

LAND USE REGULATIONS

25-1 TITLE, PURPOSE, SCOPE.

25-1.1 Short Title. This Chapter shall be known as the “Land Use Ordinance of the Township of Mine Hill”.

25-1.2 Purpose. It is the intent and purpose of this Chapter to bring all the zoning, subdivision, planning and related ordinances and regulations of the Township regulating the subdivision, use and development of land in the Township of Mine Hill into compliance with the Municipal Land Use Law (C. 291, P.L. 1975) and to provide standards, rules and regulations to guide the subdivision, use and development of land within the Township in a manner which achieves and/or advances the various purposes of said Municipal Land Use Law as set forth in the statement of purposes of said law in N.J.S.A. 40:55D-2.

- a. To regulate land development and provide zoning regulations for the Township of Mine Hill pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D- 2 et seq., as interpreted by decisional law.
- b. To implement and give effect to the goals and objectives of the Master Plan for the Township of Mine Hill, adopted February 17, 1999.
- c. To give municipal effect to the purposes of the Municipal Land Use Law, N.J.S.A. 40:5 5D- I et seq., which purposes are as follows:
 1. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;
 2. To secure safety from fire, flood, panic and other natural and manmade disasters;
 3. To provide adequate light, air and open space;
 4. To ensure that the development of the municipality does not conflict with the development and general welfare of neighboring municipalities, the County and the State as a whole;
 5. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;
 6. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;
 7. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;

8. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;
 9. To promote a desirable visual environment through creative development techniques and good civic design and arrangements;
 10. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land;
 11. To encourage planned unit developments which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development of the particular site;
 12. To encourage senior citizen community housing construction;
 13. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;
 14. To promote utilization of renewable energy sources; and
 15. To promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to compliment municipal recycling programs.
- d. To preserve the features of the natural environment and to enhance the quality and character of the man-made environment in the Township of Mine Hill;
 - e. To foster economic development and investment in appropriate locations and districts in the Township of Mine Hill;
 - f. To offer the citizens of Mine Hill Township the best opportunities and protections associated with modern zoning and land-use planning, while making the municipal review and approval process more responsive to their needs and expectations.

25-2 DEFINITIONS.

25-2.1 Interpretation of this Chapter. This Chapter shall be interpreted with primary regard to the fundamental purposes(s) for which the provisions herein were adopted. The sense of any regulation contained herein is to be gathered from its object, the nature of its subject matter, the context of its setting, the degree to which the provision serves to implement the current Master Plan, and the reading of the provisions contained herein in *pari materia*. Where a literal reading will lead to a result not in accord with the essential purpose and design of this Chapter, the spirit of this Chapter will control the letter. Wherever it is apparent that the drafters of this Chapter or the governing body did not consider or contemplate a specific situation, the circumstances shall be interpreted consistent with the probable intent of the drafters and governing body had they anticipated the situation at hand. Specific provisions in this Chapter

shall take precedence over general provisions. To the greatest practicable extent, the provisions contained herein, particularly when dealing with the same subject matter, shall be read or construed together as forming one regulation. This Chapter is to receive a reasonable construction and be liberally construed in favor of the Township of Mine Hill. This Chapter shall be given reasonable application to serve the apparent purpose of the Chapter. The plain meaning of the language contained herein shall be construed according to the ordinary meaning of the words and phrases contained herein.

Except where they are specifically defined herein, all words and terms used in this Chapter shall carry their customarily accepted meanings: "Lot" shall include the word "plots" or "parcels"; "building" shall include the word "structure"; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied"; and "dwelling" shall include the word "residence".

It is not the intent of this Chapter that any prohibited use or occupation shall be allowed because of a technical distinction in the meaning of any word. The following words or terms shall have the following meanings when used herein

25-2.2 Definitions. As used in this Chapter, the following terms shall have the meanings indicated:

"Accessory Use, Structure or Building" shall mean a use, structure or building subordinate to the principal use or building on the same lot and serving a purpose customarily incidental to the use of the principal building. An accessory structure or building shall be detached from the principal building.

"Acre" means a measure of land area containing 43,560 square feet.

"Active Recreation" means leisure time activities of a more structured nature often requiring equipment and taking place at prescribed places, sites or fields. Linear systems such as formally designed jogging trails and formally designed bikeways may be included in such areas but the eligible width of such active recreational/linear systems shall be no greater than five (5) feet on each side of the track or trail. All active recreational facilities must conform to the standards established in the American Disabilities Act.

"Addition" means (1) a structure added to the original structure at some time after the completion of the original; (2) an extension or increase in floor area or height of a building or structure.

"Adjoining Lot or Land" means a lot or parcel of land that shares all or part of a common lot line with another lot or parcel of land.

"Administrative Officer" shall mean the secretary of the Planning Board or Board or Clerk of the Township, as the case may be, according to which of said agencies is involved in a particular instance.

“Adverse drainage condition” means the absence of drainage facilities, drainage easements or drainage rights-of-way leading to, along or through a street, road, drainage structure or property, either within or exterior to a proposed subdivision or site plan, of such location, size, design, construction or condition which would provide adequately for storm drainage or which would prevent flooding, erosion, silting or other damaging effect to a street, road, drainage structure or property or which would remove the threat of such damage.

“Adverse impact” means a condition or effect that creates, imposes, aggravates, or leads to inadequate, impractical, unsafe, or unhealthy conditions on a site proposed for development or on off-tract property or facilities.

“Agriculture” shall mean the use of land which is actively devoted to agriculture or horticultural use and which occupies no less than five (5) acres, in accordance with N.J.S.A. 54:4-23.4, 4-23.5 and 4-23.11, except that no livestock, poultry, fowl or other animals shall be maintained on the premises for commercial gain except where incidental to the major agricultural activity.

“Air Pollution” means the presence of contaminants in the air in concentrations beyond the normal dispersive ability of the air and that interfere directly or indirectly with health, safety, or comfort, or with the full use and enjoyment of property.

“Alter” shall mean as applied to a building, a change or rearrangement of supporting members, or exit facilities, or an enlargement, whether by extending on a side or by increasing in height; or moving from one location or position to another.

“Alteration” means any exchange or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

“Amenity” means a natural or created feature that enhances the aesthetic quality, visual appeal of, or makes more attractive or satisfying a particular property, place, or area.

“Antenna” means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communications signals.

“Applicant” shall mean a developer submitting an application for development.

“Application for Development” shall mean the application form and all accompanying documents required by this Chapter for a complete application for approval (preliminary or final) of a subdivision plat (minor or major), site plan, conditional use, zoning variance

or direction of the issuance of a permit pursuant to N.J.S.A. 40:55D-34 or N.J.S.A. 40:55D-36. An incomplete application shall not be considered an application for purposes of this Chapter, and the time for approving or denying such application shall not commence to run until a complete application is submitted.

“Approved Integrated Water Supply and Distribution System” means a source of supply of potable water approved by state or local health authorities as to purity and fitness for drinking, which is made available to owners or occupants of dwellings in a subdivision development or other service area through a district distribution system of mains and service connections, with appurtenances such as, but not limited to, pumping stations, standpipes, dams and sluices, which has been approved by the Township Council as being adequate to serve all present and prospective residences in the subdivision or service area with sufficient water during all seasons of the year and with adequate pressure to assure a good flow of water through all well-maintained service connections of not less than one (1) gallon per minute.

“Approving Authority” shall mean the Planning Board, the Board, within their respective jurisdictions; and the Zoning Officer for permitted uses with respect to this Ordinance and applicable Township Code provisions as well as applicable State and Federal law.

“Aquifer” means a geologic formation that contains a potentially usable supply of potable water.

“Aquifer recharge areas” means the areas of Mine Hill Township that have been identified by the New Jersey Department of Environmental Protection or other governmental authority as being vital to the potable water supply of the community and/or surrounding region. An aquifer recharge area for the purposes of this definition is considered to be the exposed outcropping or ground-level area above an aquifer that has been determined to contain substantial volumes of water within unconsolidated subsurface sand and gravel deposits.

“Archaeological site” means land or water areas that show evidence of artifacts of human, plant, or animal activity, usually dating from periods of which only vestiges remain.

“Arterial Street” means a higher-order, interregional road in the street hierarchy; which conveys traffic between centers and should be excluded from residential areas.

“Auction Market” means any premises on which are held at periodic times, and from time to time, (auction) sales of merchandise or personal property.

“Auto Body Repair” involves the straightening of damaged and bent parts, smoothing out and repair of damaged finishes, including replacement of parts where necessary, and painting.

“Automobile or Trailer Sales Area” shall mean an open area used for the display, sale or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

“Automobile Service Station” shall mean a building or place of business where gasoline, oil and greases, batteries, tires, and automobile accessories are supplied and dispensed directly into the motor vehicle at retail, and where minor repair service is rendered. Leasing of trailers or trucks shall not be considered as a principal permitted or accessory use of an automobile service station. The sale or lease of not more than a total of three (3) automobiles at any given time shall be considered a permitted accessory use provided the cars are located on a paved surface.

“Average setback” is defined as the mean setback from a street right-of-way of buildings on both sides of a lot.

“Basement” shall mean a story partly below the level of the ground surrounding the building. No basement or portion thereof having less than one-half of its floor-to-ceiling height above the average level of the ground surrounding the building shall be used as a separate dwelling unit or included as part of the usable floor area for a residence.

“Black haul network” means the lines that connect communications provider’s towers/cell sites to one or more cellular telephone switching offices, and/or long distance provider, or the public switched telephone network

“Block” shall mean the area bounded by one or more streets or a municipal boundary of sufficient size to accommodate a lot or lots of the minimum size required by the Land Use Chapter of the Township of Mine Hill and as further defined herein.

“Board” means the Planning Board including the Planning Board Acting as the Board of Adjustment.

“Buffer” shall mean a land or water area used to visibly separate one use from another or to shield or block noise, lights, or other nuisances.

“Building” means any structure having a roof supported by columns, posts or walls, and intended for the shelter, housing or enclosing of persons, animals or property, and including tents and other portable or wheeled structures to be located at a specific site for an indeterminate time.

“Building, Accessory” means a subordinate building on the same lot as the principal or main building or use.

“Building Coverage” shall mean that area of a lot which is occupied by buildings or structures, but not including uncovered walkways, steps, patios, a parking lot or area of

any similar improvements thereto. “Building Coverage” shall also mean the ground area of all buildings on the lot, divided by the lot area, and expressed as a percent.

“**Building, Principal**” means a building in which is conducted the primary use of the parcel on which it is located.

“**Building Face**” shall mean the side of a building facing the street and includes up to the attic floor or the joints of a flat roof building. In the case of a Townhouse, the building face shall include decks and porches, whether roofed or unroofed.

“**Building Height**” shall mean the distance from the average grade computed at the four (4) corners of a principal structure or the four (4) most extreme points on the north, south, east and west sides of a principal structure, or at four (4) points ninety (90) degrees apart for a circular structure, as measured to the highest peak of the roof on said structure.

“**Building line**” means a line drawn as closely parallel as possible to the street line and touching that part of a building closest to the street.

“**Bus Shelter**” means a small, roofed structure, usually having three walls, located near or adjacent to a street and designed primarily for the protection and convenience of bus passengers. (See “school bus shelter”.)

“**Cable Television Company**” means a cable television company as defined pursuant to section 3 of P. L. 1972, c. 186 (C.48:5A-3);

“**Caliper**” means the diameter of a tree trunk measured in inches, four feet above ground level.

“**Capital Improvement**” shall mean a governmental acquisition of real property or major construction project.

“**Cart Way**” means the actual road surface area from curb line to curb line which may include travel lanes, parking lanes, and deceleration and acceleration lanes. Where there are no curbs, the cart way is that portion between the edges of the paved or hard surface, width.

“**Cellar**” means a portion of the building partly underground, having one-half or more than one-half of its height below the average grade of the building.

“**Certificate of Occupancy**” means that permit issued by the Construction Official in accordance with the New Jersey Uniform Construction Code Act, N.J.S.A. 52:27D-121.

“**Change of Use**” means any use that differs from the previous use of a building or land.

“**Child-care center**” means an establishment providing for the care, supervision, and protection of children.

“Church” means lands and buildings devoted to and used exclusively for religious worship or religious asylum and entitled to exemption from taxation pursuant to the provisions of N.J.S.A. 54:4-3.6.

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

“Civic Building” means buildings and facilities owned and maintained by a public or semi-public agency, excluding religious institutions, which are used primarily for public gatherings for the purpose of promoting public education, knowledge and welfare.

“Club” means a group of people organized for a common purpose to pursue common goals, interests, or activities, and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

“Cluster” means a development design technique that concentrates buildings on a part of the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

“Cluster Subdivision” means a form of development that permits a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision or increase in the overall density of development, and the remaining land area is devoted to open space, active recreation, preservation of environmentally sensitive areas, or agriculture.

“Commercial Farm” shall mean a farm management unit of no less than five acres producing agricultural or horticultural products worth \$2,500 or more annually, and satisfying the eligibility criteria for differential property taxation pursuant to the “Farmland Assessment Act of 1964,” P.L. 1964, c.48 (C.54L4-23.1 et seq.), or a farm management unit less than five acres producing agricultural or horticultural products worth \$50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the “Farmland Assessment Act of 1964,” P.L. 1964, c.48 (C.54:4-23.01 et seq.).

“Commercial Use” means an activity involving the sale of goods or services carried out for profit.

“Commercial Vehicle” shall mean any vehicle registered as a commercial vehicle and displaying commercial plates.

“Common Facilities” means and includes but shall not be limited to facilities for the common use of two or more dwellings units, such as roads, sidewalks, swimming pools, playgrounds, trees, greens, fairways and parking areas.

“Common Open Space” shall mean 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.

“Common Ownership” shall mean ownership of two (2) or more contiguous lots or parcels of real property by one person or by the same two (2) or more persons owning such property jointly or as tenants by the entirety or as tenants in common.

“Community Association” means a homeowners association organized to own, maintain, and operate common facilities and to enhance and protect their common interests.

“Community Residences for the Developmentally Disabled” means a residential facility, licensed by the state, providing food, shelter, and personal guidance, with supervision, to developmentally disabled or mentally ill persons who require assistance, temporarily or permanently, in order to live in the community and shall include group homes, halfway houses, intermediate care facilities, supervised apartment living arrangements, and hostels.

“Complete Application” shall mean an application form, plans, and support reports and documentation as specified, within this Chapter and the rules and regulations, of Mine Hill Township, including appropriate fees for approval of the application for development, including where applicable, but not limited to a site plan, subdivision plat, provided that the municipal agency may require such additional information not specified in this Chapter or revisions to 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 such additional information or any revisions to the accompanying documents so required by the municipal agency. An application shall be certified as complete upon meeting all requirements specified in this Chapter and shall be deemed complete as of the day it is so certified by the Administrative Officer for the purpose of commencement of the time period for action by the municipal agency.

“Concept Plan” means an informal review of a plan for development that carries no vesting rights or obligations on any party.

“Conditional Use” shall mean a use permitted in a particular zone district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in this Chapter and upon the issuance of an authorization therefor by the Planning Board.

“Condominium” means the form of ownership of real property under a master deed, whether or not contiguous and all improvements thereon, all owned either in fee simple or under lease, and all easements, rights and appurtenances belonging thereto or intended for the benefit thereof, pursuant to N.J.S. 46:8B-1 et. seq.

“Condominium Association” shall mean a community association which administers and maintains the common property and common elements of a condominium.

“Convenience Store” means any retail establishment offering the sale of prepackaged food products, household items, newspapers and magazines, sandwiches and other freshly prepared foods, such as salads, for off-site consumption.

“County Master Plan” means 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 pursuant to R.S. 40:27-2 and R.S. 40:27-4.

“County Planning Board” means the Morris County Planning board, as established by N.J.S. 40:27-1.

“Court” or **“Court Yard”** shall mean any open, unoccupied area which is bounded by three (3) or more attached building walls.

“Coverage, Building”: see “Building Coverage”. Coverage, Lot: “see “Lot Coverage”.

“Critical Area” shall mean any area which is environmentally sensitive or which, if disturbed during construction would adversely affect the environment, including but not limited to stream corridors, flood hazard areas, slopes greater than fifteen (15%) percent, areas of high water table, previously mined areas, and mature stands of native woodland.

“Cul-de-sac” means a street with a single means of ingress and egress and having a turnaround, the design of which may vary.

“Curb” means a stone, concrete, or other improved boundary marking the end or edge of the roadway or paved area.

“Day Care Center” shall mean a facility which is maintained for the care, development and supervision of six (6) or more children who attend for less than twenty-four (24) hours per day and shall not include the following: foster homes, group homes and other types of residence facilities, conforming to the requirements of N.J.A.C. 10: 122-1.2.

“Days” as used in this Chapter shall mean calendar days.

“Density” means the permitted number of dwelling units per gross area of land to be developed.

“Detention Basin (Pond)” means a storm water management basin or alternative structure designed to temporarily detain storm water runoff.

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

“Development” shall mean the division of a parcel of land into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure and any mining, excavation or land fill and any use or change in the use of any building or other structure, or land or extension of use of land, for which site plan approval, subdivision approval, a variance, conditional use approval or any other permit or permission is required pursuant to this Chapter.

“Development Regulation” means a zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land, or amendment thereto adopted and filed pursuant to this ordinance and prevailing law.

“Display Sign” means a sign, including the type commonly known as a “billboard,” which directs attention to a business, commodity, entertainment or attraction sold, offered or existing elsewhere than upon the same lot or development where such sign is displayed, regardless of size.

“District” or “Zone” shall mean any portion of the territory of the Township of Mine Hill within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Chapter.

“Domestic Animals” means small tame animals normally kept or maintained in or about a dwelling as a pet, such as dogs, cats and other similar household pets.

“Drainage” shall mean the removal of surface water or ground water from land by drains, piping, 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.

“Drainage System” means natural and man-made components that contain, convey, absorb, store, treat, or dispose of surface water runoff or groundwater.

“Driveway” means a defined paved or unpaved surface providing vehicular access from one or more lots - to a street. A driveway is not a road, street, boulevard, highway, or parkway.

“Drive-In Restaurant” shall mean a structure where food and/or drink is sold ready for consumption and where a substantial portion of the customers consume the food and/or drink elsewhere than at the structure.

“Dwelling, Multi-Family” means a building containing two or more dwelling units and including apartments and townhouses as defined herein.

“Dwelling, Single-Family” means a building containing one (1) dwelling unit only and occupied exclusively for residence purposes by one (1) family or one (1) housekeeping unit.

“Dwelling” shall mean any building or portion thereof designed or used primarily as the residence or sleeping place of one or more persons. A hotel, motel, hospital, nursing home, dormitory, fraternity or sorority house, rooming house, boarding house or similar structure shall not be considered a dwelling under the terms of this Chapter.

“Dwelling Unit” shall mean one (1) or more rooms including cooking and sanitary facilities in a structure, designed as a unit for occupancy by not more than one (1) family for living and sleeping purposes,

“Easement” shall mean a use or burden imposed on real estate by deed or other legal means to permit the use of land by the municipality, public, a corporation, or particular persons for a specific use.

- a. **“Easement”**: a right which one person has to use the lands of another for a specific purpose not inconsistent with the general property rights of the owner.
- b. **“Conservation”**: an easement limiting or precluding future development of the land.
- c. **“Drainage or Utility”**: an easement required for the installation of storm water sewers or drainage ditches, and/or required for the preservation or maintenance of a natural stream or water course or other drainage facility.
- d. **“Sight Triangle”**: an easement consisting of a triangular shaped portion of land established at street intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

“Educational Use” means public, parochial and private elementary and secondary schools duly licensed by the State of New Jersey, attendance at which is a sufficient compliance with the compulsory education requirements of the state. “Educational uses” shall also include institutions of higher education duly licensed by the State Department of Higher Education. Summer day camps shall not be considered as “educational uses” or accessories to such uses.

“Elevation Means” (1) a vertical distance above or below a fixed reference level; (2) a fully dimensioned drawing of the front, rear, or side of a building showing features such as windows, doors, and relationship of grade to floor level.

“Essential Service” shall mean the erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground, surface or overhead gas, electrical, steam or water transmission, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare. Essential services shall include firehouses, first aid and emergency aid squads.

“Exception” means permission to depart from the design standards in the ordinance.

“FAA” means the Federal Aviation Administration.

“Family” shall mean any number of persons living together as a single housekeeping unit and using certain rooms, including a kitchen and housekeeping facilities in common. All adult members of the “family” shall have their primary domicile at the housing unit. A “family” shall also include foster children placed with a family in such dwelling by the Division of Youth and Family Services or a duly incorporated child-care agency.

“Farm” means an area of land which is actively devoted to agricultural or horticultural use which occupies no less than five (5) acres, exclusive of one (1) acre upon which the farmhouse is located and such additional land as may actually be used in connection with the farmhouse as provided in N.J.S.A. 54:4-23.3, 4-23.4 and 4-23.11.

“FCC” means the Federal Communications Commission.

“Fence” means a structure of wood, metal, stone, masonry or other material, and shall also include barriers formed by living vegetation used to separate land areas. The height of a fence shall be no greater than six feet (6') along the side yards of a property and four feet (4') along the front yard of any property.

“Final Approval” shall mean the official action of the Planning Board taken on a preliminary approved major subdivision or site plan after all conditions, engineering plans and other requirements have been completed or fulfilled, including payment of all required fees, and the improvements required to be completed prior to final approval have been installed or performance guarantees properly posted for their completion for those improvements which may be completed following final approval, together with the posting of all required maintenance guarantees.

“Final Plat” shall mean the final map of all or a portion of the “subdivision” which is presented to the Planning Board for final approval in accordance with these regulations, and which if approved shall be filed with the Clerk of the County of Morris for recording in accordance with law.

“Flood Fringe” Area shall mean that portion of the flood hazard area outside the floodway.

“Flood Hazard” Area shall mean the floodplain on the total area inundated during the flood of record, or the area delineated by the Department of Environmental Protection, by Housing and Urban Development or by analysis of soil condition characteristics as floodplain, whichever is greater.

“Flood Hazard Design Elevation” shall mean the highest elevation expressed in feet above sea level, of the flood of record or as determined by the criteria set forth in “Flood Hazard Area” above.

“Flood Map” shall mean a map prepared by the Department of Environmental Protection showing the channel, floodway and fringe area, or in the event such map has not been prepared, maps showing the flood hazard area.

“Floodplain” shall mean for the purposes of this Chapter, the flood hazard area.

“Floodway” shall mean the portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the flood water or flood flow of any natural stream. The floodway shall be delineated by the Department of Environmental Protection.

“Floor Area, Gross” means the sum of the gross horizontal areas of the several floors of the building from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than six (6) feet.

“Floor Area, Livable” shall mean the total floor area of a dwelling, but not including rooms with more than one-half of their cubic area below finished grade, rooms for heating equipment, garages, unenclosed porches, breezeways or other unheated areas. For the purpose of this Chapter, floor area covered in whole or in part by a sloping ceiling shall be counted toward minimum livable floor area only for that portion having headroom of at least five (5) feet six (6) inches; provided further that at least seventy-five (75%) percent of such floor area has a ceiling height of at least seven (7) feet, and provided further that if such floor is situated above another floor, it shall be accessible from other livable floor areas in the dwelling by means of a permanent built-in stairway.

“Floor Area Ratio (FAR)” means the sum of the area of all floors of buildings or structures compared to the total area of the site.

“Fly Ash” shall mean particles of gas-borne matter (not including process materials) arising from the combustion of solid fuel, such as coal or wood.

“Garage, Private” means a garage in which no business, service or industry is carried on and which is not designed to contain more than three (3) motor vehicles.

“Garage, Public” means any garage not included within the definition of “private garage.”

“Garage, Repair” means any building, premises and land upon which a business, service or industry involving the maintenance, service and repair of vehicles is conducted or rendered, but excluding auto body and painting establishments.

“Garden Apartment” shall mean a building not exceeding two (2) stories in height containing a group of separate dwelling units and which is so designed that not more than two (2) apartments are served by a common entry.

“Gas Station” shall mean the same as “automobile service station.”

“Governing Body” shall mean the Mayor and Township Council of the Township of Mine Hill.

“Governmental Agency” means any department, commission, independent agency, or instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, township, authority, district, or other governmental unit.

“Granite Block Curb” means a curb constructed of rectangular-shaped stone or granite blocks, placed vertically in a concrete foundation, and also known as Belgian Block Curb.

“Group Homes” means community residences for the developmentally disabled and community shelters for victims of domestic violence and community residences for the terminally ill. A “community residence for the developmentally disabled” means any community residential facility licensed pursuant to N.J.S.A. 30:11B-1 et. seq., providing food, shelter and personal guidance, under such supervision as required, to more than six (6) but not more than fifteen (15) developmentally disabled or mentally ill persons who require assistance temporarily or permanently in order to live in the community, and shall include but not be limited to group homes, halfway houses, intermediate-care facilities, supervised apartment living arrangements and hostels. “Community shelters for victims of domestic violence” means any shelter approved for a purchase of service contract and certified pursuant N.J.S.A. 30:14-1 et. seq., providing food, shelter, medical care, legal assistance, personal guidance and other services to more than six (6) but not more than fifteen (15) persons who have been victims of domestic violence, including any children of such victims who temporarily require shelter and assistance in order to protect their physical and psychological welfare. “Community resident for the terminally ill” means any community residential facility operated as a hospice program providing food, shelter, personal guidance and health care services, under such supervision as required, to not more than 15 terminally ill persons

“Habitable Floor Area” means the total floor area of all the habitable rooms in a dwelling unit.

“Habitable Room” means any room in a dwelling unit other than a kitchen, bathroom, closet, pantry, hallway, cellar, storage space, garage and basement recreation room.

“Hazardous Materials” includes but is not limited to inorganic mineral acids of sulfur, fluorine, chlorine, nitrogen, chromium, phosphorus, selenium and arsenic and their common salts; lead, nickel and mercury and their inorganic salts or metal-organic derivatives; coal tar acids, such as phenols and cresols and their salts; and any such materials that are determined to be hazardous by the New Jersey Department of Environmental Protection.

“Hazardous Use” means a building or structure or any portion thereof that is used for the storage, manufacture, or processing of highly combustible or explosive products or materials, which are likely to burn with extreme rapidity or which may produce poisonous fumes or explosions; for storage or manufacturing that involves highly corrosive, toxic or noxious alkalizes, acids, or other liquids or chemicals producing flame, fume, poisonous, irritant, or corrosive gases; and for the storage or processing of any materials producing explosive mixtures of dust or that result in the division of matter into fine particles subject to spontaneous ignition.

“Home Occupation” shall mean for purposes of this Chapter, a dressmaker, hairdresser, seamstress, gunsmith, physician, dentist, lawyer, architect, licensed professional engineer, accountant and tutor, musicians and dance teachers, except that tutors, musicians and dance teachers are limited to three (3) pupils at any one time. Sale of goods or merchandise not produced on the premises shall not be considered a “home occupation”. Nothing herein shall be deemed to prohibit an occupation conducted solely by members of the family utilizing telephone or other telecommunications. Such home occupation use shall be clearly accessory to the principal use of the structure and only one such home occupation use shall be conducted at the premises. The home occupation shall be conducted solely by the owner or tenant residing at the premises or members of his immediate family residing on the premises and not more than one non-resident employee. Not more than twenty-five percent (25%) of the total living area of the dwelling unit shall be used for the home occupation. Such home occupation use shall be conducted solely with the principal structure.

