 | Peace and good order: unified electronic reporting system for dealers in scrap metal | Ch. 201, Art. VIII |
| 18-2015 | 12-7-2015 | Vehicles and traffic amendment | Ch. 246 |
| 20-2015 | 11-16-2015 | Towing and storage amendment | Ch. 242 |
| 1-2016 | 2-16-2016 | Site plan review amendment | Ch. 220 |
| 2-2016 | 3-21-2016 | Zoning amendment | Ch. 255 |
| 3-2016 | 2-16-2016 | Zoning amendment | Ch. 255 |
| 4-2016 | 3-7-2016 | Certificates of occupancy | Ch. 122 |
| 5-2016 | 2-16-2016 | Property maintenance: fences amendment | Ch. 210, Art. II |
| 10-2016 | 5-2-2016 | Property maintenance: fences amendment | Ch. 210, Art. II |