“Hotel” means a building which contains furnished living units for transient occupants and in which no living unit contains more than two (2) rooms exclusive of bathroom, foyer, closet or dressing area, terraces or balconies, and providing, among other things, such services and features as a lobby, mail and valet services, linens, central dining rooms, lounges, concessions, room service, dispensary, game and hobby rooms, public assembly areas and other services and features, including twenty-four-hour desk service. Living units may be provided for the sole use of resident employees, provided that the same do not exceed three percent (3%) of the living units provided. (See also “motel”).

“Impervious Surface” means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

“Improvement” means any permanent structure that becomes part of, placed upon or is affixed to land.

“Institutional Uses” means a use by a public or nonprofit quasi-public or private institution for educational, religious, charitable or medical purposes.

“Interested Party” means (a) in a criminal or quasi-criminal proceeding, any citizen of the State of New Jersey; and (b) 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 whose rights to use, acquire, or enjoy property under this act, or under any other law of this State or of the United States have been denied, violated or infringed by an action or a failure to act under this act.

“Junk” means any scrap, waste, reclaimable material and debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. “Junk” may include, for purposes of illustration, vehicles, tires, vehicles parts, equipment, paper, rags, metal, glass, plaster, household appliances, wood, lumber, brush and building materials.

“Junk Vehicle” means a vehicle which, for all intents and purposes, has been abandoned, is no longer in an operable condition or has been extensively vandalized causing it to no longer be operable or serviceable.

“Kennel” shall mean an establishment wherein or whereon the business of boarding, selling or breeding of more than six (6) dogs, each over six (6) months old, is carried on.

“Land” means real property including improvements and fixtures on, above or below the surface.

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

“Light Warehousing” means facilities for and the handling of freight for the purpose of permanent or temporary storage of goods, materials or merchandise to be used in conjunction with the principal use and for later or subsequent distribution or delivery elsewhere of products resulting from the principal use, without maintenance facilities, except those which are contained fully inside the building. Light warehousing does not include such uses as terminal freight facilities, break bulk freight or transport freight or the utilizing of a “hub” for freight carrier service.

“Lighting Plan” means an iso- (lux) foot candle diagram or diagrams showing existing and/or proposed levels of illumination produced in accordance with standards contained in the IES Lighting Handbook as amended or similar prevailing standard.

“Living Area” shall mean the area within the wall exteriors, but excluding porches, breezeways, garages or any areas where the average floor-to-ceiling height is less than seven (7) feet, or basements (cellars) if less than one-half of the basement floor-to-ceiling height is above the average level of the ground surrounding the building, and any other areas excluded from the definition “Floor Area, Livable” above.

“Lot” shall mean a designated parcel, tract or area of land established by an approved subdivision plat or otherwise, as permitted by law, and which may be lawfully used, sold, developed or built upon as a single unit. A street passing through land shall be considered as having divided the land into lots.

For the purpose of this Chapter, contiguous undersized lots under one ownership shown on a plat approved under the Old Map Filing Act shall be considered one lot and further that no portion of an existing public street shall be included in calculating a lot boundary or lot area.

- a. **“Lot Area”** The computed area contained within the lot lines. The area shall not include any area within street rights-of-way.
- b. **“Lot, Corner”** A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. The point of intersection of the street lot lines is the 'corner'. Each corner lot shall have one side yard and one rear yard. The narrower frontage shall conform to the minimum frontage requirement of the zone.
- c. **“Lot, Coverage”** Shall mean the square footage or other area measurement by which all buildings and impervious surfaces cover a lot as measured in a horizontal plan to the limits of the impervious area(s). All surfaced parking areas and all required parking areas which are permitted to remain un-surfaced shall be included in the computation of lot coverage and shall be represented as a percent of area of all impervious coverage to area of the entire lot.
- d. **“Lot, Depth”** Means the average distance measured from the front lot line to the rear lot line. Where the front and rear lot lines are not parallel, lot depth means the distance measured by drawing several evenly separated lines from the front to rear lot lines, at right angles to the front lot line to the extent possible, and averaging the length of such lines.
- e. **“Lot, Interior”** Any lot not a corner lot.
- f. **“Lot Lines”**: The property lines bounding the lot.

1. **“Lot Line, Front”** The dividing line between the lot and a street right--of-way.
 2. **“Lot Line, Rear”** The lot line opposite and most distant from the front lot line.
 3. **“Lot Line, Side”** Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line.
- g. **“Lot Width”** The shortest distance between the side lot lines measured parallel to the front lot line at the minimum front yard setback line, synonymous with the rear most limit of the required front yard area. The lot width of a corner lot shall be the narrower frontage of the corner lot.

“Maintenance Guarantee” means any security which may be accepted by a municipality for the maintenance of any improvements required by this act, including but not limited to surety bonds, letters of credit under the circumstances specified in section 16 of P.L. 1991, c. 256 (C. 40:55D-53.5), and cash.

“Major Subdivision” shall mean any subdivision which does not meet the requirements of a minor subdivision under this Chapter.

“Master Plan” shall mean a composite of one or more written or graphic proposals for the development of the Township as set forth and described in, and prepared and adopted (following public hearing) and from time to time amended by the Planning Board of the Township of Mine Hill pursuant to N.J.S.A. 40:55D-28 of the Municipal Land Use Law.

“Minor Site Plan” means the development plan of a single lot which (1) proposes new development within the scope of development specifically permitted as a minor site plan; (2) does not involve planned development, any new street or extension of any off-tract improvement which is to be pro-rated pursuant to (C.40:55D-42) (3) contains the information reasonably required in order to make an informed determination as to whether the requirements for approval of a minor site plan have been met; and (4) shall be limited to the following classes of development:

- a. A change in use involving no building construction other than interior modification or interior structural alteration, and no additional off-street parking.
- b. Minor exterior or structural changes, such as, entry enclosures, porticos and other structural appurtenances, including roof appurtenances.
- c. Building additions not exceeding one hundred (100) square feet in ground coverage and accessory structures not exceeding five hundred (500) square feet in ground coverage, provided the same do not invade upon any required parking area, setback area or otherwise violate any requirements of this Chapter.

“Minor Subdivision” shall mean a subdivision of land that does not involve:

- a. More than two (2) lots, one plus the remainder, fronting on an existing street;
- b. A planned development;
- c. Any new street; or the
- d. Extension of any off-tract improvement, including but not limited to water, sewer, drainage and street improvements; and
- e. Does not adversely affect the development of the remainder of the parcel (tract) or adjoining property; and is not in conflict with the Township Master Plan or Official Map and does not include land in a previously mined area.

“Motels, Motor Courts and Motor Hotels” shall mean a series of attached dwelling structures, where each unit has convenient access to parking space for the use of the unit's occupant. The units, with the exception of the manager's or caretakers, are designed to provide sleeping accommodations for automobile transients or overnight guests and without the provision for cooking in any room or suite.

“Municipal Land Use Law” shall mean Chapter 291 of the Laws of New Jersey, 1975, as amended from time to time.

“Multiple-Family Dwelling” shall mean two (2) or more residences in a single structure. Mother-daughter units shall be considered to be multiple family dwellings.

“Municipality” shall mean the Township of Mine Hill.

“Municipal Agency” shall mean the Planning Board or Township Council of the Township of Mine Hill when acting pursuant to this Chapter.

“Multifamily Housing” a building containing three (3) or more dwelling units occupied or intended to be occupied by persons living independently of each other as a group of such buildings.

“Nonconforming Lot” shall mean a lot, the area, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but 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” shall mean a structure, the size, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

“Nonconforming Use” shall mean 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 reasons of such adoption, revision or amendment.

“Nuisance” shall mean an offensive, annoying, unpleasant or obnoxious thing or practice; a cause or source of annoyance, especially a continuing or repeating invasion or disturbance of another's rights including the actual or potential emanation of any physical characteristics or activity or use across a property line which can be perceived by or affect a human being of ordinary sensibility; or the generation of an excessive or concentrated movement of people or things, such as but not limited to: noise, dust, smoke, fumes, odor, glare, flashes, vibrations, shock waves, heat, electronic or atomic radiation, objectionable effluent, noise or congregation of people, especially at night, passenger traffic, transportation of things by truck, rail or other means, invasion of non-abutting frontage by parking.

“Nursery School” shall mean a school designed to provide daytime care or instruction for two (2) or more children from two (2) to six (6) years of age inclusive, and operated on a regular basis.

“Nursing Home” shall mean any premises meeting the standards of the New Jersey State Department of Institutions and Agencies to operate as a “nursing home”.

“Official Map” shall mean a map adopted by the Township Council by ordinance pursuant to N.J.S.A. 40:55D-29. Such map shall be deemed conclusive with respect to the location and width of streets and public drainage ways and the location and extent of flood control basins and public areas including public parks, playgrounds, trails, paths and other recreation areas, public open spaces, scenic and historic sites, sites for schools and other public buildings and structures, whether or not such streets, ways, basins or areas are improved or unimproved or are in actual physical existence. Upon receiving an application for development, the Township may reserve for future public use, any such streets, ways, basins and areas in the manner provided in N.J.S.A. 40:55D-32.

“Offsite” means 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 the closest half of the street or right-of-way abutting the property of which the lot is a part.

“Offsite Improvement” means improvement required to be made offsite as a result of an application for development and including, but not limited to, road widening and upgrading, storm water facilities, and traffic circulation improvements.

“Off-tract” means not located on the property which is the subject of a development application nor on the closest half of an abutting street or right-of-way.

“Off-tract Improvement” means improvement required to be made off-tract as a result of an application for development.

“Onsite” means located on the lot in question and excluding any abutting street or right-of-way.

“On-tract” means located on the property which is the subject of a development application or on the closest half of an abutting street or right-of-way.

“Open Space” shall mean 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 buildings, structures, streets and off-street parking and other improvements that are designed to be incidental to the natural openness of the land.

“Owner” shall mean any individual, firm, association, syndicate, partnership or corporation having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings as an applicant to develop and/or subdivide the same under this Chapter.

“Parking Area” shall mean any open area, other than a street or other public road or way, used for the temporary parking of motor vehicles, including access drives or aisles for ingress and egress thereto and therefrom.

“Parking Space” shall mean an area for the parking of motor vehicles and measuring nine feet by eighteen feet (9' x 18') in length on the lot in question. The area of a “parking space” is intended to be sufficient to accommodate the exterior extremities of the vehicle whether or not, in addition thereto, wheel blocks are installed within this area to prevent the bumper from overhanging one end of the parking space. A parking space shall consist of a space adequate for parking a motor vehicle with room for operating doors on both sides and shall provide free and totally unobstructed access to the street.

“Parking Area, Commercial” shall mean an open area, deck or structure, other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free or as an accommodation for clients or customers.

“Performance Guarantee” means any security, which may be accepted by a municipality, including but not limited to surety bonds, letters of credit under the circumstances specified in section 16 of P.L. 1991, c. 256 (C. 40:55D-53.5), and cash.

“Person” shall mean and include any person, individual, business entity, partnership, association, corporation, company, organization or legal entity of any kind or nature.

“Place of Worship” means (1) a church, synagogue, temple or other facility that is used for prayer and religious services by and for persons of similar beliefs; (2) a special

purpose building that is architecturally designed and particularly adapted for the primary use of conducting regular, formal religious services by a religious congregation; (3) a group of such buildings or structures, that by design and construction is primarily intended for conducting organized religious services and associated accessory uses.

“Planned Development” means planned unit development, planned unit residential development, residential cluster, planned commercial development or planned industrial development.

“Planned Unit Residential Development (PUD)” means an area with a specified minimum contiguous acreage of 5 acres or more to be developed as a single entity according to a plan containing one or more residential clusters, which may include appropriate commercial, or public or quasi-public uses all primarily for the benefit of the residential development.

“Planning Board” shall mean the Planning Board of the Township of Mine Hill. When such Board is referred to hereunder in connection with the review of development applications, “Board of Adjustment” and “Planning Board” are interchangeable as the Planning Board has assumed the functions of the Board of Adjustment.

“Plat” shall mean the map or maps of a subdivision or site plan, including those submitted for preliminary or final approval, variance or conditional use approval.

“Plat, Sketch” means a concept or informal map of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion and classification.

“Preliminary Approval” means the conferral of certain rights pursuant to sections 34, 36 and 37 of P.L. 1975, c.291 (C. 40:55D-46; C.40:55D-48 and C.40:55D-49) prior to development approval after specific fundamental elements of a development plan have been agreed upon by the planning board and the applicant.

“Principal Use” means the primary or predominant use of any lot or parcel.

“Public Areas” shall mean public parks, playgrounds, trails, paths and other recreational areas, and public open spaces; scenic and historic sites; and sites for schools and other public buildings and structures.

“Public Development Proposal” shall mean Master Plan, capital improvement program or other proposal for land development adopted by the appropriate Township public body, or any amendment thereto.

“Public Drainage Way” shall mean land reserved or dedicated for the installation of storm water 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” shall mean an open space area conveyed or otherwise dedicated to the Township, a Township agency, board of education, State or County agency, or other public body for recreational or conservational uses.

“Public Sewers” shall mean a sewage disposal system, including laterals, collectors, interceptors, trunks, as well as treatment and disposal facilities owned and operated by the Township of Mine Hill or an official agency of the Township, or other public agency.

“Public Water” shall mean a water system including supply, treatment and distribution facilities owned and operated by the Township of Mine Hill, or by some other public agency, or a franchised water company.

“Quorum” shall mean the majority of the full authorized membership of the Planning Board, Township Council or other Township body acting pursuant to this Chapter or the Municipal Land Use Law.

“Recreation” shall mean:

- a. **“Recreation; Commercial”** Recreation facilities operated as a business and open to the general public for a fee.
- b. **“Recreation; Private, Noncommercial”** Clubs or recreation facilities operated by a nonprofit organization and open only to bona fide members of such nonprofit organization or their guests.

“Recreation, Active” see Active Recreation.

“Recreational Vehicle” means a vehicular-type unit primarily designed as temporary living quarters for recreational camping or travel use, and as otherwise defined in N.J.A.C. 8:22-1.2.

“Recycling Area” an area allocated for the collection and storage of source-separated recyclable materials.

“Religious Use” shall mean a church, mosque, synagogue, temple or other similar place of worship.

“Residence” shall mean a dwelling unit where an individual is actually living at a specific point in time.

“Residential Density” or “Density” shall mean the number of dwelling units per gross acre of residential land area including streets, easements and open space portions of a development.

“Re-subdivision” shall mean:

- a. 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
- b. 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.

“Retail Sales” means establishments engaged in selling goods or merchandise to the general public for personal or household consumption and without necessarily rendering services incidental to the sale of such goods.

“Retail Sales, Outdoor” means the display and sale of products and services outside of a building or structure, including garden and landscaping supplies, flowers, shrubs, plants, produce, farm equipment, building and construction materials and boats, but excluding new or used vehicles.

“Retail services” means establishments predominately providing services or entertainment as opposed to, but not necessarily exclusive of products, as where a product is consumed or used in the service.

“Retention basin” means a storm water management basin designed to retain some water on a permanent basis.

“Ridgeline” means the highest elevation of a mountain chain or line of hills.

“Right-of-Way Line” shall mean the property line separating the street from abutting land.

“Rooming House” shall mean a dwelling unit containing rooms for the rooming and/or boarding of individuals.

“School, Elementary” means any school licensed by the state and that meets the state requirements for elementary education.

“School, Parochial” means a school supported and controlled by a church or religious organization. (See “School, private “).

“School, Private” means any building or group of buildings the use of which meets state requirements for elementary, secondary, or higher education and which use does not secure the major part of its funding from any governmental agency.

“School Bus Shelter” means a bus shelter as defined herein, but devoted exclusively to the protection and convenience of school-bus passengers.

“Screening” means (1) a method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation; (2) the removal of relatively coarse floating and/or suspended solids by straining through racks or screens.

“Sedimentation” means the deposition of soil that has been transported from its site of origin by water, ice, wind, gravity and other natural means as a product of erosion.

“Self-Storage Building” means a building so designed that portions thereof which are individually secured are leased to individuals for the storage of household goods, furniture and the like, each such area being separated from all other such areas, and to which the lessee has direct access.

“Setback Line” shall mean that line which is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be erected or placed.

“Senior Citizen Project” shall mean a residential development including dwelling units, recreation facilities and other appropriate facilities within which residency shall be restricted to permanent residents of the age of fifty-five (55) years and over, except for the spouse and children eighteen (18) years or more of age of a qualifying resident.

“Sexually Oriented Business” shall have the meaning as defined in N.J.S. 2C:34-6.

“Sheltered Care Facilities” a profit or nonprofit boarding home, rest home or other home for the sheltered care of adult persons which, in addition to providing food and shelter to four or more persons unrelated to the proprietor, also provides personal care or service beyond food, shelter and laundry.

“Shopping Center” shall mean two (2) or more retail commercial establishments in one or more structures designed and operated as a coordinated integrated entity with respect to parking, services, signs, and maintenance. Uses may include retail and service establishments, offices and office structures, theaters, recreational facilities, meeting and convention facilities, museums and cultural facilities, motels and hotels, and uses accessory to all such permitted uses.

“Sight Triangle” means a triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

“Sign” shall mean a name, identification, description, display or illustration or any other visual display which is affixed to, or painted, or represented directly or indirectly upon a building, structure, or piece of land and which directs attention to an organization, business, product, individual or service.

However, a “sign” shall not include any display of official court or public office notices, any official traffic control device, nor shall it include the flag, emblem or insignia of a nation, State, County, municipality, school or religious group. A sign shall not include “no hunting, fishing or trespassing signs”. A “sign” shall not include a sign located completely within an enclosed building except if said sign is visible and directed to be seen from outside the building.

- a. **“Sign; Advertising”** A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises where the sign is located.
- b. **“Sign, Business”** A sign which directs attention to a business or profession conducted, or to a commodity, service or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.
- c. **“Sign, Flashing”** Any sign of which the artificial light is not maintained constant in intensity and/or color at all times when such sign is in use.
- d. **“Sign, Freestanding”** A sign mounted on any support other than a structure in which people live or work. Signs attached to arcades or canopies attached to structures shall not be considered freestanding signs.

“Site Plan Exemption Committee” shall mean a committee of at least three (3) Planning Board members appointed by the Chairman of the Board for the purpose of reviewing, granting or denying, by a majority of the full committee, applications for site plan exemptions.

“Small Wind Energy System” means a wind energy system that is used to generate electricity and has a nameplate capacity of 10 kilowatts or less.

“Stack” means a building containing one single-family unit over another in a horizontal regime of at least three lower-level dwelling units with not more than two dwelling units in a vertical plane. The structure shall have the outside appearances of a single dwelling unit lying in a vertical plane and not appear as one unit located above another unit. Access may serve two or more dwelling units.

“Stealth Tower Structure” means man-made trees, clock tower, bell steeples, light poles and other similar alternative-design mounting structures that camouflage and/or conceal the presence of antennas or towers.

“Stormwater Detention” means a provision for temporary storage of stormwater runoff, and the controlled release of such runoff during and after a flood or storm.

“Stormwater Management Measures” means broad term for structural and nonstructural control of stormwater runoff and non point pollution.

“Stormwater Retention” means a provision for the permanent storage of a fixed volume of water.

“Story” means that portion of a building included between the surface of any floor at or above ground level and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

“Story, Half” means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level and in which space the possible floor area with a headroom of five (5) feet or less occupies at least forty percent (40%) of the total area of the story directly beneath.

“Street” shall mean any street, avenue, boulevard, road, roadway, parkway, viaduct, drive or other way:

- a. Which is an existing State, County or municipal roadway; or
- b. Which is shown upon a plan heretofore approved pursuant to law; or
- c. Which is hereafter approved by official action as provided by this Chapter;
or
- d. Which is shown on a plat duly filed and recorded in the Office of the Morris County Clerk 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.

“Structure” shall mean 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.

“Sub-divider” shall mean any individual firm, association, syndicate, partnership, corporation, trust or any other legal entity who as a “developer” submits an application for major or minor subdivision approval pursuant to this Chapter.

“Subdivision” means 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 ordinance, if no new streets are created: (1) 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 5 acres or larger in size, (2) division of property by testamentary or intestate provisions, (3) divisions of property upon court order, including but not limited to judgments of foreclosure, (4) consolidation of existing lots by deed or other recorded instrument and (5) the conveyance of one or more adjoining lots, tracts, or parcels of land, owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the tax map

or atlas of the municipality. The term “subdivision shall also include the term “re-subdivision.”

“Subdivision Committee” shall mean a committee of at least three (3) Planning Board members appointed by the Chairman of the Board for the purpose of reviewing subdivisions for report back to the entire Board and such other duties relating to subdivisions which may be conferred on such committee by the Board and the Board's Rules, Regulations and/or By-Laws.

“Temporary Use” means a use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

“Telecommunications”

“Tower” means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. Guyed towers are not permitted within the Township. The term includes, but is not limited to, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures. The term also includes the structure and any support thereto.

“Townhouse” shall mean a one-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.

“Township” shall mean the Township of Mine Hill in the County of Morris and State of New Jersey.

“Township Council” shall mean the governing body (Township Council) of the Township of Mine Hill.

“Township Engineer” shall mean the engineer designated by the Township Council as the Township Engineer.

“Traffic Impact Study” means a report analyzing anticipated roadway conditions with and without an applicant's development.

“Transcript” means a typed or printed verbatim record of the proceedings or reproduction thereof.

“Tutoring” shall mean the teaching or instruction of academic or business subjects.

“Variance” means permission to depart from the literal requirements of a zoning ordinance pursuant to section 47 and subsections 29.2b, 57c and 57d. (C. 40:55D-40b., C. 40:55D-70c, C. 40:55D-70d.) of the Municipal Land Use Law.

“View Corridor” means an open area, the natural features of which are visually significant or geologically or botanologically unique visible from highways, waterways, railways, major hiking and biking and equestrian trails providing vistas over water, across expanses of land or from mountain tops or ridges.

“Waiver” means permission to depart from the requirements of this Chapter with respect to the submission of required maps or documents. (See “Exception”).

“Wind turbine” means equipment that converts energy from wind into electricity. This term includes the rotor, blades and associated mechanical and electrical conversion components necessary to generate, store and/or transfer energy.

“Yard” means an open space extending between the closest point of any building and the nearest lot line or right-of-way line, and which is unoccupied and unobstructed from the ground upward except as may be specifically provided in this ordinance.

“Yard, Front” means a space extending across the full width of the lot, the depth of which is the minimum horizontal distance between the nearest point on the street line, and the nearest part of the main building. In the case of lots abutting a lake, the “front yard” is measured from the shore of the lake to the nearest part of the main building.

“Yard, Rear” means a space extending across the full width of the lot between the rear lot line and the building.

“Yard, Rear Side” means that portion of the side yard extending from the nearest point of the rear of the main building to the rear lot line.

“Yard, Side” means a space extending from the front yard to the rear yard and lying between a side lot line and the closest point of the building.

“Zoning Officer” shall mean the administrative officer designated to administer Section 25-10, Zoning, of this Chapter and issue zoning permits.

“Zoning Permit” means a document signed by the administrative officer (1) which is required by ordinance as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building and (2) which acknowledges that such use, structure or building complies with the provisions of the municipal zoning ordinance or variance there from duly authorized by a municipal agency pursuant to sections 47 and 57 (C. 40:55D-60, C. 40:55D-70) of the Municipal Land Use Law.

“Zoning Ordinance of the Township” shall mean Section 25-10, of this Chapter as amended and supplemented from time to time. The original zoning ordinance for the Township of Mine Hill was adopted in May of 1952 and was amended from time to time thereafter.

25-3 PLANNING BOARD

25-3.1 Establishment, Membership.

25-3.1.1 Creation, Membership, Alternates.

- a. There is hereby established in the Township pursuant to N.J.S.A. 40:55D-23, a Planning Board of nine (9) members consisting of the following four (4) classes:

Class I. The Mayor or the Mayor's designee in the absence of the Mayor.

Class II. One (1) of the officials of the township, other than a member of the Township Council, to be appointed by the Mayor, provided that if there is an Environmental Commission, the member of the Environmental Commission who is a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be deemed to be the Class II Planning Board member if there is a member of the Board of Education among the Class IV members.

Class III. A member of the Township Council to be appointed by it.

Class IV. Six (6) other citizens of the township to be appointed by the Mayor.

- b. The members of Class IV shall hold no other municipal office, position or employment, except that one (1) such member may be a member of the Board or the historic Preservation Commission, if any, and one (1) may be a member of the Board of Education. A member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be a Class IV Planning Board member unless there be among the Class IV members of the Planning Board a member of the Board or Historic preservation Commission and a member of the Board of Education, in which case the member of the Environmental Commission shall be deemed to be a Class II member of the Planning Board. For the purpose of this section, membership on a municipal board or commission whose function is advisory in nature, and the establishment of which is discretionary and not required by statute, shall not be considered the holding of a municipal office. Any member other than a Class I member, after a public hearing if he requests one, may be removed by the Governing Body for cause.
- c. There shall also be not more than two (2) alternate members, who are municipal residents, appointed by the Mayor who shall be designated by the Mayor as Alternate No. 1 and Alternate No. 2. Alternate members shall meet the qualifications for Class IV members of nine-member Planning Boards.

- d. Alternate members may participate in all matters, but may not vote except in the absence or disqualification of a regular member of any class. Participation of alternate members shall not be deemed to increase the size of the Planning Board established by ordinance of the Governing Body pursuant to N.J.S.A. 40:55D-23. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote. An alternate member shall not serve as Chairman or Vice-Chairman of the Planning Board.

25-3.2 Reserved.

25-3.3 Terms.

- 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 (1) year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the Environmental Commission. The term of a Class II or Class IV member who is also a member of the Environmental Commission shall be for three (3) years or terminate at the completion of his term of office as a member of the environmental Commission, whichever occurs first
- b. The terms of the two alternate members shall be for two (2) years except that the terms of the alternate members shall be such that the term of not more than one (1) alternate member shall expire in any one (1) year. A vacancy occurring otherwise than by expiration of term shall be filled by the Mayor for the unexpired term only.
- c. The term of a Class IV member who is also a member of the Board or a Board of Education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first.
- d. The terms of all Class IV members first appointed pursuant to this chapter shall be so determined that to the greatest practicable extent the expiration of such term shall be distributed evenly over the first four (4) years after their appointment as determined by resolution of the Township Council, provided that no term of any member shall exceed four (4) 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 (4) years except as otherwise hereinabove provided. All terms run from January 1 of the year in which the appointment is made.

- e. The Mayor's designee shall serve at the pleasure of the Mayor and shall cease to serve upon termination of the Mayor's term. The Mayor shall make his designation in writing and file same with the Township Clerk who shall keep same on record and available for public inspection; and a change of designee shall be effected in like manner. The Mayor's designee shall not be considered to be a member of the Board but shall vote in place or stead of the Mayor. In any matter wherein the Mayor would be disqualified from acting, the Mayor's designee shall likewise be disqualified.

25-3.4 Vacancies. If a vacancy in any class shall occur other than by expiration of term, it shall be filled by appointment as above provided for the unexpired term.

25-3.5 Organization of Board. 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.

25-3.6 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 Township Attorney.

25-3.7 Experts and Staff. In addition, the Planning Board may also employ or contract for the service of experts and other staff and services as it may deem necessary. The Board shall not, however, exceed, exclusive of gifts and grants, the amount appropriated by the Township Council for its use.

25-3.8 Powers and Duties Generally. The Planning Board shall be authorized to adopt bylaws governing its procedural operation. It shall also have the following powers and duties:

- a. To make and adopt, and from time to time amend, a Master Plan for the physical development of the township, including any areas outside its boundaries which, in the Board's judgment, bear essential relation to the planning of the township in accordance with the provisions of N.J.S.A. 40:55D-28. In accordance with the provisions of N.J.S. 40:55D-89, the Planning Board shall, at least every six (6) years, request the Governing Body to budget funds to provide for a general re-examination of the Master Plan and Development regulations by the Board and for such purpose may employ the services of a Planner and an Attorney. A re-examination report shall in accordance with the statute be completed by August 1, 2006 and thereafter at least once every six years from the previous re-examination. The report shall be in the form required by said statute.
- b. To administer the provisions of the Land Subdivision and Site Plan Review provisions of this Chapter in accordance with its provisions and the Municipal Land Use Law of 1975, N.J.S.A. 40:55D-1 et. seq.

- c. To hear applications for conditional uses and, in proper cases, to approve conditional use permits in accordance with provisions of this Chapter pursuant to N.J.S.A. 40:55D.67.
- d. To participate in the preparation and review of programs or plans required by state or federal law or regulations.
- e. To assemble data on a continuing basis as part of a continuous planning process.
- f. To annually prepare a program of municipal capital improvements projects projected over a term of six (6) years, and amendments thereto, and recommend the same to the Township Council.
- g. To consider and report to the Township Council, within thirty-five (35) days after referral, 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 Township Council pursuant to the provisions of N.J.S.A. 40:55D-26b.
- h. Whenever the proposed development requires approval of a subdivision, site plan or conditional use, but not a variance pursuant to N.J.S.A. 40:55D-70d, to grant to the same extent and subject to the same restrictions as a board of adjustment.
 - 1. Variances pursuant to N.J.S.A. 40:55D-70c.
 - 2. Direction pursuant to N.J.S.A. 40:55D-34 for issuance of a permit for a building or a structure in the bed of a mapped street or a public drainage way, flood control basin or public area reserved pursuant to N.J.S.A. 40:55D-32; and
 - 3. Direction pursuant to N.J.S.A. 40:55D-36 for issuance of a permit for a building or structure not related to a street.
- i. Whenever relief is requested pursuant to this section, notice of the 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.
- j. The developer may elect to submit a separate application requesting approval of the variance or direction of the issuance of a permit and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance or direction of the issuance of a permit shall be conditioned upon grant of all required subsequent approvals by the Planning Board. No such subsequent approval shall be granted unless the approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance.
- k. To consider and make a report within forty-five (45) days of its receipt upon any petition for annexation submitted to the governing body of the municipality and referred to the Planning Board pursuant to N.J. S.A. 40A:7-1 et. seq.
- l. To review a petition for inclusion of a parcel in a municipally approved Farmland Preservation Program pursuant to N.J.S.A 4: 1C-21.

- m. To perform such other advisory duties as are assigned to it by ordinance or resolution of the Township Council for the aid and assistance of the Council for other agencies or officers.
- n. Review and make recommendations with respect to any capital project proposed by a public agency necessitating the expenditure of public funds by the Township or any special district therein, or other authority, school board or other similar public agency, state, county or municipal in accordance with N.J.S. 40:55D-31.

25-3.9 Time.

- a. Minor subdivision. Minor subdivision approvals shall be granted or denied within forty-five (45) days of the date of submission of a complete application to the Planning Board and within such further time as may be consented to by the applicant. Approval of a minor subdivision shall expire one hundred ninety (190) days from the date on which the resolution of municipal approval is adopted unless within such period a plat in conformity with such approval and the provisions of the Map Filing Law or a deed clearly describing the approved minor subdivision is filed by the developer and with the county recording officer, the Township Engineer and the Township Tax Assessor. Any such plat or deed shall be signed by the Chairman and Secretary of the Planning Board before it shall be accepted for filing by the county recording officer.
 - 1. The Planning Board may extend the one-hundred-ninety-day period for filing a minor subdivision plat or deed, as hereinabove set forth, if a developer proves to the reasonable satisfaction of the Planning Board that the developer was barred or prevented, directly or indirectly, from filing said map because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities and that the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Planning Board. The developer may apply for the extension either before or after what would otherwise be the expiration date.
 - 2. The Planning Board shall grant an extension of minor subdivision approval for a period determined by the Board, but not exceeding one (1) year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was banned or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the required approvals. A developer shall apply for the extension before what would otherwise be the expiration date of minor subdivision approval or the 91st day after the developer

receives the last legally required approval from other governmental entities, whichever occurs later.

- b. Preliminary Approval of Subdivisions. Upon submission of a complete application for a subdivision of ten (10) or fewer lots, the Planning Board shall grant or deny preliminary approval within forty-five (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 ten (10) lots, the Planning Board shall grant or deny preliminary approval within ninety-five (95) days of the date of such submission or within such further time as may be consented to by the developer. Otherwise, the Planning Board shall be deemed to have granted preliminary approval for the subdivision or site plan, etc. Preliminary approval of a major subdivision shall confer upon the applicant for a period of three (3) years from the date on which the resolution of preliminary approval was adopted all the rights specified in N.J.S.A. 40:55D-49, including the right to apply for extensions thereof as set forth in said section.
- 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 this Chapter, the Planning Board shall grant or deny approval of the application within ninety-five (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 of administrative officer 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 forty-five (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 ninety-five (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 one hundred ninety (190) days from the date of signing of the plat.
 1. The Planning Board may extend the ninety-five day or one-hundred ninety-day period if a developer proves to the reasonable satisfaction of the Planning Board that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities and that the developer applied promptly for and diligently pursued the required approvals. The length of the extensions shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Planning Board.

The developer may apply for an extension either before or after the original expiration date.

2. The zoning rights applicable to the preliminary approval first granted and all other rights conferred upon the developer, whether conditionally or otherwise, shall not be changed for a period of two (2) years after the date on which the resolution of final approval was adopted. Extensions of final approval may be granted pursuant to the provisions of N.J.S.A. 40:55D-52.

25-3.10 Application Procedure for Filing. Applications for development within the Jurisdiction of the Planning Board pursuant to the provisions of N.J.S.A. 40:55D-1 et. seq., shall be filed with the Secretary of the Planning Board. The applicant shall file, at least twenty-one (21) days before the date of the meeting of the Board at which the matter is scheduled to be heard, sixteen (16) copies of a sketch plat, sixteen (16) copies of applications for minor subdivision approval, sixteen (16) copies of applications for major subdivision approval or sixteen (16) copies of an application for site plan review, conditional use approval or planned development. At the time of filing the application, but in no event less than ten (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 chapter or any rule of the Planning Board. 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.

25-3.11 Advisory Council. The Mayor may appoint one (1) or more persons a Citizens Advisory Council 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.

25-3.12 Environmental Commission; Historic Preservation Commission. Whenever the Environmental Commission has prepared and submitted to the Planning Board an index to the natural resources of the Township, the Planning Board shall make available to the Environmental Commission an informational copy of every application for development to the Board. An informational copy of every application affecting a historic site or historic district shall also be made available to any Historic Preservation Commission established in the township. Failure of the Planning Board to make such informational copies available to the Environmental Commission or the Historic Preservation Commission (if any), shall not invalidate any hearing or proceeding. When the Environmental Commission or Historic Preservation Commission (if any), has filed a report or recommendation with the Board, the Board shall consider and comment upon such report in making its final decision on the application.

25-3.13 Mining Review Board. The establishment of a Mining Review Board and designation of its powers previously established by ordinance is set forth in Appendix V.

25-3.14 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 chapter. 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.

25-3.15. Certification of Completeness of Application. Applications for development within the jurisdiction of the Planning Board shall be reviewed for completeness in accordance with the provisions of Section 25-5.7 of this chapter.

25-4 Board of Adjustment

25-4.1 Abolishment of Board of Adjustment. The Board of Adjustment is hereby abolished, and all of the powers and duties granted by law to the Board of Adjustment are hereby transferred to the Planning Board pursuant to the authority established in N.J.S.A. 40:55D-25c.

25-4.2 Reference to Board. All references to "Board of Adjustment" contained in this chapter or elsewhere in the Township Code shall be deemed to refer to the Planning Board.

25-4.3 Reserved

25-4.4 Reserved

25-4.5 Reserved

25-4.6 Reserved

25-4.7 Appeals and Applications.

- a. Appeals to the Planning Board acting as the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Each appeal shall be taken within the twenty (20) days prescribed by the statute by filing a notice of appeal with the officer from whom the appeal was taken, together with five (5) copies of such notice with the Secretary of the Planning Board. Such notice of appeal shall specify the grounds for the appeal. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- b. Applications addressed to the original jurisdiction of the Board without prior application to an administrative office shall be filed with the Clerk of the township. The appropriate number of copies of the application as required by the checklist shall be filed. At the time of filing the appeal or application, but in no

event less than ten (10) days prior to the date set for hearing, the applicant shall also file all plot plans, maps or other papers required by virtue of any provision of this chapter or any rule of the Planning Board. The applicant shall obtain all necessary forms from the Secretary of the Board. The Secretary of the Board shall inform the applicant of the steps to be taken to initiate proceedings and of the regular meeting dates of the Board.

- c. An appeal stays all proceedings in furtherance of the action in respect of which the decision appealed from was made. Unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Board or by the Superior Court of New Jersey on application or notice to the officer from whom the appeal is taken and on due cause shown.
- d. The appropriate fee shall be paid to the Board upon the filing of any petition. All fees shall be turned over to the Township Treasurer. Any stenographic transcripts required by the petitioner or by the shall be paid for by the petitioner in addition to the fee.

25-4.8 Power to Reverse or Modify Decisions. In exercising the above-mentioned power, the Board may, in conformity with the provisions of N.J. S.A. 40:5 5D-1 et. seq., or amendments thereto or subsequent statutes applying, reverse or affirm wholly or partly or may modify the order, requirement, decision or determination appealed from and make such other requirement, decision or determination as ought to be made and to that end have all the powers of the administrative office from whom the appeal was taken.,

25-4.9 Expiration of Variance. Any variance from the terms or provisions of this Chapter, granted by any municipal agency shall expire by limitation unless the construction or alteration of any structure so authorized shall have been actually commenced on each and every structure so authorized or unless such permitted use has actually been commenced within one (1) year from the publication of notice of adoption of the resolution of the municipal agency granting such variance; except, however, that the running of said period of limitation herein provided shall be tolled from the date of filing of an appeal from the decision of the municipal agency to the Township Council or to a court of competent Jurisdiction until the termination in any manner of such appeal or proceeding or until the expiry of two (2) years from the date of final approval of any site plan or subdivision sought as part of the application to the municipal agency for such variance. An applicant may request an extension of such period by application to the municipal agency on notice in accordance with the provisions of Subsection 25-6.14.

25-4.10 Powers Granted by Law. The Planning Board acting as the Board of Adjustment shall have such powers are granted by law to:

- a. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning provisions of this Chapter

- b. Hear and decide requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning or official map ordinance, in accordance with this act;
- c. (1) Where: (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to the Zoning provisions of this Chapter would result in peculiar and exceptional practical difficulties to, or exceptions and undue hardship upon, the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship; and (2) where, in an application or appeal relating to a specific piece of property the purposes of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from such regulations of the Zoning provisions of this Chapter, provided, however, that the fact that a proposed use is an inherently beneficial use shall not be dispositive of a decision on a variance under this subsection and provided that no variance from those departures enumerated in N.J.S.A. 40:55D-70d shall be granted under this subsection
- d. In particular cases and for special reasons, grant a variance to allow departure from regulations set forth in the Zoning provisions of this Chapter to permit:
 1. A use or principal structure in a district restricted against such use or principal structure;
 2. An expansion of a nonconforming use;
 3. Deviation from a specification or standard pursuant to N.J.S.A. 40:55D-67 pertaining solely to a conditional use.
 4. An increase in the permitted floor area ratio, as defined in N.J.S.A. 40:55D-4;
 5. An increase in the permitted density, as defined in N.J.S.A. 40:55D-4, except as applied to the required lot area for a lot or lots for detached one- or two-dwelling unit buildings, which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision; or
 6. A height of a principal structure which exceeds by ten (10) feet or ten percent (10%) the maximum height permitted in the district for a principal structure.

A variance under this subsection shall be granted only by the affirmative of at least five(5) members of the Board. If an application for development requests one (1) or more

variances, but not a variance for a purpose hereinabove enumerated, the decision on the requested variance or variances shall be rendered under Subsection c of this section.

No variance or other relief may be granted under the terms of this section, including a variance or other relief involving an inherently beneficial use, without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance. In respect of any airport hazard areas delineated under the Air Safety and Hazardous Zoning Act of 1983, N.J.S.A. 6:1-80 et seq., no variance or other relief may be granted under the terms of this section permitting the creation or establishment of a nonconforming use which would be prohibited under the standards promulgated Transportation. An application under this section may be referred to any appropriate person or agency other than the Planning Board for its report, provided that such reference shall not extend the period of time within which the Board shall act.

25-4.11 Additional Powers.

The Board shall, in addition to the powers specified in Subsection 25-4. 10 have power given by law to:

1. Direct issuance of a permit pursuant to N.J.S.A. 40:55D-34 for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved on the Official Map.
2. Direct issuance of permit pursuant to N.J.S.A. 40:55D-36 for a building or structure not related to a street.
3. Hear applications pursuant to N.J.S. 40:55D-68, seeking to establish whether a specific use or structure is protected as a nonconforming use or structure.

25-4.12 Time for Decision.

- a. The Board shall render its decision not later than one hundred twenty (120) days after the date:
 - 1. An appeal is taken from the decision of an administrative officer.
 - 2. The date of certification of completeness of an application for development to the Board in accordance with the provisions of Subsection 25-5.8 of this chapter.
- b. Failure of the Board to render a decision within such one hundred twenty day period or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant.

25-5 PROCEDURES AND GENERAL PROVISIONS

25-5.1 Conflicts of Interest; Removal of Members.

- a. No member or alternate member of the Planning Board shall act on any matter in which he has either directly or indirectly a 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.
- b. Members may be removed, after a public hearing, for inefficiency, neglect of duty, malfeasance in office or other good cause by the officer or body appointing them.

25-5.2 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 (2) Board members, which shall be held on notice to its 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. Failure of a motion to receive the number of votes required to approve an application for development shall be deemed an action denying the application.

- 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, N.J.S.A. 10:4-6 et seq. An executive session for the purpose of discussing and studying any matters to come before the Board shall not be deemed a regular or special meeting in accordance with the provisions of N.J.S.A. 40:55D-9.

25-5.3 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 findings, if any, made by it and reasons therefore. The minutes shall thereafter be made available for public inspection; during normal business hours at the office of the Township 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. The Board Secretary shall distribute copies of the minutes to each Board member and professional staff member within two (2) weeks following the meeting.

25.5.4 Hearings.

- a. **Rules.** The Planning Board may make rules governing the conduct of hearings before such bodies, which rules shall not be inconsistent with the provisions of N.J.S.A. 40:55D-1 et. seq., or of this chapter.
- b. **Oaths.** The officer presiding at the hearing, or such person as he may designate, shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law, 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 attorney, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.
- 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 stenographer, 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.
- f. **Requirement for Voting.** When any hearing before the Planning Board shall carry over two (2) or more meetings, a member of the Board who was absent from one (1) or more of the meetings shall be eligible to vote on the matter upon which

the hearing was conducted, notwithstanding his absence from one (1) or more of the meetings, provided that such Board member has available to him a transcript or a recording of the meeting from which he was absent and certified in writing to the Board that he has read such transcript or listened to such recording, in accordance with the provisions of N.J.S.A. 40:55D-10.2.

25-5.5 Notice Requirements for Hearing. Public notice of a hearing shall be given for an extension of approvals for five or more years under Subsection d. of N.J.S. 40:55D-49 and subsection b. of N.J.S. 40:55D-52; for modification or elimination of a significant condition or conditions in a memorializing resolution in any situation wherein the application for development for which the memorializing resolution is proposed for adoption required public notice; for appeals of determinations of an Administrative Officer pursuant to subsection a. of N.J.S. 40:55D-70; for requests for interpretation of the zoning map or ordinance pursuant to subsection b. of N.J.S. 40:55D-70; application for a certificate certifying that a use or structure existed before the adoption of the ordinance which rendered the use or structure nonconforming pursuant to N.J.S. 40:55D-68; for any relief requested pursuant to N.J.S.A. 40:55D-60 or 40:55D-76 as part of an application for development otherwise excepted herein from public notice; and for any other applications for development with the following exceptions: (1) minor subdivisions pursuant to N.J.S. 40:55D-47; (2) minor site plan review pursuant to N.J.S. 40:55D-46, or (3) final approval pursuant to N.J.S. 40:55D-50. The Applicant shall give notice thereof as follows:

- a. Public notice shall be given by publication in the official newspaper of the township at least ten (10) days prior to the date of the hearing.
- b. Notice to owners.
 1. Notice shall be given to the owners of all real property as shown on the current tax duplicate or duplicates, located within two hundred (200) feet in all directions of the property, which is the subject of such hearing, and whether located within or without the township in which the applicant's land is located. Such notice shall be given by:
 - (a) Serving a copy thereof on the owner as shown on the current tax duplicate or his agent in charge of the property.
 - (b) Mailing a copy thereof by certified mail to the property owner at his address as shown on the current tax duplicate. A return receipt shall not be required.
 2. Notice to a partnership owner may be made by serving 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 involving property located within two hundred (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 subsection to the owners of lands in such adjoining municipality which are located within two hundred (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 shown on the Official County Map or on the County Master Plan, adjoining other county land or situate within two hundred (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 State Planning Commissioner of a hearing on an application for development of property which exceeds one hundred fifty (150) acres or five hundred (500) dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the Township Clerk pursuant to N.J.S.A. 40:55D- 10b.
- g. In connection with an application for a major subdivision or a site plan not defined as a minor site plan under the Municipal Land Use Law, pursuant to the provisions of N.J.S.A. 45:55D-12, notice shall be given by personal service or certified mail to the corporate secretary of all public utilities and the general manager of all cable television companies that own land or any facility or that possess a right-of-way or easement within two hundred (200) feet in all directions of the property which is the subject of such hearing. An applicant seeking approval of a development which does not require notice shall be required to provide notice by personal service or certified mail to the corporate secretary of any public utility and the general manager of any cable television company that possesses a right-of-way or easement situated within the property limits of the property which is the subject of the application for development.
- h. All notices hereinabove specified in this subsection shall be given at least ten (10) days prior to the date fixed for hearing, and the applicant shall file an affidavit of proof of service with the Board holding the hearing on the application for development.
- i. 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.
- j. All notices required to be given pursuant to the terms of this chapter 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 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.

25-5.6 List of Property Owners Furnished. Pursuant to the provisions of N.J.S.A. 40:55D-12c, the Tax Assessor of the township shall, within seven (7) days after receipt of a

request therefore and upon receipt of payment (of a fee of twenty-five cents (\$.25) per name or ten dollars (\$10), whichever is greater) 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 Subsection 25-5.5b.

25-5.7 Development Checklists - Submission with Applications for Development.

The following development checklist must be completed and submitted with the application for development. The checklist requirements are the basis for the determination of a complete application and where items are required in the checklist and not provided, the application shall be deemed to be incomplete.

25-5.7.1 Checklist Requirements for All Applications

- _____ Affidavit of Ownership, where applicant is not the owner
- _____ Proof of payment of all taxes to date
- _____ Submission of all required fees and deposits
- _____ Corporations and partnerships shall submit all information required in Sections 25-5.17 and 25-5.18 where applicable.
- _____ Proof of submission of application to the County Planning Board
- _____ Proposed features such as outdoor storage areas, outdoor mechanical equipment, solid waste and recycling areas, service areas, utility buildings and structures and fences or walls, including all building or structure dimensions. This requirement shall be applicable to applications for a minor site plan, minor subdivision, preliminary major subdivision, preliminary site plan and final site plan

25-5.7.2 Minor Subdivision Checklist.

- _____ Application form - 16 copies
- _____ Plans prepared by N.J.P.L.S. 16 copies folded into eighths
- _____ Deed - 3 copies
- _____ Copy of all deed restrictions 3 copies
- _____ County Application form as provided to the County Planning Board
- _____ Appropriate application fees and escrow account

Plat Requirements - Minor Subdivision

- _____ Scale of no greater than 1" = 50'
- _____ Key map at less than 1" = 2000'
- _____ Title block
- _____ Name of subdivision
- _____ Name and address of sub-divider
- _____ Name and address of owner
- _____ Owner consent of block, signed

- _____ Graphic and written scale
- _____ Acreage and square footage of original tract, subdivided parcels, and dedicated lands
- _____ Signature approval block of Chairman, Secretary and Engineer
- _____ North arrow referenced to source
- _____ Existing block and lot numbers
- _____ Proposed lot and block numbers as received from Tax Assessor
- _____ Location and dimensions of existing and proposed buildings and driveways on site and within 100 ft.
- _____ Watercourses and culverts on site and within 200 ft. with stream encroachment lines
- _____ Zone district with schedule of requirements of the zone and that which is provided in the submission with written and graphic representation of bulk requirements
- _____ Flood plain delineation, including flood fringe and floodway H.U.D. reference requirements
- _____ Topography of site
- _____ Monuments to be shown at all existing and proposed corners
- _____ Sight triangle provided on corner lots
- _____ Surveyor certification that the subdivision is based upon accurate survey
- _____ Wooded areas
- _____ Areas of mines and areas of mines which have been rendered safe
- _____ Soil mapping
- _____ Wetlands and floodplain areas
- _____ Percolation test and soil log locations and results
- _____ A geotechnical investigation report in accordance with the provisions in Section 25-10.18.2.2.4 of the regulations
- _____ Such other information as the Planning Board may reasonably request to determine that all minor subdivision requirements of this Chapter and any other applicable land use regulations have been satisfied.

Note: If a site contains areas of mines or areas of mines which have been rendered safe, this application is a major application.

25-5.7.3 Major Subdivision Checklist. All items required for submission of a minor subdivision and also including the following items:

- _____ Application form (16 copies)
- _____ Cross sections of all streams traversing the property
- _____ Total area of drainage basin of any watercourse traversing the property
- _____ Topography at 2' vertical intervals on slopes less than 15%
- _____ Topography at 5' intervals at slopes of greater than 15%
- _____ Note that utilities are to be installed underground
- _____ Street sign or on-site sign locations and detail
- _____ Environmental Impact Statement in accordance with all requirements of 25-10.19.

25-5.7.4 Minor Site Plan Checklist. All items required for submission of a minor subdivision and also including the following items:

- _____ Application form (16 copies)
- _____ Parking plan showing dimension spaces, aisles, access lanes and handicapped stall locations
- _____ Floor plans and elevations with exterior dimensions of building curbs and sidewalks with details
- _____ Floor area ratio and coverage
- _____ Utility layout, including method of water supply and sewage treatment measures
- _____ Landscaping plan
- _____ Lighting layout with isolux illumination pattern shown on plan
- _____ First floor elevation
- _____ Spot elevations

25-5.7.5 Major Site Plan Checklist. All items required for minor and major subdivision and minor site plan applications and also including the following items:

- _____ Application form (16 copies)
- _____ Traffic analysis of impact due to development of the site
- _____ Environmental Impact Statement in accordance with all requirements of 25-10.19.

25-5.7.6 Checklist for “C” Variance Application

a. Provide a Plot Plan; Location Survey; or Site Plan of the Subject Property Containing the Following Information (Same must be clear, legible and drawn to Scale)

- _____ Title block, written and graphic scale; North arrow
- _____ Owner or Applicant’s name(s) and address(es)
- _____ Property lines including bearings and distances; required setback(s) and proposed setback(s)
- _____ Dimensions of all existing and proposed structures
- _____ Offset distances from proposed structure(s) to nearest property line on at least two sides
- _____ Location of any existing well(s) and/or septic systems
- _____ Location and dimension of pavement; sidewalk; driveway; patio, etc., on-site
- _____ Zoning Box (show zone requirements versus proposed relief you are requesting)
- _____ Location of any easements; rights of way; affecting the within premises
- _____ Length, height and material for any proposed fences
- _____ Any deed restrictions that would affect the proposed variance must be set forth.

- b. Additional materials required if the Application involves any of the following:

- _____ Construction of a one or two family home;
- _____ Construction of a garage; an addition to a residence larger than 500 square feet.
- _____ Fully dimensioned elevations of proposed building(s) or structure(s) indicating the appearance and shape of roof lines, windows, doors trim, colors, textures, appurtenant structures, and all other significant infrastructure to be located on the property in question.
- _____ Topography contours at two foot (2') intervals.*
- _____ Location of water course(s) on-site.

(*This information may be available from the Township)

25-5.7.7 Checklist for “D” Variance applications. All items required for Submission of a minor subdivision

25-5.8 Completeness of Application.

25-5.8.1 Certification. An application for development shall be complete for purposes of commencing the applicable time period for action by a municipal agency when so certified by the Secretary or Clerk of the Board.

25-5.8.2 Distribution following completeness. When an application has been deemed complete, the Planning Board shall retain two copies of the application and submissions and forward copies thereof to the following for review and comment:

- a. Township Planning Board Consultant;
- b. Township Engineer
- c. Township Board of Health
- d. Township Building Inspector
- e. Township Tax Assessor
- f. Township Environmental Commission

The Attorney and Engineer for the Board and all other state, county and township offices and departments having jurisdiction thereof, as required by law or by the provisions of this Chapter for their reports and recommendations concerning the proposed development. The reports shall be presented at a regularly scheduled meeting on the application. If a report disapproves of the application, detailed reasons for the disapproval must be set forth. Reports shall be filed with the appropriate board within 30 days of receipt thereof. The Planning Board may determine that one or more of the above listed referrals may be eliminated (except for the County Planning Board) if because of the nature and extent of the application one or more of such reports is not necessary.

25-5.8.3 Failure to Certify. In the event that the appropriate designated official does not certify the application to be complete within forty-five (45) days of the date of its

submission, the application shall be deemed complete upon the expiration of the forty-five day period for purposes of commencing the applicable time period unless:

- a. The application lacks information indicated on a checklist as hereinafter specified, a copy of which shall have been provided to the applicant; and
- b. The municipal agency or its authorized committee or designee has notified the applicant in writing of the deficiencies in the application within forty-five (45) days of submission of the application. The applicant may request that one (1) or more of the submission requirements be waived, in which event the agency or its authorized committee shall grant or deny the request within forty-five (45) days. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that he is entitled to approval of the application. The municipal agency may subsequently require correction of any information found to be in error and submission of additional information not specified in the ordinance or any revisions in the accompanying documents as are reasonably necessary to make an informed decision as to whether the requirements necessary for the 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 agency.
- c. The applicant has not paid the appropriate fees and deposits provided for in Section 25-11.

25-5.9 Decisions.

- a. Each decision on any application for development shall be set forth in writing as a resolution of the Board, which shall include findings of fact and legal conclusions based thereon.
- b. A copy of the decision shall be mailed by the Board within ten (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 Township Clerk, who shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same amount as those established for copies of other public documents in the township.
- c. The municipal agency shall include findings of fact and conclusions based thereon in each decision on any application for development and shall reduce the decision to writing. The municipal agency shall provide the findings and conclusions through:

1. A resolution adopted at a meeting held within the time period provided in the act for action by the municipal agency on the application for development; or
 2. A memorializing resolution adopted at a meeting held no later than forty-five (45) days after the date of the meeting at which the municipal agency voted to grant or deny approval. Only the members of the municipal agency who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution. If only one member who voted for the action attends the meeting at which the resolution is presented for adoption, the resolution may be adopted upon the vote of that member. An action pursuant to N.J.S.A. 49:55D-9 (resulting from the failure of a motion to approve an application) shall be memorialized by resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution. The vote on any such resolution shall be deemed to be memorialization of the action of the municipal agency and not to be an action of the municipal agency; however, the date of the adoption of the resolution shall constitute the date of the decision for purposes of the mailings, filings and publications required by Paragraph (b) of this section. If the municipal agency fails to adopt a resolution or memorializing resolution as hereinabove specified, any interested party may apply to the Superior Court in a summary manner for an order compelling the municipal agency to reduce its findings and conclusions to writing with a stated time and the cost of the application, including attorney's fees, shall be assessed against the municipality.
- d. 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. An action resulting from the failure of a motion to approve an application shall be memorialized by resolution as provided above.

25-5.10 Publication of Decision. A brief notice of every final decision shall be published in the official newspaper of the township. Such publication shall be arranged by the Secretary of the Planning Board, as the case may be, without separate charge to the applicant. Such notice shall be sent to the official newspaper for publication within ten (10) days of the date of any such decision.

25-5.11 Payment of Taxes. Pursuant to 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 taxes or assessments are delinquent on such property, any approvals or other relief granted by either 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 township shall be adequately protected.

25-5.12 Conditional Approvals.

- a. Conditions Precedent. Whenever any application for development is approved subject to specified conditions, intended to be fulfilled before the approval becomes effective, other than conditions contemplated by N.J.S.A. 40:55D-22b, said conditional approval shall lapse and become null and void unless all specified conditions are fulfilled within one hundred ninety (190) days of the date of conditional approval.
- b. The fulfillment of all conditions precedent shall be reported in writing to the municipal agency, which may cause such reports to be verified in an appropriate manner. Only upon fulfillment of all conditions shall any subdivision map or site plan be assigned or any required building permit, occupancy permit or zoning permit is issued.
- c. Conditions Subsequent. Whenever any application for development is approved subject to conditions, which by their terms are incapable of being fulfilled or are not required to be fulfilled prior to the final approval of the application, the performance of which are not guaranteed by bonds or securities of any type, failure to fulfill any such condition within six (6) months from the date of the final approval of the application for development shall be grounds for the issuance of a stop-work order by the enforcing official and the withholding of any zoning permit, certificate of occupancy or any other approval until such condition or conditions are fulfilled.
- d. Nothing herein contained shall be construed as preventing the municipal agency from specifying a longer period of time within, which any specific condition must be fulfilled or from granting upon an ex parte application, an extension of time for fulfilling a condition for good cause shown.
- e. The fulfillment of all conditions shall be reported in writing to the municipal agency which may cause such reports to be verified in an appropriate manner. Only upon fulfillment of all conditions shall any subdivision map or site plan be signed or any required building permit, occupancy permit, zoning permit or other required approval be issued.

25-5.13 Default Approvals; Applicant's Obligations. An applicant shall comply with the provisions of this subsection whenever the applicant wishes to claim approval of his application for development by reason of the failure of a municipal agency to grant or deny approval within the time periods specified in the Municipal Land Use Law and this chapter.

- a. The applicant shall provide notice of the default approval to the municipal agency and to all those entitled to notice by personal service or certified mail of the hearing on the application for development, but, for purposes of determining who is entitled to notice, the hearing on the application for development shall be

deemed to have required public notice pursuant to Subsection a of N.J.S.A. 40:55D-12. The applicant shall arrange publication of the notice of the default in the official newspaper of the municipality, if there be one, or in the newspaper of general circulation in the municipality.

- b. The applicant shall file an affidavit of proof of service and publication with the Secretary of the Planning Board as the case may be.

25-5.14 Appeals to Board. An appeal to the Board may be taken by an interested party affected by any decision of an administrative officer of the township based on or made in the enforcement of the Zoning Chapter or Official Map. Such appeal shall be taken within twenty (20) days by filing a notice of appeal in the manner set forth in Subsection 25-4.7 and in accordance with the provisions of the Municipal Land Use Law of 1975, N.J.S.A. 40:55D-69 et. seq. Appellant shall give notice of such appeal in accordance with the provisions of Section 25-5.5

25-5.15 Procedures for Filing Applications.

25-5.15.1 Applications and Instructions. Application forms for submission of an application for development to a municipal agency, together with such instructions for filing as may have been approved by the Board, and a currently adopted checklist shall be available to all interested parties at the office of the Township Clerk

25-5.15.2 Filing with Board Secretary. All applications for development addressed to the Board shall be filed with the Board Secretary. All applications shall be accompanied by the fee calculated by the Board Secretary or Board Planner to meet the requirements of this chapter.

25-5.15.3 Forwarding to Zoning Officer. The Secretary shall date-stamp each application upon receipt and forthwith forward the same to the Zoning Officer who shall, within twenty-one (21) days from receipt, determine whether the use is permitted in the zone, in accordance with the provisions of this chapter and the checklist which is adopted as a schedule hereto.

25-5.15.4 Notification to Applicant. The Secretary of the Board having jurisdiction shall forthwith notify the applicant by certified mail that the application is complete and that the application has been set down for hearing on a specified date, giving the time of the hearing and the place where it will be held, and requiring the applicant to give notice by publication and personal or certified mail service at least ten (10) days prior to the date set for hearing; or that the application is incomplete for the reasons specified by the Zoning Officer. If an application is deemed not to be complete, the Applicant shall be advised as to the specific reasons why it is incomplete.

25-5.15.5 Filing Proof of Service and Publication. The applicant shall file with the Zoning Officer proof of service of personal or certified mail service and proof of publication

as required by law at least two (2) working days (Saturdays, Sundays and legal holidays excluded) prior to the hearing date so that adequacy of the notice can be determined. The Zoning Officer shall submit a report thereon to the Secretary of the Planning Board may be prior to the hearing, if possible, or as soon thereafter as possible reporting any deficiency with respect to the publication or personal service required by this section.

25-5.16 Special Notices; when Required.

- a. Notice concerning the adoption, revision or amendment of the Master Plan shall be given in accordance with N.J. S.A. 40:5 5D-13.
- b. Notice concerning the adoption, revision or amendment of a development regulation involving property situated within 200 feet of an adjoining municipality shall be given in accordance with N.J.S.A. 40:55D-15.
- c. Notice concerning hearings on the adoption, revision or amendment of any development regulation, municipal capital improvement program or municipal official map shall be given to the Morris County Planning Board in accordance with N.J.S.A. 40:5 5D- 15b.
- d. Notice of a hearing on an amendment to the zoning ordinance proposing a change to the classification or boundaries of the zoning district, exclusive of classification or boundary changes recommended in a, periodic general re-examination of the Master Plan by the Planning Board, shall be given by the Township Clerk in accordance with N.J.S. 40:55D-62.1 and N.J.S. 40:55D-63. The Clerk shall execute affidavits of proof of service of the notices required pursuant thereto, and shall keep the affidavits on file along with proof of publication of the notice of the required public hearing on the proposed zoning ordinance change. Costs of the notice provision shall be the responsibility of the proponent of the amendment.

25-5.17 Application by a corporation or partnership; list of stockholders owning ten percent of stock or a ten percent interest in partnership. A corporation or partnership applying to either board for permission to subdivide a parcel of land into six or more lots, or applying for a variance to construct a multiple dwelling of 25 or more family units, or for approval of a site to be used for commercial purposes, shall list the names and addresses of all stockholders or individual partners owning at least ten percent (10%) of its stock of any class or at least ten percent (10%) of the interest in the partnership, as the case may be.

25-5.18 Disclosure of ten percent ownership interest of corporation or partnership which is ten percent owner of the applicant corporation or partnership. If a corporation or partnership owns ten percent (10%) or more of the stock of the corporation, or ten percent (10%) or greater interest in a partnership, subject to disclosure pursuant to Section 25-5.17 that corporation or partnership shall list the names and addresses of its stockholders holding ten percent (10%) or more of its stock or of ten percent (10%) or greater interest in the partnership, as the case may be, and this requirement shall be followed by every corporate stockholder or partner in a partnership, until the names and addresses of the non-corporate stockholders and

individual partners, exceeding the ten percent (10%) ownership criterion established herein above, have been listed.

25-5.19 Failure to Comply with Disclosure Requirements. No application of any corporation or partnership which does not comply with Sections 25-5.17 and 25-5.18 shall be approved by the respective board. Any corporation or partnership which conceals the names of the stockholders owning ten percent (10%) or more of its stock, or of the individual partners owning a ten percent or greater interest in the partnership, as the case may be, shall be subject to a fine of One Thousand Dollars (\$1,000) to Ten Thousand Dollars (\$10,000) which shall be recovered in the name of the Township in any court of record in the State in a summary manner pursuant to the penalty enforcement law, N.J.S.A. 2A:58-1 et. seq.

25-5.20 Time.

- a. The period within which a board must decide an application shall commence as of the date of certification of completeness and, if not certified as being complete within 45 days, then on such date as the application is deemed to be complete by operation of law; provided that nothing herein shall be construed to disallow an extension pursuant to subsection c. of this section.
- b. The secretary to the Board and Planning Board shall monitor the status of all pending applications, keep a record of members entitled to vote on each application, and keep each board advised accordingly.
- c. The Board may seek, and an applicant may grant, consent to an extension of time on the record or in writing. If an applicant fails to appear and the period within which to decide the application will expire prior to the next regularly scheduled meeting of the Board, such application will be dismissed without prejudice. It shall not be necessary to obtain the consent of any objector to an application in order that an application be extended.

25-5.21 Power to Re-hear, Modify or Vacate Decisions. In the event that it appears to the Board on reasonable grounds that an applicant or witness has not been truthful, or that a mistake has been made, and such circumstances bear on facts which are essential in the granting of the relief sought by the applicant and were relied upon by the Board taking action, then, upon discovery of such misrepresentation, fraud or mistake, the Board may rehear the matter, either on application of an interested party or on its own motion when unusual circumstances so require in the interests of justice. In such event, the Board may, upon notice directed to the applicant and all other interested parties, require the applicant to appear before it for the purpose of explaining the testimony previously given at the hearing. At such subsequent hearing, it may be determined whether or not the testimony as given at the original hearing was, in fact, false or mistaken. Mistake or fraud in proceedings, left uncured, shall constitute grounds for a rescission.

At any time after the adoption of a resolution of memorialization, any person having an interest in such decision may move the Board for an order relaxing, vacating or modifying any term or condition of said decision by filing with the Board a request in the form of a letter setting forth the reasons therefore and the grounds relied upon. If the nature, extent, scope or

consequence of the proposed change would be substantial in any manner or respect, a hearing shall be set and the applicant shall give notice of such hearing in the same form and manner as otherwise required in the case of the original application. The Board, on its own motion, may, in a proper case, similarly order all parties in interest to show cause at the time and place fixed in the notice why the terms or provisions of any decision ought not to be vacated or modified.

25-6 SUBDIVISION AND SITE PLAN REVIEW AND APPROVAL

25-6.1 Grant of Power; Referral of Proposed Ordinance; County Planning Board Approval.

- a. There shall be no subdivision of lands nor land development associated with subdivision or site plans unless such subdivision or a site plan shall have been approved by resolution of the Planning Board, and such resolution shall be a condition for the issuance of a permit for any development, except that subdivision or individual lot applications for detached one or two-dwelling unit buildings shall be exempt from site plan review and approval.
- b. Prior to the hearing on adoption of an ordinance providing for Planning Board approval of either subdivisions or site plans or both or any amendment thereto, the governing body shall refer any such proposed ordinance or amendment thereto to the Planning Board pursuant to N.J.S.A. 40:55D-26a.
- c. Each application for subdivision approval, where required pursuant to N.J.S.A. 40:27-6.3, and each application for site plan approval, where required pursuant to N.J.S.A. 40:27-6.6, shall be submitted by the applicant to the Morris County Planning Board for review or approval, as required by the aforesaid sections, and the Township Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period. The Planning Board and/or governing body shall have the right to offer comment on the review, approval and report(s) of the County, either partly or entirely, and join with or depart from the position of the applicant with respect thereto.

25-6.2 General Requirements.

- a. All applications for development as defined in this Chapter shall be submitted and proceeded upon in accordance with the provisions of this Section, including standards for preliminary and final approval and provisions for processing of final approval by stages or sections of development.

- b. The layout and arrangement of any subdivision or land development shall be consistent with and satisfy the requirements of the zoning subsection of this Chapter.
- c. All streets in a subdivision or land development shall be of sufficient width and suitable grade and shall be suitably located to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings, and coordinated so as to compose a convenient system consistent with the circulation element of the Master Plan and the Official Map, and so oriented as to permit, consistent with the reasonable utilization of land, the buildings constructed thereon to maximize solar gain; provided that no street of a width greater than 50 feet within right-of-way lines shall be required unless said street constitutes an extension of an existing street of the greater width or already has been shown on the Master Plan at the greater width, or already has been shown in greater width on the Official Map, if there be one. All streets in a residential development shall satisfy the requirements for residential development contained in the Residential Site Improvement Standards regulations.
- d. Every subdivision and land development shall make provision for adequate water supply, drainage, shade trees, sewerage facilities and other utilities as are necessary for essential services to residents and occupants.
- e. In the event that area within a subdivision or land development is to be reserved for public use pursuant to N.J.S.A. 40:55D-44, such area shall be of suitable size, shape and location for its intended purpose.
- f. In any application involving planned development or residential cluster development, adequate and suitable provision shall be made for the setting aside of open space for the use and benefit of the residents of such development.
- g. Any land subject to flooding pursuant to N.J.S.A. 40:55D-65(e) shall only be developed in accordance with State and Township regulations concerning development of lands that are subject to flooding, and all such development shall be designed to avoid danger to life or property.
- h. Soils shall be conserved to the greatest practicable extent and protected from erosion by wind or water or from excessive disturbance by excavation or grading. Soils shall be protected and conserved in accordance with prevailing standards and, where appropriate, subject to the review and approval of, the Morris County Soil Conservation District.
- i. All land development shall be undertaken and be subject to conformity with any Township recycling ordinance.
- j. Any development adjacent to or involving a county road within the Township shall conform with the Access Management Code adopted by the County of Morris, N.J.S.A. 27:16-1. Land development adjacent to or involving an existing or proposed municipal street shall conform with any municipal access management code adopted pursuant to N.J. S.A. 40:67- 1.
- k. Any proposed development which shall be adjacent or proximate to, or otherwise involve, potable water supply reservoirs shall include adequate and suitable

protections for such potable water supply from pollution or other degradation of water quality resulting from the development, or other uses of surrounding land areas. All such provisions shall be in accordance with any sighting, performance, or other standards or guidelines adopted therefore by the Department of Environmental Protection.

- l. Any storm water detention facilities proposed in connection with land development shall conform with prevailing public safety regulations of the Township of Mine Hill, the County of Morris and the State of New Jersey, and as otherwise reflected in storm water management plans and storm water management ordinances adopted pursuant to N.J.S.A 40:55D-93 et. seq.
- m. No plan shall be approved nor any land developed unless adequate and suitable provision has been made for grading, improvement and construction of streets or drives or for any required walkways, curbs, gutters, street lights, shade trees, fire hydrants and water, and drainage and sewerage facilities and other improvements as shall be found necessary. All such development designs and activities shall conform with the standards contained in this Chapter. However, the absence of one or more specific standard(s) in these respects shall not relieve the applicant from making adequate and suitable provision(s) therefore by prevailing standards of engineering and planning. Such facilities shall be completed either prior to final approval of a subdivision or site plan, or subsequent thereto by the posting of performance guarantees pursuant to this Chapter.
- n. All subdivisions shall conform to the applicable provisions of the zoning subsection of this Chapter.
- o. Any application involving open space shall specify the means by which the common lands are to be operated and owned. If township ownership is proposed and, in the opinion of the Planning Board, such ownership will be consistent with the objectives of the Master Plan or Official Map, then the Planning Board shall recommend to the governing body that said open space or land resulting from the application of open space development be accepted by the township. If the governing body declines to take ownership or if applicant does not desire to offer open space to the Township, the applicant shall submit an open space plan providing only for homeowner's ownership of common land.
- p. The performance of any land development pursuant to subdivision or site plan approval shall be in substantial accordance with the final development plan, provided that the Planning Board may permit a deviation from the final plan if caused by change of conditions beyond the control of the developer since the date of final approval, and the deviation would not substantially alter the character of the development or substantially impair the intent and purpose of the Master Plan, the zoning ordinance or this Chapter.

25-6.3 Additional Development Requirements and Options.

- a. Provision shall be made for off-tract water, sewer, drainage, and street improvements which are necessitated by a subdivision or land development, subject to the provisions of N.J.S.A. 40:55D-42. As a condition to approval of a

subdivision or site plan, a developer may be required by the Planning Board to pay his pro-rata share of the cost of providing reasonable and necessary street improvements and water, sewerage and drainage facilities, and easements therefore, located outside the property limits of the subdivision or development, but necessitated or required by construction or improvements within such subdivision or development. A determination of the proportionate pro-rata amount of the cost of such facilities that shall be borne by the developer shall be determined in accordance with the standards contained in this Chapter or as otherwise provided by law, and shall not be altered subsequent to preliminary approval.

- b. As a development option, and where permitted subject to the zoning regulation, the developer may propose a planned development. In exercising such option, a developer shall demonstrate creativity in development and economy in the use of lands as well as the layout and design of the proposed planned development. To encourage and exploit greater creativity, flexibility and economy, a developer may seek, and the Planning Board shall be authorized to grant approval upon mutual agreement between the applicant and the Planning Board on the basic scheme of a planned development, and otherwise in accordance with the provisions of this Chapter for planned developments.
- c. Any common open space resulting from the application of standards for density or intensity of land use shall be set aside for the use and benefit of the owners or residents in such development subject to Section 25-6.2(o) and of this Article.
- d. The Planning Board shall be and is hereby authorized to allow for a greater concentration of density or intensity of land use within a section or sections of development, whether it be earlier, later or simultaneous in the development, than in others; such greater concentration of density or intensity of land use for any section to be developed shall be offset by a smaller concentration in any completed prior stage or by an appropriate reservation of common open space on the remaining land by grant of easement or by covenant in favor of the Township; provided that such reservation shall, as far as practicable, defer the precise location of common open space until an application for final approval is filed, so that flexibility of development can be maintained.
- e. Requirements for timing a development among the various types of uses and subgroups.
- f. In the case of a development which proposes construction over a period of years, the applicant shall make adequate and suitable provision for the protection of the interests of the public and of the residents, occupants and owners of the proposed development in the total completion of the development.
- g. As a condition of Municipal Agency approval, the Applicant shall submit proof that no taxes or assessments for local improvements are due or delinquent on the property for which any subdivision, site plan or planned development application is made.

- h. The developer may seek and the Planning Board may approve the varying, within a conventional subdivision, of lot areas and dimensions, and yards and setbacks otherwise required by Township development regulations in such a way that the average lot areas and dimensions, yards and setbacks, within the subdivision conform to the conventional norms of the Township development regulations; provided that such standards shall be appropriate to the type of development permitted.
- i. All site plan applications shall make adequate and suitable provision for the following:
 - 1. Preservation of existing natural resources on the site;
 - 2. Safe and efficient vehicular and pedestrian circulation, parking and loading;
 - 3. Screening, landscaping and location of structures;
 - 4. Exterior lighting as necessary for safety reasons, as well as provision for street lighting;
 - 5. Conservation of energy and use of renewable energy sources; and,
 - 6. Recycling of designated recyclable materials as provided in the recycling ordinance.

25-6.4 Reservation of Public Areas. If the Master Plan as amended or the official map, provides for the reservation of designated streets, public drainage ways, flood control basins, walkways, trails or other public areas within the proposed development, then, before a subdivision or site plan shall be approved, the developer shall show on a plat or plan, in locations and sizes suitable to their intended uses, such streets, ways, basins or areas as the Planning Board may require. The Planning Board may reserve the location and extent of such streets, ways, basins or areas shown on the plat or plan for a period of one year after the approval of the final plat or plan or within such further time as may be agreed to by the developer. Unless during such period or extension thereof the Township shall have entered into a contract to purchase or institute condemnation proceedings according to law for the fee or a lesser interest in the land comprising such streets, ways, basins, or areas, the developer shall not be bound by such reservations shown on the plat or plan and may proceed to use such land for private use in accordance with applicable development regulations. The provisions of this section shall not apply to streets and roads, flood control basins, or public drainage ways necessitated by the subdivision or land development and required for final approval.

The developer shall be entitled to just compensation for actual loss found to be caused by such temporary reservation and deprivation of use. In such instance, unless a lesser amount has previously been mutually agreed upon, just compensation shall be deemed to be the fair market value of an option to purchase the land reserved for the period of reservation; provided that determination of such fair market value shall include, but not be limited to, consideration of the real property tax as apportioned to the land reserved and pro-rated for the period of reservation. The developer shall be compensated for the, reasonable increased cost of legal, engineering, or

other professional services incurred in connection with obtaining subdivision approval or site plan approval, as the case may be, caused by the reservation.

25-6.5 Planned Developments. As and where permitted pursuant to this Chapter the following shall be established prior to approval of any planned development:

- a. That departures by the proposed development from zoning regulations otherwise applicable to the subject property conform to the zoning ordinance standards pursuant to N.J.S.A. 40:55D-65c and this Chapter;
- b. That the proposals for maintenance and conservation of the common open space are reliable, and the amount, location and purpose of the common open space are adequate and suitable; and are in accordance with the requirements of subsection 25-6.2(o) of this article.
- c. That provisions through the physical design of the proposed development for public services, control over vehicular and pedestrian traffic, and the amenities of light and air, recreation, and visual enjoyment are adequate and suitable;
- d. That the proposed planned development will not have an unreasonably adverse impact upon the area in which it is proposed to be established;
- e. In the case of a proposed development which contemplates construction over a period of years, that the terms and conditions intended to protect the interests of the public and of the residents, occupants and owners of the proposed development in the total completion of the development are adequate and suitable.

25-6.6 Site Plan Review; When Required.

- a. No construction permit shall be issued for any new structure or parking lot designed for four (4) or more vehicles, or for an addition to an existing structure or parking lot, and no Certificate of Occupancy shall be issued for any change of use of an existing structure until the site plan has been reviewed and approved by the municipality except that:
 1. A construction permit for a single-family detached dwelling unit or a two-family dwelling unit shall not require site plan approval, except that the use of any existing or proposed principal or accessory building for a "home occupation" as defined and permitted by this Ordinance shall require minor site plan approval prior to the issuance of a construction permit or certificate of occupancy. The foregoing shall in no way affect the responsibility of an applicant to submit the necessary information and receive the necessary approvals as may be required pursuant to other Ordinances.
 2. Any change of use from one permitted category of non-residential use to another permitted category of non-residential use may not require site plan approval if: 1) both the Construction Official and Zoning Officer certify to the Planning Board in writing that the existing site development meets the requirements of this Ordinance for the new use category, and 2) the new

use category does not require an increase in the number of required parking spaces; and 3) the Township Engineer concurs with the findings of the Construction Official and the Zoning Officer.

3. Building alterations/additions shall not require site plan approval if both the Zoning Officer and Construction Official stipulate to the Township Engineer the following conditions apply:
 - a. There is no change in use category;
 - b. No additional parking is required as a result of the alteration or addition;
 - c. No more than ten percent (10%) additional building coverage is proposed but in any case not to exceed 500 ft.;
 - d. No variance is required;
 - e. There is no major change in circulation proposed such as drive-through windows, ingress or egress drives, changes in internal circulation, loading or unloading, delivery or pickup of goods and services or trash collection; and
 - f. There are no major changes in a significant site facility or improvement such as drainage facility, buffer or landscaping features.
4. A change to a previously approved site plan that does not significantly impact nor substantially change the character and quality of the existing approval, shall be exempt from this Chapter provided that the Zoning Officer in consultation with the Township Engineer and Construction Official, determines that the proposed change satisfies the standards set forth in this subsection and notifies the Planning Board of these findings.
5. The clearing, excavation or filling of an area in excess of 5,000 square feet shall require site plan approval unless related to the construction of one single family home that does not require subdivision approval.

Prior to any clearing, excavation or filling of an area in excess of 5,000 square feet related to the construction of a single family home that does not require subdivision approval, the property owner shall submit a grading plan and secure approval from the Township Engineer.

An applicant may elect to file for preliminary and final site plan approval simultaneously to expedite the review process. The site plan shall be prepared according to the requirements stipulated for final approval. Developers electing to by-pass the preliminary approval stage are doing so at the peril of added expenses if changes in the design are required.

25-6.7 Procedure for Preliminary Site Plan Approval.

- a. The developer shall submit to the Township Clerk such number of copies of a site plan as specified in the checklist, and such other information as is reasonably necessary to make an informed decision as to whether the requirements necessary for preliminary site plan approval have been met; provided that minor site plans shall not be subject to this section. The site plan and any engineering documents to be submitted shall required in the form required herein for the preliminary approval. Preliminary architect elevations shall be required and shall be sufficient for preliminary review.
- b. If the Planning Board requires or the developer seeks any substantial amendment in the layout of improvements proposed by the developers that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development. The planning board shall, if the proposed development complies with this ordinance, grant preliminary site plan approval.
- c. Upon the submission to the administrative officer of a complete application for a site plan which involves 10 acres of land or less, and 10 dwelling units or less, the Planning Board shall grant or deny approval within 45 days of the date of such submission or within such further time as may be consented to by the developer. Upon the submission of a complete application for a site plan which involves more than 10 acres, or more than 10 dwelling units, the Planning Board shall grant or deny preliminary approval within 95 days of the date of such submission or within such further time as may be consented to by the developer. Otherwise, the Planning Board shall be deemed to have granted preliminary approval to the site plan.
- d. If any substantial modification is proposed or required after preliminary approval has been granted, an application for such a modification shall be submitted and proceeded upon as in the case of the original application for development. The Applicant may apply for modification approval either independently of or concurrently with an application for final approval pursuant to Section 25-6.12. In either case, notice pursuant to Section 25-5.5 shall be required and shall state the nature of the proposed modification. A substantial modification shall mean one which (1) increases density of development, (2) increases the square footage of buildings, (3) proposes a different use, (4) would result in increased adverse impact upon properties in the immediate area with respect to factors such as, but not limited to noise, glare, and increased drainage runoff, or (5) materially changes a required element of the approval. Any modification which decreases the number of proposed lots, dwelling units, number of square feet, density or intensity of use shall not be considered a substantial modification so long as there is no proposed change of use and no additional variances or exceptions are required.
- e. The Planning Board may grant preliminary approval subject to conditions, provided, however, that the Planning Board (1) shall specify the time for performance of such conditions and (2) shall not grant approval subject to

subsequent submission of additional planning information fundamental to an essential element of the development plan and an informed decision thereon. In the event that development requires the subsequent approval of one or more governmental agencies other than the Planning Board, the Planning Board shall, prior to approval, determine the basic planning feasibility of any fundamental element of the development plan that is otherwise subject to the jurisdiction and powers of such other agency or agencies.

25-6.8 Minor Site Plan.

- a. A minor site plan as defined in this Chapter shall not require notice or public hearing, but shall instead be proceeded upon by the Site Plan Committee of the Planning Board, which committee shall, where appropriate, report to the Planning Board that the application for development conforms to the definition of minor site plan and requires no further review by the Planning Board. Such report shall be then adopted as the basis for an approval to be reflected in a memorializing resolution of the Planning Board. Minor site plan approval thus memorialized shall be deemed final approval of the site plan by the Board, provided that the Board or subcommittee may condition such approval on terms ensuring the provision of improvements pursuant to N.J.S.A. 40:55D-38, 40:55D-39, 40:55D-41 and 40:55D-53.
- b. Minor site plan approval shall be granted or denied within 45 days of the date of submission of a complete application to the administrative officer, or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute minor site plan approval.
- c. Whenever review or approval of the application by the Morris County Planning Board is required by N.J.S.A. 40:27-6.6, the Township Planning Board shall condition any approval that it grants upon timely receipt of favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.
- d. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor site plan approval was granted, shall not be changed for a period of 2 years after the date of minor site plan approval. The Planning Board shall grant an extension of this period for a period determined by the Board but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the approvals. A developer shall apply for this extension before: (1) what would otherwise be the expiration date, or (2) the 91st day after the date on which the developer receives the last of the legally required approvals from the other governmental entities, which ever occurs later.

25-6.9 Procedure for Preliminary Major Subdivision.

- a. The developer shall submit to the administrative officer a plat and such other information as is reasonably necessary to make an informed decision as to whether the requirements necessary for preliminary approval have been met; provided that minor subdivisions pursuant to Section 25-6.10 of this Article shall not be subject to this section. The plat and any other engineering documents to be submitted shall be required in tentative form for discussion purposes for preliminary approval.
- b. If the Planning Board requires or the developer seeks any substantial amendment in the layout of improvements proposed by the developer that have been the subject of a hearing, an amended application shall be submitted and proceeded upon, as in the case of the original application for development. The Planning Board shall, if the proposed subdivision complies with the ordinance, grant preliminary approval to the subdivision.
- c. Copies of the preliminary plat shall be forwarded by the Secretary of the Planning Board, prior to the hearing, to the following persons:
 1. The Municipal Engineer
 2. The Municipal Health Official
 3. The Municipal planning consultant.
 4. Municipal Tax Assessor;
 5. Chief of the Fire Department;
 6. The Chief of the Police Department
 7. The Construction Official;
 8. Such other municipal, county or state officials as directed by the Planning Board.

If the preliminary plat lies within two hundred (200) feet of another municipal boundary, a copy of the plat shall be sent by the Secretary of the Township Planning Board to the Secretary of the Planning Board of the adjoining community. A written statement shall be requested from the adjoining community indicating whether the proposed subdivision of the Township of Mine Hill is in reasonable harmony with its plans for development. The Secretary of the Planning Board of the adjoining community should be informed of the date of the public hearing, and any communications received prior to this date will be considered in relation to the approval or disapproval of the plat.

- d. Upon the submission to the administrative officer 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 the 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 be consented to by the developer. Otherwise, the Planning Board shall be deemed to have granted preliminary approval to the subdivision.

- e. If any substantial modification is proposed or required after preliminary approval has been granted, an application for such a modification shall be submitted and proceeded upon as in the case of the original application for development. The Applicant may apply for modification of preliminary approval either independently of or concurrently with an application for final approval pursuant to Section 25-6-12. In either case, notice pursuant to Section 25-5.5 shall be required and shall state the nature of the proposed modification. A substantial modification shall mean one which (1) increases density of development, (2) increases the square footage of buildings, (3) proposes a different use, (4) would result in increased adverse impact upon properties in the immediate area with respect to factors such as, but not limited to noise, glare, and increased drainage runoff, or (5) materially changes a required element of the subdivision. Any modification which decreases the number of proposed lots, dwelling units, number of square feet, density or intensity of use shall not be considered a substantial modification so long as there is no proposed change of use and no additional variances or exceptions are required.
- f. The Planning Board may grant preliminary approval subject to conditions, provided however, that the Planning Board (1) shall specify the time for performance of such conditions and (2) shall not grant approval subject to essential element of the development plan and an informed decision thereon. In the event that development requires the subsequent approval of one or more governmental agencies other than the Planning Board, the Planning Board shall, prior to approval, determine the basic planning feasibility of any fundamental element of the development plan that is otherwise subject to the jurisdiction and powers of such other agency or agencies.

25-6.10 Minor Subdivision.

- a. A minor subdivision as defined in this Chapter shall not require notice or public hearing, but shall instead be proceed upon by the Subdivision Committee of the Planning Board, which committee shall, where appropriate, report to the Planning Board that the application for development conforms to the definition of minor subdivision and requires no further review by the Planning Board. Such report shall be then adopted as the basis for an approval to be reflected in a memorializing resolution of the Planning Board. Minor subdivision approval thus memorialized shall be deemed final approval of the subdivision by the Board, provided that the Board or Subcommittee may condition such approval on terms ensuring the provision of improvements pursuant to N.J.S.A. 40:55D-38, 40:55D-39, 40:55D-41 and 40:55D-53.
- b. Minor subdivision approval shall be granted or denied within 45 days of the date of submission of a complete application to the administrative officer, or within

such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute minor subdivision approval and a certificate of the administrative officer as to the failure of the Planning Board to act shall be issued on request of the applicant; and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

- c. Whenever review or approval of the application by the County Planning Board is required by N.J.S.A. 40:27-6.3, the Township planning board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning board by its failure to report thereon within the required time period.
- d. Except as provided in subsection f. of this section, approval of a minor subdivision shall expire 190 days from the date on which the resolution of municipal approval is adopted unless within such period a plat in conformity with such approval and the provisions of the "Map Filing Act", N.J.S.A 46:23-9.9 et seq., or a deed clearly describing the approved minor subdivision is filed by the developer with the county recording officer, the Township engineer and the Township tax assessor. Any such plat or deed accepted for such filing shall have been signed by the chairman and secretary of the Planning Board. In reviewing the application for development for a proposed minor subdivision the Planning Board may accept a plat not in conformity with the "Map Filing Act," N.J.S.A. 46:23-9.9 et. seq.; provided that if the developer chooses to file the minor subdivision as provided herein by plat rather than deed such plat shall conform with the provisions of said act.
- e. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision approval was granted, shall not be changed for a period of 2 years after the date on which the resolution of minor subdivision approval is adopted; provided that the approved minor subdivision shall have been duly recorded as provided in this section.
- f. The planning board may extend the 190-day period for filing a minor subdivision plat or deed pursuant to subsection d. of this section if the developer proves to the reasonable satisfaction of the Planning Board (1) that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities and (2) the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the planning board. The developer may apply for the extension either before or after what would otherwise be the expiration date.
- g. The Planning Board shall grant an extension of minor subdivision approval for a period determined by the Board but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or

indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the required approvals. A developer shall apply for the extension before (1) what would otherwise be the expiration date of minor subdivision approval or (2) the 91st day after the developer receives the last legally required approval from other governmental entities, whichever occurs later.

25-6.11 Effect Of Preliminary Approval. Preliminary approval of a major subdivision pursuant to N.J.S.A. 40:55D-48 or of a site plan pursuant to N.J.S.A. 40:55D-46 shall, except as provided in subsection d. of this section, confer upon the applicant the following rights for a 3 - year period from the date on which the resolution of preliminary approval is adopted:

- a. That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to use requirements; layout and design standards for streets, curbs and sidewalks; lot size; yard dimensions and off-tract improvements; and, in the case of a site plan, any requirements peculiar to site plan approval pursuant to N.J.S.A.40:55D-41; except that nothing herein shall be construed to prevent the Township from modifying by ordinance such general terms and conditions of preliminary approval as relate to public health and safety.
- b. That the applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary subdivision plat or site plan, as the case may be; and
- c. That the applicant may apply for and the Planning Board may grant extensions on such preliminary approval for additional periods of at least 1 year but not to exceed a total extension of 2 years, provided that if the design standards have been revised by ordinance, such revised standards may govern
- d. In the case of a subdivision or site plan for an area of 50 acres or more, the Planning Board may grant the rights referred to in subsections a., b., and c. of this section for such period of time, no longer than 3 years, as shall be determined by the Planning Board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under preliminary approval, (2) economic conditions, and (3) the comprehensiveness of the development. The applicant may apply for thereafter and the Planning Board may thereafter grant an extension to preliminary approval for such additional period of time as shall be determined by the Planning Board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under preliminary approval, and (2) the potential number of dwelling units and nonresidential floor area of the section or the potential number of dwelling units and nonresidential floor area of the section or sections awaiting final approval, (3) economic conditions and (4) the comprehensiveness of the development; provided that if the design standards have been revised, such revised standards may govern.

- e. Whenever the Planning Board grants an extension of preliminary approval pursuant to subsection c. or d. of this section and preliminary approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date.
- f. The Planning Board shall grant an extension of preliminary approval for a period determined by the Board but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other government entities and that the developer applied promptly for and diligently pursued the required approvals. A developer shall apply for the extension before (1) what would otherwise be the expiration date of preliminary approval or (2) the 91st day after the developer receives the last legally required approval from other governmental entities, whichever occurs later. An extension granted pursuant to this subsection shall not preclude the Planning Board from granting an extension pursuant to subsection c. or d. of this section.
- g. A copy of the action taken by the Planning Board shall be forwarded to the Township Clerk.

25-6.12 Final Approval of Site Plans and Major Subdivisions.

- a. The Planning Board shall grant final approval if the detailed drawings, specifications and estimates of the application for final approval conform to the standards established by ordinance for final approval, the conditions of preliminary approval, and in the case of a major subdivision, the standards prescribed by the "Map Filing Law" N.J.S.A. 46:23-9.9 et seq; provided that in the case of a planned unit development, planned unit residential development or residential cluster, the Planning Board may permit minimal deviations from the conditions of preliminary approval necessitated by change of conditions beyond the control of the developer since the date of preliminary approval without the developer being required to submit another application for development for preliminary approval.
- b. Final approval shall be granted or denied within 45 days after submission of a complete application to the administrative officer, or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute final approval and a certificate of the administrative officer as to the failure of the Planning Board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the county recording officer for purposes of filing subdivision plats.
- c. Whenever review or approval of the application by the County Planning Board is required by N.J.S.A. 40:27-6.3, in the case of a subdivision, or N.J.S.A. 40:27-6.6

in the case of a site plan, the Township Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.

- d. The Planning Board may grant final approval subject to conditions to be formed prior or subsequent to development or a particular stage or section of development, provided, however, that the Planning Board (1) shall specify the time for performance of such conditions and (2) shall not grant approval subject to subsequent submission of additional information fundamental to an essential element of the development plan and an informed decision thereon. In the event that development requires subsequent approval of one or more governmental agencies other than the Planning Board, the Planning Board shall, prior to approval, determine the basic feasibility of any fundamental element of the development plan that is otherwise subject to the jurisdiction and powers of such other agency or agencies.
- e. A copy of the action taken by the Board shall be sent to the Township Clerk, and a copy of the final plat shall be sent to the Tax Assessor.

25-6.13 Exceptions in Application of Subdivision or Site Plan Regulation; Simultaneous Review and Approval; Consolidated Applications.

- a. The Planning Board when acting upon applications for preliminary or minor subdivision or preliminary site plan approval shall have the power to grant such exceptions from the requirements for subdivision approval as may be reasonable and within the general purpose and intent of the provisions for subdivision review and approval of this Chapter, if the literal enforcement of one or more provisions of this Chapter is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.
- b. The Planning Board shall have the power to review and approve or deny conditional uses or site plans simultaneously with review for subdivision approval without the developer being required to make further application to the Planning Board, or the Planning Board being required to hold further hearings. The longest time period for action by the Planning Board, whether it be for subdivision, conditional use or site plan approval, shall apply. Whenever approval of a conditional use is requested by the developer pursuant to this subsection, notice of the hearing on the plat shall include reference to the request for such conditional use.
- c. Consolidated application. The Applicant may file a consolidated application for final approval without having made prior application for preliminary approval by submitting a single application for final approval that includes the information required for preliminary approval together with the information required for final approval. The applicant may also file for consolidated disposition of certain elements, stages or sections of the development plan and obtain final approval thereon, provided, however, that preliminary approval shall have been granted as

to the remaining elements, stages or sections of the development plan, and provided that adequate terms, conditions and guarantees have been established to insure the completion of the development or the restoration of the site or tract, or portion thereof, to the extent of disturbance. A consolidated application shall be proceeded upon in accordance with the procedure for preliminary approval pursuant to Section 25-6.7 or 25-6.9. Approval of a consolidated application shall confer the rights provided under Section 25-6.14.

25-6.14. Effect of Final Approval of a Site Plan or Major Subdivision.

- a. The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer pursuant to N.J.S.A 40:55D-49, whether conditionally or otherwise, shall not be changed for a period for 2 years after the date on which the resolution of final approval is adopted; provided that in the case of a major subdivision the rights conferred by this section shall expire if the plat has not been duly recorded within the time period provided in N.J.S.A 40:55D-54. If the developer has followed the standards prescribed for final approval, and in the case of a subdivision, has duly recorded the plat as required in N.J.S.A. 40:55D-54, the Planning Board may extend such period of protection for extensions of 1 year but not to exceed three extensions. (Notwithstanding any other provisions of this act, the granting of final approval terminates the time period of preliminary approval pursuant to N.J.S.A. 40:55D-49 for the application granted final approval.)
- b. In the case of a subdivision or site plan for a planned development of 50 acres or more, conventional subdivision or site plan for 150 acres or more, or site plan for development of a nonresidential floor area of 200,000 square feet or more, the Planning Board may grant the rights referred to in subsection a. of this section for such period of time, longer than 2 years, as shall be determined by the Planning Board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under final approval, (2) economic conditions, and (3) the comprehensiveness of the development. The developer may apply for thereafter, and the Planning Board may thereafter grant, an extension of final approval for such additional period of time as shall be determined by the Planning Board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under final approval, (2) the number of dwelling units and nonresidential floor area remaining to be developed, (3) economic conditions and (4) the comprehensiveness of the development.
- c. Whenever the Planning Board grants an extension of final approval pursuant to subsection a. or b. of this section and final approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date.
- d. The Planning Board shall grant an extension of final approval for a period determined by the Board but not exceeding one year from what would otherwise

be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued these approvals. A developer shall apply for the extension before (1) what would otherwise be the expiration date of final approval or (2) the 91st day after the developer receives the last legally required approval from other governmental entities, whichever occurs later. An extension granted pursuant to this subsection shall not preclude the Planning Board from granting an extension pursuant to subsection a. or b. of this section.

25-6.15 Guarantees Required; Surety; Release.

- a. Before recording of final subdivision plats or as a condition of final site plan approval or as a condition to the issuance of a zoning permit pursuant to N.J.S.A. 40:55D-65, the Planning Board may require and shall accept in accordance with the standards of this Chapter for the purpose of assuring the installation and maintenance of on-tract improvements:
 1. The furnishing of a performance guarantee in favor of the Township in an amount not to exceed 120% of the cost of installation, which cost shall be determined by the Township Engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.4, for improvements which the Planning Board may deem necessary or appropriate including; streets, grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, surveyor's monuments, as shown on the final map and required by the "Map Filing Law," N.J.S.A. 46:23-9.9 et seq., water mains, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage structures, erosion control and sedimentation control devices, public improvements of open space and, in the case of site plans only, other on-site improvements and landscaping. Ten percent (10%) of the amount so determined by the Township Engineer shall be deposited in cash and the balance by a performance guarantee as herein provided.

Performance guarantees shall conform to the regulations establishing standardized forms by the Department of Community Affairs, Division of Local Government Services promulgated pursuant to N.J.S. 40:55D-53 a and b.

The Township Engineer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost estimate shall be appended to each performance guarantee posted by the obligor.
 2. Provision for a maintenance guarantee to be posted with the governing body for a period not to exceed 2 years after final acceptance of the improvement, in an amount not to exceed 15% of the cost of the improvement, which cost shall be determined by the Township Engineer

according to the method of calculation set forth in N.J.S.A. 40:55D-53.4). In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the Township for such utilities or improvements.

- b. The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the governing body by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed 120% of the cost of the installation, which cost shall be determined by the Township engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.4, as of the time of the passage of the resolution.
- c. If the required improvements are not completed or corrected in accordance with the performance guarantee, the obligor and surety, if any, shall be liable thereon to the Township for the reasonable cost of the improvements not completed or corrected and the Township may either prior to or after receipt of the proceeds thereof complete such improvements. Such completion or correction of improvements shall be subject to the public bidding requirements of the "Local Public Contracts Law," N.J.S.A. 40A: 11-1 et seq.
- d. Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the governing body in writing, by certified mail addressed in care of the Township clerk, that the Township Engineer prepare, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee pursuant to subsection a. of this section, a list of all uncompleted or unsatisfactory completed improvements. If such a request is made, the obligor shall send a copy of the request to the Township Engineer. The request shall indicate which improvements have been completed and which improvements remain uncompleted in the judgment of the obligor. Thereupon the Township Engineer shall inspect all improvements covered by the obligor's request and shall file a detailed list and report, in writing, with the governing body, and shall simultaneously send a copy thereof to the obligor not later than 45 days after receipt of the obligor's request.
- e. The list prepared by the Township Engineer shall state, in detail, with respect to each improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed improvement determined to be unsatisfactory. The report prepared by the Township Engineer shall identify each improvement determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guarantee relating to the completed and satisfactory improvement, in accordance with the itemized cost estimate prepared by the Township Engineer

and appended to the performance guarantee pursuant to subsection a. of this section.

1. The governing body, by resolution, shall either approve the improvements these improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee pursuant to subsection a. of this section. This resolution shall be adopted not later than 45 days after receipt of the list and report prepared by the Township Engineer. Upon adoption of the resolution by the governing body, the obligor shall be released from all liability pursuant to its performance guarantee, with respect to those approved improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that 30% of the amount of the performance guarantee posted may be retained to ensure completion of all acceptability of all improvements.
 2. If the Township Engineer fails to send or provide the list and report as requested by the obligor pursuant to subsection d. of this section within 45 days from receipt of the request, the obligor may apply to court in a summary manner for an order compelling the Township Engineer to provide the list and report within a stated time and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.
 3. If the governing body fails to approve or reject the improvements determined by the Township Engineer to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within 45 days from the receipt of the Township Engineer's list and report, the obligor may apply to the court, in a summary manner for an order compelling, within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee pursuant to subsection a. of this section; and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.
 4. In the event that the obligor has made a cash deposit with the Township or Planning Board as part of the performance guarantee, then any partial reduction granted in the performance guarantee pursuant to this subsection shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the performance guarantee.
- f. If any portion of the required improvements is rejected, the Planning Board may require the obligor to complete or correct such improvements and, upon

completion or correction, the same procedure of notification, as set forth in this section shall be followed.

- g. Nothing herein, however, shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the governing body or the Township Engineer.
- h. The obligor shall reimburse the Township for all reasonable inspection fees paid to the Township Engineer for the foregoing inspection of improvements; provided that the Township may require of the developer a deposit for the inspection fees in an amount not to exceed, except for extraordinary circumstances, the greater of \$500 or 5% of the cost of improvements, which cost shall be determined pursuant to N.J.S.A. 40:55D-53.4. For those developments for which the reasonably anticipated fees are less than \$10,000, fees may, at the option of the developer, be paid in two installments. The initial amount deposited by a developer shall be 50% of the reasonably anticipated fees. When the balance on deposit drops to 10% of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspection, the developer shall deposit the remaining 50% of the anticipated inspection fees. For those developments for which the reasonably anticipated fees are \$10,000 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited by a developer shall be 25% of the reasonably anticipated fees. When the balance on deposit drops to 10% of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspection, the developer shall make additional deposits of 25% of the reasonably anticipated fees. The Township Engineer shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit.
- i. In the event that final approval is by stages or sections of development, the provisions of this section shall be applied by stage or section.
- j. To the extent that any of the improvements have been dedicated to the Township on the subdivision plat or site plan, the governing body shall be deemed, upon the release of any performance guarantee required pursuant to subsection a. of this section, to accept dedication for public use of streets or roads and any other improvements made thereon according to site plans and subdivision plats approved by the Planning Board, provided that such improvements have been inspected and have received final approval by the Township Engineer.

25-6.16 Maintenance Guarantee - Limitations. No maintenance guarantee required pursuant to N.J.S.A. 40:55D-53 need be in cash, nor need more than 10% of a performance guarantee pursuant to that section be in cash. A developer may, however, provide at his option some or all of a maintenance guarantee in cash, or more than 10% of a performance guarantee in cash.

25-6.17 Performance Guarantee By Letter Of Credit; Acceptance. The Planning Board shall, for the purposes of N.J.S.A. 40:55D-53 accept a performance guarantee or maintenance guarantee which is an irrevocable letter of credit if it:

- a. Constitutes an unconditional payment obligation of the issuer going solely to the municipality for an express initial period of time in the amount determined pursuant to N.J.S.A. 40:55D-53.
- b. Is issued by a banking or savings institution authorized to do and doing business in this State;
- c. Is for a period of time at least one year; and
- d. Permits the Township to draw upon the letter of credit if the obligor fails to furnish another letter of credit which complies with the provisions of this section 30 days or more in advance of the expiration date of the letter of credit or such longer period in advance thereof as is stated in the letter of credit.

25-6.18 Appeal Procedure for Disputed Guarantee Amounts. The cost of the installation of improvements for the purposes of N.J.S.A. 40:55D-53 shall be estimated by the Township Engineer based on documented construction costs for public improvements prevailing in the general area of the Township. The developer may appeal the Township Engineer's estimate to the governing body. The governing body shall decide the appeal within 45 days of receipt of the appeal in writing by the Township Clerk. After the developer posts a guarantee with the Township based on the cost of the installation of improvements as determined by the governing body, he may institute legal action within one year of the posting in order to preserve the right to a judicial determination as to the fairness and reasonableness of the amount of the guarantee.

25-6.19 Acceptance of Certain Public Utilities. If the Planning Board includes as a condition of approval of an application for development pursuant to N.J.S.A. 40:55D-1 et seq., the installation of street lighting on a dedicated public street connected to a public utility, then upon notification in writing by the developer to the Planning Board and governing body that (1) the street lighting on a dedicated public street has been installed and accepted for service by the public utility and (2) that certificates of occupancy have been issued for at least 50% of the dwelling units and 50% of the floor area of the nonresidential uses on the dedicated public street or portion thereof indicated by section pursuant to N.J. S.A. 40:55D-38, the Township shall, within 30 days following receipt of the notification, make appropriate arrangements with the public utility for, and assume the payment of, the costs of the street lighting on the dedicated public street on a continuing basis. Compliance by the Township with the provisions of this section shall not be deemed to constitute acceptance of the street by the Township.

25-6.20 Recording of Final Approval of Major Subdivision; Filing of All Subdivision Plats.

- a. Final approval of a major subdivision shall expire 95 days from the date of signing of the plats 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 of recording for an additional period not to exceed 190 days from the date of signing of the plat. The Planning Board may extend the 95 day or 190 day period if the developer proves to the reasonable satisfaction of the Planning Board (1) that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities and (2) that the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Planning Board. The developer may apply for an extension either before or after the original expiration date.
- b. No subdivision plat shall be accepted for filing by the county recording officer until it has been approved by the Planning Board as indicated on the instrument by the signature of the Chairman and Secretary of the Planning Board or a certificate has been issued pursuant to N.J.S.A. 40:55D-47, 40:55D-50, 40:55D-56, 40:55D-61, 40:55D-67, or 40:55D-76. The signatures of the Chairman and Secretary of the Planning Board shall not be affixed until the developer has posted the guarantees required pursuant to N.J.S.A. 40:55D- If the county recording officer records any plat without such approval, such recording shall be deemed null and void, and upon request of the Township, the plat shall be expunged from the official records.
- c. It shall be the duty of the county recording officer to notify the Planning Board in writing within 7 days of the filing of any plat, identifying such instrument by its title, date of filing, and official number.

25-6.21 Certificates as To Approval of Subdivision of Land. The prospective purchaser, prospective mortgagee, or any other person interested in any land which forms part of a subdivision, or which formed part of such a subdivision 3 years preceding the effective date of this act, may apply in writing to the administrative officer of the municipality, for the issuance of a certificate certifying whether or not such subdivision has been approved by the Planning Board. Such application shall contain a diagram showing the location and dimension of the land to be covered by the certificate and the name of the owner thereof.

The administrative officer shall make and issue such certificate within 15 days after the receipt of such written application and the fees therefore. Said officer shall keep a duplicate copy of each certificate, consecutively numbered, including a statement of the fee charged, in a binder as a permanent record of his or her office.

Each such certificate shall be designated a “certificate as to approval of subdivision of land,” and shall certify;

- a. Whether there exists in the Township a duly established Planning Board and whether there is an ordinance controlling subdivision of land adopted under the authority of this act.
- b. Whether the subdivision, as it relates to the land shown in said application, has been approved by the Planning Board, and, if so, the date of such approval and any extensions and terms thereof, showing that subdivision of which the lands are a part is a validly existing subdivision.
- c. Whether such subdivision, if the same has not been approved, is statutorily exempt from the requirement of approval as provided in N.J.S.A. 40:55D-1 et. seq.

The administrative officer shall be entitled to demand and receive for such certificate issued a reasonable fee not in excess of those provided in N.J.S.A. 54:5-14 and 54:5-15. The fees so collected by such official shall be paid to the Township.

25-6.22 Right of Owner of Land Covered by Certificate. Any person who shall acquire for a valuable consideration an interest in the lands covered by “certificate as to approval of a subdivision of land” in reliance upon the information therein contained shall hold such interest free of any right, remedy or action which could be prosecuted or maintained by the Township pursuant to the provisions of N.J.S.A. 40:55D-55.

If the administrative officer designated to issue any such certificate fails to issue the same within 15 days after receipt of an application and fees therefore, any person acquiring an interest in the lands described in such application shall hold such interest free of any right, remedy or action which could be prosecuted or maintained by the Township pursuant to N.J.S.A. 40:55D-55.

Any such application addressed to the clerk of the Township shall be deemed to be addressed to the proper designated officer and the Township shall be bound thereby to the same extent as though the same was addressed to the designated official.

25-6.23 Condominiums Structures and Uses. This section and all development regulations pursuant hereto and to this Chapter shall be construed and applied with reference to the nature and use of condominium structures or uses without regard to the form of ownership. No development regulation shall establish any requirement concerning the use, location, placement or construction of buildings or other improvements for condominium structures or uses unless such requirement shall be equally applicable to all buildings and improvements of the same kind not then or thereafter under the condominium form of ownership. No approval pursuant to this Chapter shall be required as a condition precedent to the recording of a condominium master deed or the sale of any unit therein unless such approval shall also be required for the use or development of lands described in the master deed in the same manner had such lands not been under the condominium form of ownership.

25-6.24 Lots

- a. No lot shall contain less than the area required for the zone in which it is located.
- b. Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets.
- c. Each lot must front either on a proposed or an existing street.
- d. Where extra right-of-way width has been dedicated for widening of existing streets, lots shall begin at such extra width line, and all setbacks and lot area shall be measured from the new line.
- e. Where there is a question as to the suitability of a lot for its intended use due to factors such as rock formations, flood conditions, slopes exceeding 15%, wetlands, depth to bedrock of less than 4 feet, or similar constraining conditions, the Township Planning Board may, after adequate investigation, withhold approval of the lot. No lot shall be approved unless it is shown that there is a contiguous area on the lot which is free of any of the constraining factors hereinabove mentioned which is of a size sufficiently large to accommodate the principal building and any accessory buildings, together with all access drives, parking areas, and the like constructed in accordance with all provisions of this chapter
- f. Corner lots shall have a minimum length or width of 150 feet measured along each abutting street right-of-way line, and shall comply with minimum lot area required in the zone.

25-6.25 Public Use and Service Areas.

- a. In a major subdivision of twenty (20) building sites or more, easements along rear property lines or elsewhere for utility installation may be required. Easements shall be at least fifteen (15), feet wide and located in consultation with the companies or municipal departments concerned.
- b. Where a major subdivision is traversed by a watercourse, drainageway, channel or street, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of the watercourse and such further width or construction, or both, as will be adequate for the purpose.
- c. Natural features such as trees, brooks, hilltops and views shall be preserved whenever possible in designing any major subdivisions containing such features. Shade trees of three inch trunk diameter or more as measured four (4) feet above the ground between the edge of the graded shoulder and the edge of the right-of-way shall not be removed without the prior approval of the Township Planning Board.
- d. Where any development is proposed for construction of fifty (50) or more units of single-family residential housing, or in the case of any commercial or industrial subdivision, an area must be identified and used for the storage and disposition of recyclables in accordance with the provisions of the ordinance of the Township of Mine Hill establishing a recycling program and requiring the separation of

recyclable material, adopted September 4, 2008, as the same may be amended from time to time.

25.6.26 Soil Erosion and Sediment Control.

- a. Jersey professional engineer in accordance with specifications for soil erosion and sediment control of the Morris County Soil Conservation District. The soil erosion and sediment control plan shall be submitted to the Morris County Soil Conservation District for certification pursuant to R.S. 4:24-39 et seq. The Planning Board shall not give unconditional approval to the preliminary plat until receipt of the Soil Conservation District certification. Any fees or expenses involved in the review by the District shall be the applicant's responsibility.
- b. The soil erosion and sediment control plan shall be for the entire tract and shall contain the following:
 1. Plans and specifications of soil erosion and sediment control measures in accordance with the standards and specifications for soil erosion and sediment control of the Morris County Soil Conservation District. These measures shall apply to all features of construction on the site, including street and utility installations, as well as protection of individual lots, and these measures shall be instituted to prevent or control soil erosion and sedimentation during the various stages of development.
 2. A timing schedule indicating the anticipated starting and completion dates of the development sequence and the time of exposure of each are a priority to the completion of effective erosion and sediment control measures.
 3. The following principles shall be included, where applicable, in the soil erosion and sediment control plan:
 - (a) Stripping of vegetation, re-grading or other development shall be done in such a way that shall minimize soil erosion.
 - (b) Whenever feasible, natural vegetation shall be retained, protected and supplemented.
 - (c) The disturbed area and the duration of exposure be kept to a practical minimum.
 - (d) Temporary seeding or mulching shall be used to protect exposed critical areas during development.
 - (e) Provision shall be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development.
 - (f) Sediment in the runoff water shall be trapped until the disturbed area is stabilized by the use of sediment basins or other acceptable methods.

- (g) Diversions, sediment basins and so forth shall be constructed prior to any on-site grading or disturbance of existing surface material.
- 4. Upon the receipt of the report from the Morris County Soil Conservation District, the Planning Board shall require incorporation of soil erosion and sediment Control measures as it deems appropriate as a condition of tentative approval of the preliminary plat and approval of the final plat.

25-6.27 Reserved.

25-6.28 General Design Criteria.

- a. The following lands shall require special consideration by the Planning Board. In some cases, development should be avoided and in other cases, very low density development may be permitted. Additional improvements and safeguards to protect significant environmental features and elements shall be required.
 - 1. Floodplain Land. These are lands which lies adjacent to streams are periodically inundated as watercourses overflow their banks. These areas should not be developed with buildings. The ban of development in this area is to protect the lives and property of those living in the floodplain and downstream from flooding, prevent increased flooding downstream and prevent pollution of streams and rivers. All applicable regulations of the New Jersey Department of Environmental Protection governing flood hazard area control, N.J.A.C. 7:13-1 et seq., and water pollution control, N.J.A.C. 17:14-1 et seq., shall be applicable.
 - 2. Areas of Excessive Slope. These are lands with slopes in excess of twenty-five percent (25%). Depending on the nature of the soil-bearing capacity, erosion factor and degree of slope, development densities may vary from no building to very low densities with appropriate safeguards. In general, as slope increases, the density of development should decrease. The reasons for the decrease are to prevent landslides and erosion and sedimentation resulting from excessive streams and reduce the capacity of drainage structures exacerbating flooding in the township.
 - 3. Areas Characterized by Soil Classified as Having Severe Limitations for Development. This is land often characterized by high water table, poor bearing capacity, high erosion factors, or shallow depth to bedrock. Special treatment is necessary to prevent health and safety hazards and environmental degradation.
 - 4. Areas of Significant Horticultural or Conservation Features. These include mountain ridges, valleys, scenic vistas and significant horticultural features. These areas are valuable because of their beneficial impact on

the social environment and their importance in ecological systems. Development should be designed to preserve these areas.

5. Land Suitable for Specific Purposes. Land suitable for active or passive recreational purposes, such as baseball fields, tennis courts, etc., or for other municipal purposes or because of their location, e.g., adjoining similar lands on adjacent properties.
- b. Applicants using open space zoning to protect the areas indicated above should submit designs which generally allow for smaller lots on local streets on flat, well-drained land. Larger lots should be platted in areas of increasing slope, poorer (but still passable) percolation and lands closest to floodplains.
- c. Lots adjacent to collector roads shall have greater depths to permit larger back yards and provision for shrubs and trees to serve as buffers. Direct residential access to collector or arterial roads shall be discouraged.

25-6.29 Location, Use and Maintenance of Dedicated Lands.

- a. The Planning Board shall have full authority to approve or disapprove the location and proposed uses of lands required to be dedicated in accordance with the foregoing
- b. Dedicated areas proposed to be deeded to the township shall be deeded free and clear of all mortgages and encumbrances.
- c. If deeded to a property owner's association, or similar entity, it shall be deeded spaces, recreation or agricultural use and include appropriate restrictions to assure the implementation of the purposes of this chapter and to provide for the maintenance and control of the area. All provisions of N.J.S.A. 40:55D-43 relating to the establishment of open space organizations shall be complied with.

25-6.30 Right of Owner. Proposals in accordance with this section shall only be approved by the Planning Board if, in the opinion of the Planning Board, it will convey some overall benefit to Mine Hill Township or to the general health, safety and welfare of the neighborhood. Nothing herein shall be construed as requiring a developer to elect this means of developing a tract.

25-7 PROVISIONS APPLICABLE TO SITE PLANS AND SUBDIVISIONS.

25-7.1 Improvements Required. The Planning Board as a condition for preliminary and/or final subdivision and site plan approval may require installation by the developer of any one or more of the following types of improvements and such other types as permitted by the Municipal Land Use Law (C. 291, P.L. 1975) in accordance with the standards specified and/or referred to in subsection 25-7.1.1 or the design standards specified and/or referred to in subsection 25-7.1.1 through 25-7.2.31.2.

The Planning Board may require a developer as a condition for approval of a subdivision or a site plan to pay the pro-rata share of the cost of providing reasonable and necessary (1) street improvements, (2) water, (3) sewage, (4) drainage facilities, and (5) easements therefore, located off-tract, but necessitated or required by construction or improvements within the subdivision of development. When the Planning Board has determined that off-tract improvement is required, the engineer shall furnish the Board and applicant with a statement of the improvement required, the estimated total cost thereof, and the properties other than applicant which would be benefited by the improvement. He shall also prepare, in consultation with the Township Assessor, a proposed allocation of costs among all property owners benefiting from the proposed improvement, generally in the same manner as calculating assessments pursuant to N.J.S. 40:56-21 et. seq. The Board shall then consider the engineer's recommendations as well as the comments of the developer or other affected parties and shall then make its decision as to the applicant's share of the cost of such off-tract improvements.

The Township Administrator or designer shall be informed of the allocation and the Township may elect to install such improvements and assess all benefited owners in accordance with N.J.S. 40:56-21 et. seq.

25-7.1.1 Construction Standards - Site Improvements - Residential. The Residential Site Improvement Standards as adopted in N.J.A.C. 5:2 1-1.1 et. seq. shall apply to all residential construction.

25-7.2 Construction Standards - Site Improvements Not Covered by the Residential Site Improvement Standards.

- a. Township Standards. All standards and specifications of the Township as now or hereafter adopted, if any, shall govern the design, construction and installation of all improvements. Failure of the subdivider, developer, his contractor or agent to conform to said specifications will be just cause for the suspension of the work being performed. No developer shall have the right to demand or claim damages from the Township, its officers, agents or servants by reason of said suspension.
- b. Other Standards. In the event the Township has not adopted standards for a specific type of improvement, then generally accepted engineering standards as set forth in engineering and construction manuals as may be modified by the Township Engineer for a specific situation shall be used. Gas, electric, telephone and similar utilities shall be installed in accordance with applicable company, State and Federal requirements.
- c. Grades. All construction stakes and grades shall be set by a licensed land surveyor in the employ of the subdivider, developer, or contractor, and a duplicate copy of the notes and cut sheets made therefrom shall be filed with the Township Engineer.

- d. Inspection. Prior to the start of the construction or installation of such improvements, the developer shall advise the Township Engineer in writing at least one week before the commencement of such work. No underground installation shall be covered until inspected and approved by the appropriate inspector with specifications or to correct unacceptable work properly and said notice shall set forth in detail what has not been properly installed. If within five (5) days after certified date of receipt of such notice, the developer has failed to perform in accordance with the notice, the Township Engineer shall then cause the notice of failure-to-comply to be served upon the developer and a copy shall be sent to the Township Council and Planning Board and a stop-work order shall issue suspending all further work until the unacceptable work has been corrected.

25-7.2.1 Storm Water. Provisions shall be made to collect storm waters within the development and to convey storm waters from the development to rivers and streams, drainage ditches or other storm water conveyor capable of accommodating flows. The storm water disposal system shall include all or some of the following: curbs, catch basins, culverts, pipes, storm water drains, swales, drainage rights-of-way, ditches, channel improvements, or combinations of all or some of the above where appropriate. It may also include ground cover, seeding, trees, shrubs, bushes and vegetation.

The storm water disposal system shall be connected with an approved system where one exists and shall be adequate for all present and future development of the subject development or outside areas tributary thereto.

In the event the water flows to a facility incapable of handling the expected flow and flooding or erosion may result, the developer may be required to improve the stream or facility sufficiently to handle expected flows resulting from the development in question. Design of stormwater systems shall conform to Section 25-12.3.

25-7.2.2 Sanitary Sewage Disposal.

- a. Provisions shall be made to convey sanitary waste from each subdivision lot or building forming a part of a site plan through laterals and interceptors of sufficient size, material and capacity to collectors and then to truck sewers to public treatment facilities.
- b. Where a public sanitary sewer system is not reasonably accessible, approved individual septic systems or package plants shall be installed (provided all applicable State, County and Municipal requirements are met) except that no major subdivision shall be approved without a public sanitary collection system as noted below.
- c. A subdivider may be required to install within a major subdivision and a developer within the development a complete sanitary sewer pipe system ('dry sewer system'), including provisions for the connection thereto at each structure. Until such time as the public sanitary sewage disposal

system is capable of becoming operable, individual septic systems or other appropriate and approved waste treatment facility shall be required.

- d. A sanitary waste disposal system shall include all or part of the following: pipes, and necessary appurtenances such as manholes, lampholes, pumping stations, drainage tiles, valves, and siphons.

25-7.2.3 Water.

- a. Provision shall be made to provide each lot in a subdivision and each building in a development plan with an adequate and continuous supply of potable water.
- b. Where a central water system is reasonably accessible, all lots and buildings within an approved development shall be connected thereto.
- c. In the event such a system is not reasonably accessible, individual wells shall be installed for each lot in the subdivision and wells to adequately serve the buildings forming a part of an approved site plan shall be installed, except that the subdivider shall be required to install within the subdivision and the developer within the development, a complete water distribution system including provisions for connection to each structure. Until such time as the system is capable of becoming operable, individual wells shall be installed and utilized, as aforesaid.
- d. A water system shall include all or part of the following: pipes and necessary appurtenances of sufficient size, material and capacity, pumps, valves, pumping stations, standpipes and fire hydrants. Fire hydrants shall be of a design and type approved by the Mine Hill Township Fire Department and be installed in accordance with their recommendations.

25-7.2.4 Private Utilities. Gas lines, telephone lines, electrical service, cable television, and similar utilities shall consist of those improvements required by the applicable utility or by Federal or State law.

25-7.2.4.1 Renewable Energy Resources. The Board may, in its discretion, require that buildings or structures use renewable energy sources.

25-7.2.5 Vehicular and Pedestrian Improvements. Such improvements shall include all or part of the following: street paving, curbs, gutters, sidewalks, driveway aprons, parking areas, street lighting, traffic signs, traffic control devices, guard rails and other street improvements.

- a. **Streets.** Streets shall meet the design specifications established in subsection 25-7.2.10.3.

- b. **Street Signs and Names.** The design and location of all street signs shall be approved by the Planning Board. The name of all new streets shall be approved by the Planning Board. Streets shall not have a name which tends to be confused with existing streets.
- c. **Sidewalks.** Sidewalks where required shall be a minimum of four (4) feet in width and shall meet the design specifications of subsection 25-7.2.10.4
- d. **Parking Areas.** Adequate provision shall be made for off-street parking in accordance with this subsection 25-7.2.10.6
- e. **Traffic Signs and Control Devices.** These improvements, such as “stop”, “yield”, “one-way”, signs, etc., shall be designed and installed in accordance with applicable Federal, State, and County regulations. Recommendation as to their installation may be made by the Police Department or other competent agency.
- f. **Guard Rails.** These shall be designed to prevent cars from leaving the road. They shall be installed where danger exists to the traveling public due to steep topography, narrow roadways, location of drainage ditches, or other similar conditions.

25-7.2.6 Natural Improvements. These improvements shall include all or some of the following: shade trees, topsoil, earth removal, borrow and fill, improvements to prevent erosion and landslides, improvements to prevent damage to adjacent property.

- a. **Shade Trees.** Not less than two (2) shade trees shall be provided on each lot and located in accordance with Township specifications. New trees where required shall be nursery grown stock, balled and burlaped, and not less than two (2) inch caliper measured one (1) foot from the root system, planted and double staked. Trees shall be of the following types: sugar maple; small or large leaf linden; sweet or sour gum; male ginkgo; white, black, scarlet, pin and red oak; or any other type approved by the Planning Board.
- b. **Street Trees.** Street trees shall be planted 50 feet on center on both sides of the street.

25-7.2.7 Monuments. All lots shall require monuments of such size and shape as required by the Map Filing Law (N.J.S.A. 46:23-9.9 et. seq.) and shall be placed in accordance with said statute.

25-7.2.8 Design Standards. The development of all approved site plans and subdivisions shall observe the design standards and requirements, except where the Residential Site Improvement Standards adopted by the Department of Community Affairs are applicable.

25-7.2.9 Reservation of Public Areas in Conformance with Master Plan and Official Map. Where either or both an Official Map or Master Plan has or have been adopted, the development plan shall conform to the proposals and conditions shown thereon. The streets, drainage rights-of-way, flood control basins, school sites, public parks and playgrounds or other public areas shown on an officially approved Master Plan or Official Map shall be shown on all subdivision and site plan plats unless the Planning Board determines for good cause shown not to require the reservation of such public areas for one (1) year from date of final approval in accordance with N.J.S.A. 40:55D-44.

- a. Unless during such one (1) year period, or within such further time as may be agreed to by the developer, the Township shall have entered into a contract to purchase or instituted condemnation proceedings for the fee or a lesser interest in the land comprising such streets, ways, basins or other public areas, the developer shall not be bound by such reservations shown on the plat and may proceed to use such land for private use in accordance with applicable development regulations.
- b. This provision regarding a one (1) year reservation shall not apply to streets, roads, flood control basins or public drainage ways necessitated by the subdivision or land development and required for final approval.
- c. The developer shall be entitled to just compensation for actual loss found to be caused by such temporary reservation and deprivation of use, determined as provided in N.J.S.A. 40:55D-44.

25-7.2.10 Township Standard Construction Details. Except as otherwise provided in this Chapter, the design standards for streets, roadways, curbs, sidewalks, driveways, signs, lights, storm drainage, water mains, sanitary sewers and related improvements shall meet the requirements of and be constructed, installed and located in accordance with “Standard Construction Details and Specifications, Township of Mine Hill, County of Morris, New Jersey”, dated February, 1976, prepared by John Cilo, Jr., P.E. and L.S., Township Engineer, consisting of two (2) sheets of drawings, copies of which were attached to and made part of the Township Road Specification Ordinance adopted April 8, 1976. Said construction specifications are hereinafter referred to as “Township Standard Construction Details” and are incorporated herein and made a part hereof as if set forth in full.

25-7.2.10.1 Street Right-of-Way and Pavement Widths.

- a. Primary or arterial streets (used primarily for fast or heavy traffic):
Right-of-way width - 66 feet (or width of the existing street which is being extended, if greater)
Pavement width - 46 feet
- b. Collector streets (used to carry traffic from minor streets to arterial or primary streets):

Right-of-way width - 60 feet (or the width of the existing street which is being extended, if greater)
Pavement width - 36 feet

- c. Minor streets (used primarily for access to abutting properties):
Right-of-way width - 50 feet
Pavement width - 30 feet
Minor streets shall be designed so as to discourage through traffic.
- d. Marginal access streets (a street parallel or adjacent to an arterial street or highway and which provides access to abutting properties and protection from through traffic):
Right-of-way width - 50 feet
Pavement width - 20 feet
- e. Cul-de-Sac or Dead-End Turnarounds: Cul-de-sac or dead end turnarounds shall have a minimum radius of fifty (50) feet on the curb, with a right-of-way radius of sixty (60) feet.
- f. Internal roads: The right-of-way and pavement widths for internal roads in multi-family, commercial and industrial developments and zones shall be determined on an individual basis, and shall in all cases be of sufficient width and design to safely accommodate the maximum traffic, parking, loading, and access for fire fighting equipment, but in no case shall such widths be less than those required herein for Marginal Access Streets or the pavement and design less than "Class B" road specifications as hereinafter set forth.
- g. Sight triangle: At all street intersections, fences, landscaping, grading or other obstruction to vision exceeding twenty-four (24) inches in height above the established grade of the street at the property line shall not be erected or maintained on any lot within the triangle formed by a line drawn between a point one hundred (100) feet distant along the main street side line and a point thirty (30) feet distant along the side street side line from their point of intersection.
- h. Widening Existing Streets: Developments that include existing streets which do not conform to pavement and/or right-of-way widths as shown on the Master Plan or Official Map, shall dedicate and improve to Township specifications additional width along the side or sides of said road abutting the property being developed. If the development adjoins one side of an existing road which does not meet standards, only one-half of the required extra width shall be dedicated and improved to Township specifications.

25-7.2.10.2 Street Pavement Specifications.

- a. All materials and methods of road construction shall be in accordance with the specifications approved and followed by the New Jersey Department of Transportation as set forth in its manual entitled “Standard Specifications for Road and Bridge Construction of the New Jersey State Highway Department”, dated 1961, as amended, supplemented and revised.
- b. All streets (roads) shall be designed, constructed and paved in accordance with “Class A” road specifications as follows:
 1. Two (2) inches (compacted) FABC- I (Mix #5) surface course on five (5) inches Bituminous stabilized base course (stone mix -#1) on a sub-base of three (3) inches (minimum) of Soil Aggregate Type 5, Class “A” on an approved sub-grade.
 2. Where conditions warrant, alternative pavement designs in accordance with the Asphalt Institute Manual Series No. I (MS-1) Revised Eighth Edition August 1970 may be submitted for consideration and approval to the Township Planning Board.
- c. Where “Class A” specifications are determined by the Planning Board to be inappropriate with respect to the construction of marginal access streets, the extension of existing minor streets or marginal access streets, or the construction of internal roads in multifamily, commercial or industrial developments, taking into consideration existing conditions, the right-of-way and pavement widths of existing streets adjoining the area(s) in question, and the type of construction of such adjoining street or streets being extended, the Planning Board may approve upon request of the developer and recommendation of the Township Engineer, the construction of roads in accordance with “Class B” road specifications, as follows:
 1. Two (2) inches (compacted) FABC- I (Mix #5) surface course on five (5) inches Bituminous stabilized base course (Stone Mix #1) on a sub grade approved by the Township Engineer.

25-7.2.10.3 Street Design Standards.

- a. Grades. Grades of arterial and collector streets shall not exceed six (6%) percent. Grades of all other streets (roads) shall not exceed twelve (12%) percent. No street shall have a minimum grade less than one-half of one (0.5%) percent.
- b. Curbing;
 - 1. Curbing shall be constructed on both sides of all streets.
 - 2. Granite block curbing shall be constructed unless concrete curbing is required to meet requirements for State or County roads, or is deemed more appropriate by the Township Planning Board on the recommendation of the Township Engineer, based upon existing conditions.
 - 3. Granite block and concrete curbing shall be constructed, installed and located in accordance with "Township Standard Construction Details".
- c. Intersections. Street intersections shall be laid out as nearly at right angles as possible and in no case shall be less than seventy (70) degrees. The block corners at intersections shall be rounded at the curb line with a curb having a radius of not less than thirty-five (35) feet. Sight easements shall be provided by developer at street intersections and/or at curves or deflection points on streets in order to allow for proper sight distance, wherever deemed necessary by the Planning Board on advice from the Township Engineer.
- d. Jogs. Street jogs with center line offsets of less than one hundred twenty-five (125) feet shall be prohibited.
- e. Reverse Curves. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.
- f. Connecting Streets. When connecting street lines deflect from each other at any one point by more than ten (10) degrees and not more than forty-five (45) degrees they shall be connected by a curve with a center line radius of not less than three hundred (300) feet for minor streets and six hundred (600) feet for arterial and collector streets.
- g. Grade Changes. All changes in grade shall be connected by vertical curves of sufficient radius to provide a smooth transition and proper sight distance.

- h. Dead-End Streets. All dead-end streets shall not be longer than six hundred (600) feet and shall have a turnaround installed with a curb radius of fifty (50) feet and shall be tangent wherever possible to the right side of the street. When a dead end street terminates at an adjoining property line and where it is possible to extend the street at a future time, the turnaround right-of-way shall be considered temporary in nature and provision shall be made for future extension of the street and reversion of the excess right-of-way to the adjoining property or properties. Wherever a temporary or permanent turn-around is proposed on any street, the front yard setback line shall be measured from the right-of-way line of the turnaround.

25-7.2.10.4 Sidewalks.

- a. Sidewalks shall be concrete, with a minimum width of four (4) feet and a minimum thickness of four (4) inches.
- b. Sidewalks shall be constructed on both sides of all new streets or on extensions of all existing streets, unless deemed inappropriate and waived by the Township Planning Board on the recommendation of the Township Engineer, taking into consideration existing conditions, including the location of sidewalks, if any, on adjoining and nearby streets.
- c. All sidewalks shall be constructed in accordance with “Township Standard Construction Details.”

25-7.2.10.5 Driveways. Driveway openings, aprons, and widths shall be constructed and located in accordance with “Township Standard Construction Details” and shall not have a grade in excess of fifteen (15%) percent within forty (40) feet of the road right-of-way and shall meet the street at grade unless otherwise approved by the Planning Board. Wherever appropriate, driveways shall be so designed as to allow vehicles to turn around on the lot in order to make it unnecessary to back any vehicle onto the street.

25-7.2.10.6 Parking Areas.

- a. All parking and loading areas shall be paved with two (2) inches (compacted) FABC- I (Mix #5) surface course on three (3) inches bituminous stabilized base course (stone mix #1) on a sub grade approved by the Township Engineer. Provision shall be made for adequate drainage facilities for all parking, loading and storage areas. All such installations shall be connected with an adequate approved system and shall be adequate to accommodate the storm drainage runoff of the facility it is designed to serve. All drainage

facilities shall be approved by the Township Engineer prior to Planning Board approval.

- b. All parking spaces within any parking area shall be clearly marked and maintained to show the parking arrangement within said parking area.
- c. All lighting for off-street parking areas shall be so arranged and shielded as to reflect the light downward and prevent any light from shining directly on adjoining streets, residential zones and residential buildings.
- d. All parking areas shall be effectively screened on any side which abuts or faces any premises situated in any residential zone, by a fence, wall or hedge at least five (5) feet in height, maintained in good condition, if required by the site plan approved by the Planning Board; provided, however, that such fence, wall or hedge may be waived by the Planning Board if, because of topographic or other extraordinary or exceptional conditions, the same shall not be necessary to protect any abutting or facing premises situated in any residential zone.
- e. If any fence, wall or hedge shall have been required for any parking area then said fence, wall or hedge shall be protected by a concrete curb or bumper guard, or the equivalent, which shall run parallel to said fence, wall or hedge, be at least five (5) inches in height above the paved surface adjacent to said fence, wall or hedge, and be a sufficient distance there from to protect said fence, wall or hedge from the impact of motor vehicles. Utility poles or railroad ties shall not be used to meet required curbing or bumper guards.
- f. If any parking area shall have been permitted in any front yard, the Planning Board shall have the power to require a concrete, curb, bumper guard, or the equivalent, at least five (5) inches in height above the paved surface, along and parallel to any landscaped area in the front yard as sufficient to protect the same from the impact of motor vehicles.
- g. All parts of all yards not used for off-street parking areas shall be adequately landscaped, subject to approval by the Planning Board, and maintained in good condition.
- h. All such parking areas shall be used only for the parking of automobiles. No commercial repair work or sales of any kind shall be conducted in any parking areas. No sign other than entrance,

exit, identification and conditions-of-use signs shall be maintained in any parking area. No such sign shall be larger than four (4) square feet in area. Nothing herein contained shall be construed to permit any required parking area to be used for the commercial storage new or used motor vehicles by a new or used car dealer or motor vehicle rental agency.

- i. All parking areas and structures shall be provided with adequate means of ingress and egress which shall be kept open and unobstructed at all times and which shall be designed to provide service driveways or aisles to meet the minimum standards as provided in the Zoning Ordinance of the Township as amended and reenacted by Section 25 -10.
- j. Generally the requirements and design standards for off-street parking in the Zoning Ordinance of the Township shall be met.

25-7.2.11 Blocks.

- a. General. Block length and width or acreage within bounding roads shall be such as to accommodate the size of the lot required in the area by the Zoning Ordinance and to provide adequately for sewage disposal, convenient access, circulation, control and safety of street traffic.
- b. Pedestrian Crosswalks. In blocks over one thousand (1,000) feet long, public rights-of-way through the blocks may be required in locations deemed necessary by the Planning Board. Such rights-of-way shall be at least ten (10) feet wide and be straight from street to street. Block sizes for group housing, business or industrial use shall be sufficient to meet all area and yard requirements for such use.
- c. Easements. Rights-of-way and easements within blocks in commercial, business or industrial areas shall be not less than twenty (20) feet in width.

25-7.2.12 Lots.

- a. Side Lines. Insofar as is practical, side lot lines shall be at right angles to streets and radial to curved streets.
- b. Setbacks. Where land has been dedicated for a widening of existing streets, lots shall begin at such new street line as may have been established, and all setbacks shall be measured from such line.
- c. Substandard Suitability. Where there is a question of the suitability of a lot or lots for their intended use due to factors such as rock formations,

flood conditions, high water table, sewage disposal, excessive topographic slope or similar circumstances, the Planning Board may, after adequate investigation, with professional assistance, if deemed necessary, withhold approval of such lots.

- d. Lots on Arterial or Collector Streets. Lots fronting on arterial or collector roads shall, at the discretion of the Planning Board, be serviced by a marginal access road or reverse frontage, or be required to provide driveways with turnarounds.
- e. Frontage on Approved Street. Each new building lot created by a subdivision plan must front upon an approved street right-of-way of at least fifty (50) feet in width.

25-7.2.13 Street signs, wood barriers and guard rails, fire hydrants and shade trees shall be constructed, installed (planted) and located in accordance with “Township Standard Construction Details”.

25-7.2.14 Utilities.

- a. Storm Drainage Construction.
 - 1. Adequate and proper storm drainage must be provided for and shall be of a size and quality satisfactory to the Township Engineer. Where storm water or other type of surface water is to be discharged on or over other lands not owned by the developer, formal easements, duly executed and acknowledged by each and every owner affected, must accompany the preliminary plat. Where storm water or other type of surface water is discharged into existing streams or waterways, provisions must be made for off-site drainage improvements where determined to be necessary by the Township Engineer. Where a Developer diverts, relocates or otherwise encroaches on existing stream or waterway, approval must be obtained from the proper State agency and the Township Council.
 - 2. Storm drainage construction shall be reinforced concrete culvert pipe and shall meet all the specifications and requirements of the “Township Standard Construction Details”.
 - 3. Design criteria for storm drainage shall be in accordance with “The Land Development Standards of the County of Morris, N. J.”, adopted by the Morris County Board of Chosen Freeholders, May 26, 1971.

4. **Drainage Easements.** Where a development is traversed by a watercourse, drainage way, channel or stream, there shall be provided an easement or drainage right-of-way at least twenty (20) feet wide on each side conforming substantially with the lines of such watercourse, and such further width as will be adequate for the purpose of disposing of storm waters and for flood control. Such easements shall be deeded to the Township prior to final approval, if so required by the Planning Board.

25-7.2.15 Water Mains. All water mains shall be cement lined ductile iron pipe with a minimum diameter of eight (8") inches, class 2 walls with a minimum cover of three (3) feet and constructed, located and installed in accordance with the "Township Standard Construction Details".

25-7.2.16 Sanitary Sewers.

- a. Sanitary sewers shall be constructed of asbestos cement sewer pipe with a minimum strength of Class 3300 and a minimum diameter of eight (8") inches.
- b. House connections shall be a minimum diameter of four (4) inches, a minimum strength of Class 3300 and shall not be connected into a manhole.
- c. Sanitary sewers shall meet all the requirements of the "Township Standard Construction Details"

25-7.2.17 Street Lights. Street lights shall be installed at street intersections along vertical and horizontal curves, at the end of dead-end streets and shall be spaced approximately three hundred (300) feet apart.

25-7.2.18 Underground Utilities. In all major subdivisions and developments submitted for site plan approval in excess of two (2) acres, electric and telephone utility lines and appurtenances and cable T.V. lines shall be underground in accordance with the provisions of subsection 25-7.2.10 which shall be applicable to both subdivisions and such developments. In any particular situation where the applicant can clearly demonstrate that because of unusual topographic conditions or other unusual conditions having to do with the land, the installation of such utilities underground is impracticable or otherwise not feasible due to such conditions then the Planning Board, in its discretion, may waive this requirement for underground installation. All underground utility work which will be under the pavement of streets and internal roadways shall be laid sufficiently in advance to allow for complete settlement of the trenches and in no event shall construction work be permitted over such excavation which, in the opinion of the Township Engineer, has not properly settled.

25-7.2.19 Streams, Bodies of Water, Flood Areas.

- a. **Setback from Streams and Other Bodies of Water.** No building shall hereinafter be erected, altered, added to or enlarged within a distance of twenty-five (25) feet from the high water mark of any water body, watercourse or wetland area as determined by the Township Engineer in accordance with sound engineering practices. The Planning Board, in addition, shall require an easement of no less than twenty (20) feet along each side or edge of said water body, watercourse or wetland area.
- b. **Floodway and Flood Hazard Areas.** No permanent building or any enlargement of same shall be located in a floodway or flood hazard area as specified in any official document delineating said areas. Any area designated as a floodway or flood hazard area shall not be filled in or altered in any way for the purpose of constructing, enlarging, altering, or rebuilding a structure within a designated floodway or flood hazard area.

25-7.2.20 Solid Waste Facilities. Every site plan shall show an area reserved for trash or refuse pick-up as approved by the Planning Board. Such area shall be so located on the premises that solid waste trucks have access to such area at all times.

25-7.2.20.1 Solid Waste and Recycling Requirements. Any application for site plan approval or subdivision approval 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 shall include provisions on the site for the storage and disposition of solid waste and source-separated recyclable materials. The application shall contain at a minimum, the following:

- a. A detailed analysis of the estimated composition and amounts of solid waste and recyclables generated at the proposed development; and
- b. One or more locations shown on the site plan that provide for the convenient storage and disposition of recyclable materials and solid waste by all owners, tenants and occupants. Any such area shall comply with all setback limitations and no such area shall be located in front of a principal building. Any recycling and/or solid waste storage area shall be provided on an impervious surface and be screened from view by enclosing it within a building, or by a solid fence and/or landscaping, as approved by the Board. It shall be of sufficient size, convenient location and contain other attributes including signage and lighting as may be proposed by the Applicant after consultation with the Municipal Recycling Coordinator and the Township Engineer.
- c. The location of recycling areas shall be convenient for the disposition of source-separated recycling materials and may be near, but clearly distinct from a refuse dumpster.
- d. Recycling/solid waste areas shall have adequate lighting and shall be safely and easily accessible to owners and tenants, collection

personnel, motor vehicles and collection vehicles without interference from parked cars or other obstacles.

- e. Recycling areas and any bins or containers placed therein shall be designed so as to provide protection against adverse environmental conditions. Any bins or containers used for the collection of recyclable paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid or otherwise covered so as to keep the paper and cardboard dry.
- f. Signs clearly identifying the recycling area and the materials accepted therein shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein. All proposed signs shall be shown on the plans and approved by the Board.
- g. Landscaping and/or fencing shall be shown on the plans and provided around any outdoor recycling area and shall be developed such that the enclosure shall be constructed of similar materials as the main structure and be secured with a gate.
- h. The items specified in the checklist set forth in section 25-5.7.1.

25-7.2.21 Buildings.

- a. The location, design or construction of any building shall not be likely to involve risks of traffic congestion, public safety or hazard.
- b. The design or construction of any building or use shall not be so markedly incongruous with the character of the neighborhood as to materially affect the value of adjacent or nearby property.

25-7.2.22 Development Plan Guarantees. Performance with respect to final subdivision or site plan approval shall be guaranteed in accordance with Section 25-6.15.

25-7.2.23 Conditional Use Permit; Simultaneous Review.

- a. Applications for a conditional use permit pursuant to N.J.S.A. 40:55D-67 and controlling sections of the Townships Land Use Regulations shall be granted or denied within ninety-five (95) days of submission of a complete application by the applicant, or within such further time as may be consented to by the applicant.
- b. The time period for action by the Planning Board on conditional uses shall govern the accompanying site plan review if any. The granting of a conditional use permit in conjunction with preliminary site plan approval shall grant to the applicant the rights applicable to preliminary site plans as

contained in subsection 25-6.11 and shall subject the applicant to the requirements of final approval of such site plan as contained in this Chapter and in the Municipal Land Use Law.

- c. The Planning Board shall have the power to review and approve or deny conditional uses or site plans simultaneously with review for subdivision approval without the developer being required to make further application to the Planning Board, or the Planning Board being required to hold further hearings. The longest time period for action by the Planning Board, whether it be for subdivision, conditional use or site plan approval, shall apply. Whenever approval of a conditional use is requested by the developer pursuant to this subsection 25-10.15 notice of the hearing on the plat shall include reference to the request for such conditional use.

25-7.2.24 Environmental Impact Statement. Every application for preliminary major subdivision and preliminary site plan approval shall be accompanied by twenty (20) copies of an Environmental Impact Statement containing such data, information and analyzes as required by the Environmental Impact Statement Guidelines of Section 25-10.19 et. seq. of the Land Use Regulations of the Township of Mine Hill. The Planning Board is authorized to determine in light of the size, type of uses involved, the extent of the proposed changes to the existing topography, density and extent of development, and similar factors bearing upon the impact of the proposed project upon the environment, which requirements, if any, of said guidelines may be termed unnecessary or inappropriate and, therefore, waived with respect to any particular environmental impact study and statement.

- a. The Planning Board shall forward seven (7) copies of every environmental impact statement to the Township Environmental Commission, which may furnish comments thereon to the Planning Board.
- b. The Planning Board may select among alternative proposals in the environmental impact statement and may establish conditions considered necessary to eliminate or minimize any temporary or permanent adverse on-site or off-site environmental effects of the proposed development.

25-7.2.25 Soil Erosion and Sedimentation Control Plans.

- a. All plans for soil erosion and sedimentation control required by this Chapter as part of an application for site plan or subdivision approval shall be prepared with reference to the standards established by the relevant sections of Environmental Impact Statement Guidelines, Section 24.10.19, of the “Land Use Ordinance of the Township of Mine Hill,” adopted August 28, 1974, as amended May 8, 1975, and as further amended hereby.
- b. In submitting a plan for soil erosion and sediment control as part of a subdivision or site plan, the requirements of the “Soil Erosion and

Sediment Control Act” (C. 25 1, P.L. 1975) shall be satisfied, including submission of such plan to the Soil Conservation District and/or Morris County Planning Board for review and approval, if so required by said Act and controlling County Planning Board development review regulations.

25-7.2.26 Issuance of Building Permit and Certificate of Occupancy.

- a. No building permit for any lot in a subdivision or for any development plan involving the construction, reconstruction, structural relocation or enlargement of any building or other structure requiring site plan review and approval pursuant to Section 25-6 shall be issued by the Township Construction Code Official until final subdivision or site plan approval (as the case may be) has been granted pursuant to this Chapter.
- b. Whenever a building permit has been issued after, final approval of a development plan, no certificate of occupancy shall be issued for the subject property until all improvements shown upon the development plan have been installed in accordance with the plans therefore. The Township Engineer shall submit to the Planning Board and to the Construction Code Official a written report with respect to streets, sidewalks, internal roadways, curbing, and off-street parking, landscaping, storm water disposal, sanitary sewage disposal and all other utilities and outdoor lighting when such improvements have been installed in accordance with the plans therefore. The Construction Code Official shall submit a written report to the Planning Board when all other improvements have been installed in accordance with the plans therefore. No certificate of occupancy shall be issued for a period of ten (10) days after the Planning Board has received the foregoing report. In the event that the Chairman or Secretary of the Planning Board shall, within such period of ten (10) days, notify the Construction Code Official that any improvement has, in the opinion of the Board, not been installed in accordance with the development plan, the Construction Code Official shall not issue a certificate of occupancy until the Planning Board authorized its issuance.
- c. Whenever a building permit has been issued for a lot in a subdivision after final subdivision approval, no certificate of occupancy shall be issued until all improvements or all improvements for the section of the subdivision (if approval has been secured in sections) in which the lot in question is located have been installed in accordance with the approved plans therefore to the satisfaction of the Township Engineer, provided, however, monuments, shade trees, buffer and screening plantings and fencing, sidewalks and street signs, traffic control signs and devices requiring State and/or County approval, need not be completed to secure a certificate of occupancy if the Performance and, Maintenance Guarantees with respect to such improvements remain in full force and effect and the time for

completing such improvements under the terms of such guarantees has not yet expired. The finished or top course of the road must however, be completed to secure a certificate of occupancy.

1. Whenever final approval is obtained for a section of a subdivision, then all of the improvements for that section shall be completed in all respects and inspected and approved by the Township Engineer before any certificate of use and occupancy shall be issued for any building on any lot in any succeeding section of the subdivision.
- d. Failure to comply with any of the conditions of site plan or subdivision approval subsequent to the receipt of a Building Permit or 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 such Building Permit or Certificate of Occupancy. Written notice of revocation, sent by certified mail, by the Construction Code Official, requiring compliance with the conditions of site plan or subdivision approval within a period of time of not less than five (5) days, shall effectively revoke any Building Permit or Certificate of Occupancy, as the case may be, if compliance shall not be made within the time limit set.
- e. Temporary Certificate of Occupancy for Site Plans. The Planning Board, upon recommendation of the Construction Code Official may grant a temporary Certificate of Occupancy for a specified period of time not exceeding six (6) months if weather or other conditions beyond the control of the developer prevent compliance with the conditions of final site plan approval, provided the performance guarantees posted at time of final approval adequately cover the items not completed or performed in accordance with such final approval. No temporary Certificate of Occupancy shall be issued for any house in a subdivision or for any residential unit forming a part of a site plan.
- f. Development Plan Changes. The Construction Code Official or Township Engineer, as the case may be, may authorize minor variations in the site plan or subdivision caused by field conditions or other practical considerations. The Construction Code Official shall notify the Planning Board of any such change in writing prior to implementation and the Planning Board may revoke such authorization if it determines the proposed change is not a minor variation, provided it notifies the developer and Engineer of such revocation within ten (10) days of receipt of such notification.

25-7.2.27 Information Regarding Previous Mining Operations.

- a. In General; Purpose. Where there are indications or it is known that the site in question and/or areas in close proximity thereto have previously

been mined, accurate and detailed maps, information and data shall be furnished as a part of the development plan in question to permit the Planning Board or Board to analyze the impact of any previous mining operations upon the proposed project for the purpose of determining the desirability and feasibility of such proposed development, taking into consideration the safety, health and welfare of the residents of the Township and other persons who are likely to use or be affected by the proposed development.

- b. Existing Information to be Made Available. The Township shall make available upon request to the applicant all maps, information and data regarding mines, and mining operations in or near the Township which it has compiled as part of any Master Plan Study, Natural Resources Inventory or Environmental Impact Studies and reports. The applicant shall be charged the cost to the Township of reproducing any such maps, data and information for use by the applicant.
- c. Information and Details Required. All maps, reports, and other information prepared by applicant for submission to the Planning Board or Board as part of a development application to address issues pertaining to previously mined areas shall be prepared in accordance with the provisions in Section 25-10.9b of the regulations.

25-7.2.28 Information and Details Required. The maps, information and data to be furnished by applicant to the Planning Board regarding previous mining operations on and/or in close proximity to the development site in question shall include:

- a. Location of all mines and mine openings.
- b. Extent of mines, including depth, angle of descent and length of all mines, mine openings and shafts.
- c. Proximity to surface of all mines located on or affecting development on the subject site.
- d. Identification of areas subject to subsidence.
- e. Effect and limitation upon building and development of each mine and mine opening.
- f. Impact upon ground water supply, wells and related water problems.
- g. Impact upon storm water drainage, flooding and related problems.
- h. Impact upon any proposed individual or package sewage disposal system(s) proposed for use as part of the proposed development.

- i. Efforts to date, if any, to seal, cap or otherwise render the mines “safe” for building, development or use of the land affected by the mines in question.
 - 1. An analysis and detailed description of procedures proposed for sealing, capping or otherwise rendering the mines “safe” to permit development and use of the property as proposed by the applicant and the development plan before the Planning Board.

- j. A description of and copy of the results of each test made on or in proximity to the subject property to determine the exact location of the mines in question, the extent of same and their impact, effect and limitation upon the proposed development.
 - 1. An analysis and detailed description of test procedures proposed for accurately locating and determining the extent of such previous mining operations and impact and limitation upon the proposed development of the subject property; including applicant's proposal regarding when and by whom such tests will be performed.

- k. Topographical, slope, soils, depth to bedrock, hydrological and geological information relevant to the mines and mine areas in question, including data regarding faults, folds, underground fissures and underground streams, water courses and sources.
 - 1. Description and identification of the various sources relied upon in compiling and producing the information required by this subsection.

- l. Such other information and data as the Planning Board may reasonably require regarding previous mining operations to permit the Planning Board to determine with reasonable certainty the impact of such operations upon the proposed development in accordance with the purposes and objectives of this subsection.

25-7.2.29 Required Testing. If the Planning Board determines that existing information and data is not sufficiently accurate or complete to permit it to properly analyze the impact of such previous mining operations upon the proposed development, the Board shall require applicant at his expense to perform such tests as the Planning Board determines, upon the recommendation of the Township Engineer and such other experts as it may decide to consult are necessary to secure the information necessary and to properly complete its evaluation of the effect of such mines upon the proposed development.

25-7.2.30 Denial of Approval. The Planning Board shall not grant preliminary site plan, preliminary major subdivision or minor subdivision approval to any proposed development if:

- a. The information and data regarding previous mining operations is not sufficiently accurate or complete to permit the impact upon the proposed development to be determined with reasonable certainty; or
- b. Because of the adverse impact of such previous mining operations upon the proposed development, it is not desirable or feasible to permit such development, taking into consideration the safety, health and welfare of the residents of the Township and other persons who are likely to use or be affected by the proposed development.

25-7.2.31 Granting of Exceptions in Application for Site Plan and Subdivision Approval.

25-7.2.31.1 Authorization. The Planning Board when acting upon applications for preliminary and final site plan approval and for preliminary and final major subdivision approval and minor subdivision approval shall have the power to grant such exceptions from the requirements of this Chapter (other than provisions of Section 25-10) as may be reasonable and within the general purpose and intent of the provisions for site plan and subdivision review and approval as set forth in this Chapter, if the literal enforcement of one or more provisions of this Chapter is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

25-7.2.31.2 Findings. In making its findings, as required herein below, the Planning Board shall take into account the nature of proposed work and the existing use of land in the vicinity, the effect of the proposed deviation on the Township Master Plan, the number of persons to reside or work in the proposed subdivision or on site and the probable effect of the proposed application upon traffic conditions in the vicinity. No deviation shall be granted unless the Planning Board finds:

- a. That there are special circumstances or conditions affecting such property such application of the provisions of this Chapter would deprive the applicant of the reasonable use of his land.
- b. That the deviation is necessary for the preservation and enjoyment of a substantial property right of the applicant.
- c. That the granting of the deviation will not be detrimental to the public health, safety and welfare or injurious to property in the area in which such property is situated. A petition for any such deviation shall be submitted in writing by the applicant at the time the application is submitted. The petition shall state fully the grounds upon which the application is made and the facts upon which the applicant relies on the relief requested. The petition shall be heard and acted upon by the Planning Board as a whole but no application involving a deviation shall be approved before receipt of the County Planning Board's report thereon, if required,

or the expiration of the period of time within which such report is required to be submitted. If the Planning Board deems the proposed deviation of sufficiently serious nature, it may require a public hearing to be held in accordance with subsection 25-5.5. If the Planning Board shall disapprove the proposed deviation, the reasons therefore shall be stated in its resolution and the applicant shall remedy said application prior to further consideration by the Board.

25-8 OFFICIAL MAP.

25-8.1 Establishment. Upon the adoption of a Master Plan by the Planning Board of the Township of Mine Hill, the Township Council by amendment to this Chapter may adopt, and from time to time amend, an 'Official Map' of the Township which shall reflect the appropriate provisions of the Master Plan.

25-8.2 Effect of Adoption. The Official Map shall be deemed conclusive with respect to the location and width of streets and public drainage ways and the location and extent of flood control basins and public areas, whether or not such streets, ways, basins or areas are improved or unimproved or are in actual physical existence. Upon receiving an application for development, the Township may reserve for future public use the aforesaid streets, ways, basins and areas shown on the subdivision plat or site plan for a period of one (1) year as provided in subsection 25-7.2.9.

25-8.3 Issuance of Permits for Buildings or Structures. For the purpose of preserving the integrity of the Official Map of the Township, no permit shall be issued for any building or structure in the bed of any street or public drainage way, flood control basin or public area as shown on the Official Map, or shown on a plat filed pursuant to this Chapter before adoption of the Official Map; provided, however, whenever one or more parcels of land, upon which is located the bed of such a mapped street or public drainage way, flood control basin or public area reserved pursuant to subsection 25-6.4 cannot yield a reasonable return to the owner unless a building permit is granted, the Board may, in a specific case, by an affirmative vote of a majority of the full authorized membership of the Board, direct the issuance of a permit for a building or structure in the bed of such mapped street or public drainage way or flood control basin or public area shown on the Official Map, which will as little as practicable increase the cost of opening such street, or tend to cause a minimum change of the Official Map and the Board shall impose reasonable requirements as a condition of granting the permit so as to promote the health, morals, safety and general welfare of the public.

25-8.4 Building Lot to Abut Street. No permit for the erection of any building or structure shall be issued unless the lot abuts a street giving access to such proposed building or structure. Such street shall have been duly placed on the Official Map or shall be (1) an existing State, County or Township street or highway, or (2) a street shown upon a plat approved by the Planning Board, or (3) a street or a plat duly filed in the office of the County Recording Officer prior to the passage of this Chapter or any prior law which required prior approval of plats by the Township Council or other authorized body. Before any such permit shall be issued, such street

shall have been certified to be suitably improved to the satisfaction of the Township Council, or such suitable improvement shall have been assured by means of a performance guarantee, in accordance with standards and specifications for road improvements approved by the Township Council, as adequate in respect to the public health, safety and general welfare of the special circumstance of the particular street.

- a. Relief from Requirement of Lot Abutting a Street. Where the enforcement of this subsection would entail practical difficulty or unnecessary hardship, or where the circumstances of the case do not require the building or structure to be related to a street, the Board may upon application or appeal, direct the issuance of a permit subject to conditions that will provide adequate access for firefighting equipment, ambulances and other emergency vehicles necessary for the protection of health and safety and that will protect any future street layout shown on the Official Map or on a general Circulation Plan Element of the Township Master Plan.

25-9 APPEALS.

25-9.1 -9.8 Reserved

25-9.9 Appeals from the Planning Board. All final decisions of the Planning Board must be appealed to the Superior Court of New Jersey, or other court of competent jurisdiction.

25-9.10 Appeals by a Public Utility.

- a. Nothing set forth in this Section 25-9 shall prevent a public utility pursuant to N.J.S.A. 40:55D-19 from appealing directly to the Board of Public Utilities of the State of New Jersey from an action or decision by the Board involving an application for a use variance without an appeal first to the Township Council as permitted by Section 25-9. In such case the appeal to the Board of Public Utilities shall be taken within thirty-five (35) days after the action or decision of the Board being appealed

25-10 ZONING.

25-10.1 Purposes.

- a. The purposes of this chapter are to:
 1. Guide the appropriate use and development of all lands in the township in a manner which will promote the public health, safety, morals and general welfare.
 2. Secure safety from fire, flood, panic and other natural and man-made disasters.
 3. Provide adequate light, air and open space and to ensure a safe adequate potable water supply and the environmentally safe discharge of sewerage waste into the ground.
 4. Promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods and communities and the preservation of the environment.
 5. Provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private according to their respective environmental requirements in order to meet the needs of all township residents.
 6. Encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging the location of such facilities and routes which will result in congestion or blight.
 7. Promote a desirable visual environment through creative development techniques and good civil design and arrangement.
 8. Promote the conservation of open space and valuable natural resources and prevent urban sprawl and degradation of the environment through improper use of land.
 9. To promote all other purposes of zoning as expressed in the Municipal Land Use Law, N.J.S. 40:55D-1 et. seq.
- b. It is the further purpose of this chapter to state as clearly and simply as possible the intended requirements, to encourage wide understanding of its meaning and to avoid costly technical and legal problems. For the purposes hereinabove mentioned, this chapter designates, regulates and restricts the location and use of buildings and structures and land for residences, commerce, trade, industry and other purposes and the height and number of stories and size of buildings and other structures hereafter erected or altered; regulates and determines the sizes of yards and open spaces; and regulates and limits the density of population. In

order to affect its purpose, this chapter divides the township into zoning districts of such number, shape and area as may be deemed the best to carry out the purposes of this chapter.

25-10.2 Zoning Districts and Maps.

25-10.2.1 Designation of Zones. For the purpose of this section, the Township of Mine Hill is divided into zones, differentiated according to use, and designated as follows:

SF	Residential, Single-Family
TH	Residential, Town Houses
TH-1	Residential Town Houses
RAH	Residential Affordable Housing District
O/I	Office Industrial
C	Commercial
MLO	Mine Land Overlay
ED	Economic Development

25-10.2.2 Zoning Map. The boundaries of the zones are hereby established as shown on the map entitled "Zoning Map, Township of Mine Hill, Morris County" dated August 6, 2010, which included in Appendix I. Copies of the map are on file in the Office of the Clerk and are available for inspection.

25-10.2.3 Boundaries.

- a. Designation of Zone Boundaries. Zone boundary lines are intended to follow the centerline of streets, railroad right-of-way, streams, lot or property lines as they exist on plats of record at the time of the passage of this section, unless such zone boundary lines are fixed by dimensions as shown on the Zoning Map.
- b. Boundary Line to Coincide with Lot Lines. If zone boundary line falls within twenty (20) feet of a lot line existing at the time of passage of this section, then the lot line shall be considered the zone boundary. In the event that a zone boundary is unclear, the Zoning Officer, with the aid and advice of the Planning Board, shall determine its exact location.

25-10.3 General Regulations.

25-10.3.1 Conformity to Area Regulations. Except as previously or hereinafter provided, no person shall locate, relocate, erect, construct, reconstruct, enlarge or structurally alter any building or structure except in conformity with the regulations of the district in which such building or structure is located.

25-10.3.2 Conformity to Use Regulations. Except as previously or hereinafter provided, no person shall use any land or building for any purpose other than is permitted in the

district in which such land or building is located. It is the intent of this section to recognize that changes in technology may lead to uses which are essentially the same as the uses which are specifically enumerated as permitted in the zone. Where these new uses are attributable to changes in technology and are essentially the same as the itemized permitted uses, then this section shall not be deemed to prohibit these new uses.

25-10.3.3 Pending Applications for 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 plan shall be or shall have been started within sixty (60) days from the date of issuance thereof and shall be diligently pursued to completion.

25-10.3.4 Open Space.

- a. No space contiguous to any building shall be encroached upon or reduced in any manner except in conformity to the yard, lot, lot area, building location, percentage of lot coverage, off-street parking space and such other regulations designated elsewhere in this chapter for the zone in which the 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 then the certificate of occupancy for such building shall become null and void.
- b. No open space provided around any building for purposes of complying with the provisions of this chapter shall be considered as providing open space for any other building.

25-10.3.5 Appearance of Buildings. No building shall be constructed or altered within any residential district so as to be inharmonious with the residential character of the area. The following types of construction shall be considered not to be residential in character:

- a. Storefront types of construction.
- b. Garage doors larger than needed for passenger automobiles and commercial vehicles of two-ton rated capacity.
- c. Unfinished concrete block or cinder block wall surfaces.

25-10.3.6 Nuisances; Open Storage; Sidewalk Displays.

- a. No store, shop, office, bar, tavern, restaurant, grill, hotel or motel in any building shall use any noise-making instruments, such as phonographs, loudspeakers, amplifiers, radios, televisions or similar devices, which are so situated as to be heard outside the building, provided that nothing

herein shall be deemed to prohibit the playing of holiday music in commercial districts in connection with holiday displays and decorations sponsored by any civic or, business group and approved by the Township Council.

- b. No smoke, fumes or objectionable odor shall be emitted from any building in any zone, nor shall any accumulation of trash, garbage, offal, junk or the like be permitted.
- c. The storage or display of merchandise on the exterior of any building or on any public street or sidewalk shall be prohibited.

25-10.3.7 Sexually Oriented Business.

- a. The operation of a sexually oriented business within 1,000 feet of any existing sexually oriented business, or any church, synagogue, temple, or other place of public worship, or any elementary or secondary school or any school bus stop, or any municipal or county playground or place of public resort and recreation, or any hospital or any child care center, or within 1,000 feet of any area zoned for residential use, shall be prohibited.
- b. Every sexually oriented business shall be surrounded by a perimeter buffer of at least 50 feet in width with plantings, fence, or other physical divider along the outside of the perimeter sufficient to impede the view of the interior of the premises in which the business is located.
- c. No sexually oriented business shall display more than two exterior signs, consisting of identification sign and one sign giving notice that the premises are off limits to minors. The identification sign shall be no more than 40 sq.ft. in size.
- d. Nude dancing or other activity in a public place is prohibited.

§ 25-10.3.8. Right to farm.

A. Purpose. This section is intended to:

- (1)** Retain and promote farming and agricultural activities in appropriate locations within the Township of Mine Hill;
- (2)** Protect the operation of commercial farms from nuisance actions where approved and recognized methods of agriculture production are followed; and
- (3)** Acknowledge and hereby give notice that commercial farming involves activities that may affect adjoining properties such as, but not limited to, generation of noise, odors, fumes, dust, smoke, insects, operation of machinery, storage and disposal of manure and compost,

and application by spraying or otherwise of fertilizers, soil amendments, herbicides and pesticides.

B. Where permitted. Commercial farms shall be a principal permitted use in the Agricultural Overlay Zone ("AOZ").

C. Permitted activities.

(1) Commercial farms that comply with the requirements of this section shall be permitted to engage in the following activities in the AOZ:

(a) Production of agricultural and horticultural crops, trees, apiary and forest products;

(b) Processing and packaging the agricultural output of the commercial farm;

(c) Operation of a farm market as an accessory use to the commercial farm, including the construction of a building and parking area in conformance with the standards set forth in §25-10.3.8F below;

(d) Replenish soil nutrients and improve soil tilth;

(e) Control pests, predators and diseases of plants and animals;

(f) Clear woodlands using open burning and other techniques install and maintain vegetative and terrain alterations and other physical facilities for water and soil conservation and surface water control in wetland areas;

(g) Conduct on-site disposal of organic agricultural wastes;

(h) Conduct agriculture-related education and farm-based recreational activities provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm;

(i) Erection of essential agricultural buildings including those dedicated to processing and packaging of the output of the commercial farm;

(j) Construction of fences;

(k) Pick-your-own operations;

(l) The keeping or grazing of farm animals provided that there shall be a minimum of three acres for the keeping of the first two animals and an additional minimum of one acre for each additional animal. Keeping or maintaining fowl shall require three acres for the first twenty fowl and an additional acre for each additional group of twenty fowl or fraction

thereof. If there are animals and fowl both maintained on the same premises, the minimum lot size shall commence at five acres. The keeping of animals shall also be subject to the restrictions set forth in Chapter 6.04 of the Code of the Township of Mine Hill;

(m) Use of farm equipment, including irrigation pumps, aerial and ground seeding and spraying, tractors, harvest aides, and bird control devices;

(n) The application of manure and chemical fertilizers, insecticides and herbicides;

(o) Installation of wells, ponds, and other water resources for agricultural purposes such as irrigation, sanitation and marketing preparation; and

(p) Any other agricultural activity as determined by the State Agriculture Development Committee and adopted by rule or regulation pursuant to the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1, et seq. except that the keeping of domesticated farm animals shall be limited as set forth in (l) above.

(2) The right to engage in these farming activities shall exist on weekdays, weekends, and holidays, during all hours of the day and night.

(3) To qualify to engage in the activities permitted by this section, a commercial farm and its operations must:

(a) Conform to agricultural management practices recommended by the State Agriculture Development Committee and adopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., or the commercial farm's specific operations or practices must have been determined by the Morris County Agriculture Development Board to constitute a generally accepted agricultural operation or practice;

(b) Conform to all relevant federal and state statutes, rules and regulations;

(c) Not pose a direct threat to public health and safety; and

(d) Comply with all applicable provisions of Chapters 25 of the Code of the Township of Mine Hill, including applicable stormwater management regulations.

D. Limitations. Notwithstanding anything to the contrary in §25-10.3.8C above, the following regulations shall apply to all commercial farms within the Township of Mine Hill:

(1) No farm worker housing shall be permitted on a commercial farm other than one detached single-family residence for the owner of the commercial farm and his or her family.

(2) No overnight outdoor storage of farm vehicles or equipment shall be permitted within 100 feet of any property line.

(3) No tree located within 25 feet of a property boundary of a commercial farm may be cut down or otherwise removed except in conformance with Chapter 12-20. A tree shall be deemed to be located within 25 feet of a property boundary if any part of its trunk shall be located within that area.

(4) Manure shall be stored and disposed of in conformance with the New Jersey State Agricultural Management Practices (hereinafter “AMP”) establishing standards for manure management.

(5) Fencing.

(a) No barbed wire fence shall be permitted upon or within any commercial farm.

(b) Except as permitted by the AMP establishing standards for fencing for protection against wildlife damage in N.J.A.C. 2:76-2A.9(a)(1) (permitting electric fencing for such purpose to be up to seven feet high and high-tensile woven wire fencing for such purpose to be up to 10 feet high), no fence on a commercial farm shall exceed a height of six feet above surrounding grade.

(6) Commercial farms shall maintain a twenty-five-foot setback between all property lines and all areas of the commercial farm devoted to the production, raising, or keeping of livestock, poultry, or other domesticated animals. No non-domesticated animals shall be produced, raised, or kept on a commercial farm. The keeping of livestock, poultry, or other domesticated animals shall be limited as set forth in Section 25-10.3.8C(1)(l).

(7) No silage pits or outdoor storage of silage shall be located within 100 feet of any property line.

E. Complaints against commercial farms. Any person who considers himself aggrieved by the operation of a commercial farm shall file a complaint with the Morris County Agriculture Development Board prior to instituting any action in any court.

F. Farm markets. Farm markets shall comply with the following regulations:

(1) Except as permitted by Subsection F(6) and (7) below, all farm markets shall be located within a fully enclosed building.

(2) Floor area occupied by a farm market building shall not exceed 1,000 square feet.

(3) No farm market building shall exceed one story or 20 feet in height.

(4) Farm market buildings shall comply with the following setback requirements:

(a) Setback from a public right-of-way: 60 feet.

(b) Setback from any other property line: 100 feet.

(5) A farm market shall be permitted a maximum of one business sign. The sign shall be freestanding. Maximum permitted sign area shall be 24 square feet. Only external illumination shall be permitted. Maximum permitted sign height shall be six feet. The sign must be set back at least 15 feet from any public right-of-way. Sign lighting shall be turned off within 30 minutes after the farm market closes for the day.

(6) Pick-your-own operations and Christmas tree sales (including sales where purchasers are required or permitted to cut their own tree) shall be exempt from the requirements of §F(1) above.

(7) Notwithstanding the provisions of § F(1) above, farm markets may provide for seasonal outdoor operations [in addition to those in Subsection F(6) above], subject to the limitations of this subsection. The area occupied by such seasonal outdoor operations shall not exceed 1,000 square feet. The outdoor operations area shall be set back at least 25 feet from a public right of way, and 100 feet from any other property line. No additional signage shall be permitted for seasonal outdoor farm market areas. Such seasonal outdoor operations shall be limited to March 1 through November 30 of each calendar year.

(8) Hours of operation for farm markets shall be limited to 10:00 a.m. through 7:00 p.m. Farm markets may operate seven days per week.

(9) No farm market shall utilize any sound amplification equipment for any purpose.

(10) Farm markets shall be located on a collector street unless the commercial farm lacks collector street frontage.

G. Other farm buildings. Farm buildings other than buildings devoted to farm markets ("non-farm-market buildings"), including greenhouses, shall comply with the following requirements:

(1) Floor area occupied by greenhouses used for growing agricultural or horticultural products shall not exceed, in the aggregate, 10% of the total area of the lot on which such greenhouses are located. Floor area occupied by other non-farm-market buildings shall not exceed, in the aggregate, 5% of the total area of the lot on which the buildings are located.

(2) Non-farm-market buildings shall not exceed two stories or 35 feet in height.

(3) Non-farm-market buildings shall comply with the following setback requirements:

(a) Setback from a public right-of-way: 100 feet.

(b) Setback from any other property line: 100 feet.

H. Farm market access and parking. Commercial farms shall provide access to and parking for a farm market in conformance with the requirements of this section.

- (1)** Vehicular access shall be provided to a farm market by a two-way driveway having a width no greater than 24 feet. The access driveway shall be set back at least 100 feet from any side property line or street intersection located on the same side of the street. The access driveway shall have a gravel surface constructed of a minimum of six inches of gravel, quarry-processed stone, or other porous stone without asphalt binder.
- (2)** Farm markets shall provide five on-site parking spaces for a farm market building.
- (3)** One on-site parking space shall be provided for each 500 square feet of outdoor area used seasonally as a farm market.
- (4)** Parking areas for farm markets shall have a gravel surface constructed of a minimum of six inches of gravel, quarry-processed stone, or other porous stone without asphalt binder, except that handicap parking spaces shall be paved. Parking spaces shall be delineated by landscape ties installed flush to the ground surface, or other suitable methods approved by the Planning Board.
- (5)** Parking spaces for a farm market shall be nine feet wide by 18 feet deep.
- (6)** Parking spaces serving a farm market shall be served by a twenty-four-foot-wide access aisle.
- (7)** Parking areas serving a farm market shall be set back at least 12 feet from a street right of way and 100 feet from any side property line or street intersection located on the same side of the street.
- (8)** Lighting for farm market parking areas shall meet the following standards:

 - (a)** Fixtures shall not exceed 15 feet in height, and shall be decorative in style, with the light source recessed in the fixture head so as not to be visible from the street or surrounding properties.
 - (b)** Parking area illumination shall be 0.5 foot candles average, and 0.1 foot candles minimum.
 - (c)** All parking area light fixtures shall be turned off by 7:30 pm.
- I.** Residential buffers. When reviewing an application for construction of any building on a commercial farm, the Planning Board may require a buffer up to 25 feet deep between such building and any adjoining properties zoned or used for residential purposes. Buffer areas shall be maintained in their natural state.
- J.** Zoning permits. No building shall be erected, constructed, reconstructed, or altered on a commercial farm, or used as a farm market, or for any purpose other than commercial farming activities until a zoning permit has been issued by the zoning officer confirming that such activity complies with all applicable provisions of this Chapter.

K. Site plan approval. No building permit or zoning permit shall be issued for the erection, construction, reconstruction, or alteration of any building on a commercial farm, or for the use of any such building as a farm market, or for any purpose other than commercial farm activities until a site plan for such activity is first submitted to and approved by the Planning Board.

25-10.4 Buildings and Lots.

- a. No residential lot shall have erected upon it more than one (1) residential building, except as otherwise specifically authorized in this chapter.
- b. Height limitations stipulated elsewhere in this chapter shall not apply to the following when attached to the principal structures; chimneys, church spires; belfries, domes, cupolas, flagpoles, monuments, fire towers, cables, or water tanks, elevator housing and similar structures and no such exception shall cover at any level more than ten percent (10%) of the area of the roof on which it is located, and further provided that no such structure shall extend more than forty (40) feet in height above the height of the principal structure, except as may be otherwise specifically provided in this article. All freestanding structures shall be considered as accessory structures and shall meet the height requirements as set forth in the zoning district regulations, except that freestanding lighting structures shall not exceed sixteen (16) feet in height in any zone.
- c. An accessory building attached to the principal building shall comply in all respects with the requirements of this chapter applicable to the principal building.
- d. An accessory building in a residential district or in a private parking area shall not be located in any required front yard space,
- e. Accessory buildings in residential districts shall not exceed one (1) story or fifteen (15) feet in height, except barns for agricultural use where permitted.
- f. Only accessory structures shall be located in the rear yard in accordance with the provisions of this chapter.
- g. In residential districts, the minimum distance of any accessory building other than a garage from an adjacent building shall be ten (10) feet. Garages shall comply with subsection 25-10.3.5.
- h. Storage sheds, not exceeding one hundred (100) square feet in area and ten (10) feet in height, of the type which do not require the issuance of a building permit under the New Jersey Uniform Construction Code, may be located in accordance with the district requirements for accessory buildings unless, by agreement,

adjoining owners locate a single structure or abutting structures which straddle the property line.

- i. Principal structures in residential districts shall not exceed thirty-five (35) feet in height. Accessory buildings may not exceed a total of six hundred twenty-five square feet in floor area. Accessory buildings shall be limited to two (2) such buildings per lot. Storage sheds shall not exceed one hundred square feet in area. Swimming pools are not considered accessory structures for purposes of calculation of lot coverage.
- j. Private garages. Garages may be constructed in accordance with the following criteria.
 1. One (1) private garage may be erected upon a lot containing a principal building.
 2. No detached garage shall be erected unless all of the following conditions are observed:
 - (a) It shall not be closer in distance to any side or rear property line than twenty-five (25) feet.
 - (b) It shall not exceed fifteen (15) feet in height, except barns for agricultural use where permitted.
 - (c) It shall be a minimum of twenty (20) feet from all other structures.
 3. Any private garage shall be limited only to any of the following stated uses:
 - (a) Storage of passenger motor vehicles and recreational vehicles.
 - (b) Storage of other personal property.
 - (c) Storage of commercial vehicles permitted under the provisions of Subsection 25-10.6.
 - (d) No construction vehicles shall be stored in a garage.
 - (e) Designed to contain no more than three (3) motor vehicles.
- k. Lot Width at Setback Line. The minimum lot width required shall be measured at the required street setback line and shall be maintained for an additional forty (40) feet toward the rear of the lot on a line perpendicular to the setback line. On cul-de-sacs and irregularly shaped lots, the minimum frontage at the property line

may be less than the minimum width required but in no case less than fifty (50%) percent of the minimum required lot width.

1. Corner Lots.
 1. A sight triangle shall be maintained at all street intersections, in accordance with the requirements of subsection 25-7.2.
 2. Side Yard. The exterior side yard of a corner lot shall be the same as the front yard requirement of the residences fronting on the side street.
 3. Additional Width. Corner lots shall have a minimum width twenty-five (25%) percent greater than interior lots.
- m. Building height. Shall be measured from the average grade computed by averaging the grade at the four (4) corners of a principal structure or the four (4) most extreme points on the north, south, east and west sides of a principal structure, or at four (4) points ninety (90) degrees apart for a circular structure, as measured to the highest peak of the roof on said structure.
- n. Permitted Exceptions. Mechanical appurtenances such as condensers, exhaust fans and similar equipment are exempt from height limitations provided they do not exceed ten (10%) percent of the roof area, are not more than eight (8) feet above the height limitation for the zone in which the building is located, and further provided that they are screened or shielded.
- o. General Use Restrictions. Any use not specifically designated as a principal permitted use, a permitted accessory use or a conditional use is specifically prohibited from any zone district in the Township of Mine Hill.

25-10.5 Commercial Vehicles in Residential Districts

25-10.6 Parking in Front Yard. Off-street parking in front yards shall be prohibited in all zone districts except for parking in driveways serving single-family detached residences and beyond the front yard setback line in the C, Oil, and ED Districts.

25-10.7 Use of Floodplain Areas. Notwithstanding any other provision of this chapter, no building or structure, on-lot sewage disposal facility or a street, roadway, parking lot or driveway shall be erected or constructed, either above or below ground level, within any floodplain in the township. Nothing herein contained, however, shall prohibit the use of any floodplain for farming, grazing, plant nurseries, horticulture, truck farming, livestock and poultry raising, forestry or open recreation uses such as parks, playgrounds, sport fields, golf courses, boat landings, bathing beaches, picnic areas, hunting, fishing or the like, provided that such use is permitted in the district in which the premises are located.

25-10.8 Hydrologic Sensitive Areas.

- a. Notwithstanding any other provision of this chapter, no building or structure, on-lot sewage disposal facility or a street, roadway, parking lot or driveway shall be erected or constructed, either above or below ground level, within one hundred (100) feet of any hydrologic sensitive lands, floodplain, stream or lake area in the township. Nothing in this chapter shall prohibit the construction and maintenance of dams or other structures for the impoundment or retention of water in any such stream, hydrologic sensitive lands, pond or lake or of dug ponds or reservoirs, provided that all applicable requirements and approvals of any public authority having jurisdiction over such matters are met and obtained.
- b. No hydrologic sensitive lands, floodplain, or stream or lake areas, as defined in this chapter, shall be filled with soil, debris, or other material unless it can be shown to the satisfaction of the Zoning Officer that, after consulting with the Township Engineer, the United States Soil Conservation Service and any state or federal agency having jurisdiction thereof, the water quality, water quantity, flow rates and cycles will not be altered to the detriment of adjacent areas and the impact of the proposed filling will not have an unreasonably adverse impact upon the ecology of the area. No stream or brook shall be dammed nor the flow thereof impeded without the specific approval of the State Division of Water Resources or other state or federal agency having jurisdiction thereof.

25-10.9 Environmentally Sensitive Areas; Minimum Improved Lot Area.

- a. Rationale and purpose. Certain lands are not suitable for development, particularly residential development. Such lands include floodplains and flood hazard areas; wetlands, land having a seasonal high water table at surface or at less than 3.5 feet below the surface; streams, brooks, rivers and their corridors; ponds, lakes and any open water which is predominately a non-flowing and/or otherwise impounded body of water with a mean depth of 4 feet and a surface area greater than ½ acre; slopes of 15% grade or greater and involving but not limited to Rockaway very stony loam (PpE) and Rockaway steep outcrop (RvE); slopes less than 15% but predominately involving unsuitable soils such as Rockaway gravelly loam (RoC); other land characteristics commonly known to be unsuitable for conventional development measures and which are environmentally sensitive; lands subject to shallow depth to bedrock (3.5' or less); and lands overlying known or suspected faults, fractures, slides, sinkholes or subsidence locations; or lands underlined by carbonate bedrock and which, pursuant to the application of Section 25-10.18, appear substantially subject to negative development impacts or consequences despite reasonable.
- b. Remediation measures. All such lands, together with buffer areas if required herein, shall be and are hereby known as environmentally sensitive areas (“ESAS”) and shall not be disturbed in residential development except as and only to the extent permitted by the Planning Board. It is the expectation of the Township that the protections of this section, together with minimum lots sizes as of ESAS to the benefit of the Township's citizenry and natural environment.

It is also the purpose of this section to insure that no lot shall be created and no site shall be developed for residential purposes pursuant or subject to this article which does not provide reasonably ample contiguous land to form an envelope in which to locate a principal building, permitted accessory buildings and structures, a private well and subsurface sewage disposal systems, yards sufficient in size for normal use and enjoyment, and which is otherwise suitable and reasonably improvable for its intended purposes.

25-10.10 Yard Regulations.

- a. Required yards shall be open to the sky and unobstructed, except that parapets, windowsills, doorposts, rainwater leaders and similar ornamental or structural fixtures may project up to one foot into such yards.
- b. Cornices, eaves, bay windows, chimneys and air-condition equipment may project up to two feet into any required yard area.
- c. Uncovered steps may only project up to five feet into a required yard area.
- d. Where any lot abuts a street right-of-way which is proposed to be widened as indicated on the Master Plan or Official Map of Mine Hill Township, or Master Plan of Morris County, or by the State of New Jersey, all setbacks shall be measured from the proposed right-of-way.

25-10.11 Buffer Zone Requirements.

- a. All commercial, industrial, institutional, essential services, or townhouse uses adjoining single-family residential use or zone shall provide a landscaped buffer zone on the side or sides facing the zone in accordance with subsection b of this section.
- b. Any newly created residential lot will provide a 50-foot landscape buffer on the side or sides facing an established commercial, industrial, institutional or essential service use where no landscape buffer has been provided between the parcels. Where the side or sides of the newly created residential lot are adjacent to property zoned commercial, industrial, institutional or essential service which has not been improved, then the proposed residential use will provide a 25-foot landscape buffer commercial, industrial, institutional or essential service, that parcel will provide a 25-foot landscape buffer along the common line or lines so that the total landscaped buffered area will have a minimum width of 50 feet.
- c. A buffer distance of fifty feet (50') for buildings and seventy feet (70') for vehicular traffic, (including parking lots or loading areas) is required where an Industrial use abuts a Residential zone or use.

Required Landscaped Buffer Areas When Abutting Residential Zones and Areas

<u>Zone</u>	<u>Minimum Depth of Buffer</u>
C	50 feet (except buffer may be decreased if a buffer area is already provided on the adjoining residential property with a total buffer to be a minimum of 50 feet).
O/I, ED	50 feet (soil removal 300 feet)
TH & TH-1	50 feet

- d. Restrictions on Buffer Zone. No principal or accessory structures, no active recreational areas nor any off street parking or loading areas or other use shall be permitted within the buffer zones.

No access or driveways shall be permitted within the buffer zone.

Buffer zones shall be provided to maintain a landscaped screen, with earth berms, fencing or combination thereof, within the front yard setback area of the lot. The Planning Board may require, however, that the buffer area be maintained in its natural state if the existing vegetation is uniquely suited as a landscaping screen.

Underground utility easements shall be permitted, when deemed necessary or desirable by the Planning Board.

It shall be the responsibility of the owner to maintain any buffers and replace plants if they die or repair or replace fences when necessary.

When a required buffer zone abuts a single family use or zone, the required minimum building setback shall be either the applicable setback distance or the required buffer distance, whichever is larger.

25-10.12 References to O/I – Office Industrial Zone.

Any references to the I - Industrial zone in this ordinance shall be deemed to refer to those properties as depicted on the zoning map dated August 6, 2010 as per Appendix I.

25-10.13 Nonconforming Uses and Lots.

25-10.13.1 Existing Uses. Any nonconforming uses or structures existing as of the date of adoption of this chapter, or which became nonconforming as a result of the adoption of this chapter, may be continued upon the lot or in the building so occupied, and any structure may be restored or repaired in the event of partial destruction thereof.

25-10.13.2 Enlargement or Expansion of Nonconforming Uses.

No nonconforming building may be enlarged or expanded to cover a larger area than it occupied at the date of adoption of this chapter, except that where an existing lot is improved with a building or structure which is nonconforming due to location, such lot may be further improved by an addition to such building or structure, provided that the existing nonconforming setbacks may be extended but not further encroached upon. No nonconforming use may be extended or expanded over a larger area than it occupied at the time of enactment of this chapter, any nonconforming single-family residence located in any nonresidential district where residences are prohibited may be expanded, provided that yard areas as required in the SF zone shall be applicable to such property and shall not be encroached upon, and further provided that the expanded structure shall continue to be used as a single-family residence.

25-10.13.3 Conversion to Permitted Use. After a nonconforming building or use has been converted to a permitted use, it shall not be changed back again to a nonconforming use.

25-10.13.4 Abandonment. If a nonconforming use has been abandoned, such use shall not be recommenced. Cessation of a nonconforming use for a continuous period of one year may be taken as prima facie evidence of an intent to abandon such use.

25-10.13.5 Nonconforming Lots.

- a. Any isolated parcel of land which existed prior to the adoption of land use regulations in the township governing lot size, or for which subdivision approval was granted by a municipal agency prior to the effective date of this chapter, may, be used for any purpose permitted in the zone, provided that building setbacks for that zone can be met.
- b. To expand or improve any existing residence in any zone or any existing nonconforming lot on which a residence now exists or a building permit has been issued prior to the date of adoption of this subsection, the applicant must meet setback requirements of the zone in which the building is located.

25-10.13.6 Registration and Certification of Nonconforming Uses and Structures: Fees.

- a. The prospective purchaser, prospective mortgagee or any other person interested in any land upon which a nonconforming use or structure exists may apply in writing for the issuance of a certificate stating that the use or structure existed before the adoption of the ordinance which rendered the use or structure nonconforming in accordance with N.J.S. 40A-55D-68.
- b. Application pursuant hereto may be made to the Zoning Officer within one (1) year of the adoption of the ordinance which rendered the use or structure nonconforming, or at any time to the Planning Board.

- c. Such application shall contain the name and address of the applicant, the nonconforming use so operated, the date on which the uses commenced, the tax lot and block number of its location, any buildings or structures in which such use is contained or are necessary for the operation of such use and the numbers and types of equipment and/or vehicles utilized in the operation of said use.
- d. The applicant shall have the burden of proof as to all matters alleged. Where the application is to the Zoning Officer, it shall be in the form of an affidavit and shall be notarized. Where application is made to the Board, the application shall be processed as in the case of all other applications to said Board. Notice of such application shall be given in accordance with all the provisions of Section 25-5.5 of this Chapter.
- e. If the Zoning Officer fails or refuses to issue a certificate, he shall notify the applicant, in writing as to the reasons therefore within forty-five (45) days from the date of application. Such denial may be appealed to the Board in accordance with the provisions of N.J.S.A. 40:55D-72, notice of which shall be given in accordance with N.J.S.A. 40:55D-12 and Section 15-5.5 of this Chapter.

25-10.14 District Regulations.

25-10.14.1 SF - Single Family District.

25-10.14.1.1 Permitted Principal Uses.

- a. Single Family Dwellings

25-10.14.1.2 Accessory Uses.

- a. Private garages as regulated by Sec. 25-10.5, parking in a driveway, except as prohibited by Section 25-10.16.8, home occupations as defined in this ordinance, swimming pools, signs as permitted by Sec. 25-10.20; accessory uses as defined in this ordinance which are customarily found as accessories to a single-family residence. No accessory structures shall be located in a front yard or within 10 feet of any side or rear lot line.
- b. The keeping or grazing of farm animals provided that there shall be a minimum of two acres for the keeping of the first animal and an additional minimum of one acre for each additional animal. Keeping or maintaining fowl shall require two acres for the first twenty fowl and an additional acre for each additional group of

twenty fowl or fraction thereof. If there are animals and fowl both maintained on the same premises, the minimum lot size shall commence at five acres. The keeping of animals shall also subject to the restrictions set forth in Chapter 6.04 of the Code of the Township of Mine Hill;

25-10.14.1.3 Conditional Uses. The following uses shall be permitted only after review and approval by the Planning Board in accordance with regulations governing the approval of conditional uses as set forth in Section 25-10.15.

- a. Public Utility structures and essential services;
- b. Churches and similar places of worship;
- c. Cluster subdivisions, and
- d. Public schools

25-10.14.1.4 Bulk Requirements. The SF District bulk requirements shall vary according to the following classifications:

SF-1 Classification: (only on site water and sewer available);

SF-2 Classification: (public water available);

SF-3 Classification: (public sewer available);

SF-4 Classification: (public water and sewer available).

- a. Every residential lot in SF (4) (public water and sewer system) shall have a minimum area of 20,000 sq. ft. Every residential lot in SF (3) (public sewer only available), shall have a minimum lot area of 25,000 sq. ft. Every residential lot in the SF (2) (public water only available) shall have a minimum lot area of 30,000 sq. ft., and every residential lot in the SF (1) (on-site water only and on-site

sewer only available) shall have a minimum lot size of 40,000 sq. ft.

- b. Lot width shall be 100 feet, except that a lot having on-site water and on-site sewer shall have a width of 150 feet.
- c. The principal building on lots in SF (4) shall have a front yard setback of 40 feet. On lots in SF (1) SF (2) and SF (3), the principal building shall have a setback of 50 feet from the lot line.

- d. Lots in SF (2), SF (3) and SF (4) shall have two side yards totaling 30 feet, with any side yard being at least 15 feet. Lots in SF (1) shall have two side yards totaling 40 feet with any side yard being at least 20 feet.
- e. Rear yard. Lots in SF (4) shall have a rear yard of 25 feet; lots in SF (1), SF (2) and SF (3) shall have a rear yard of 35 feet.
- f. Maximum percent of lot coverage for lots in SF (1) shall be 20%; lots in SF (2), SF (3) and SF (4) shall be 25%.
- g. Maximum height - 2 ½ stories and 35 feet.
- h. Buffering, if required by Section 25-10.11.

25-10.14.1.5 Other Requirements (Reserved).

25-10.14.2 TH - Residential Townhouse District.

25-10.14.2.1 Principal Permitted Uses.

- a. Single-family dwellings subject to the same conditions as provided in the SF zone, and
- b. Townhouses.
 - 1. Purpose. The Township of Mine Hill desires to promote concepts of modern design, construction technology and planning methods as well as advance and promote the sound growth, land reclamation and general welfare of the Township; strengthen and sustain its economic potentials; provide safe, efficient economic delivery of municipal services; establish appropriate patterns for the distribution of population in a variety of accommodations, coordinated with the protection and enhancement of natural beauty and resources, and in harmony with their surroundings, both within and without the Township; and provide a variety of housing types associated to the age and income levels of residents.

In order to carry out the foregoing and to locate such developments upon the most suitable land in view of environmental constraints and the extent of mined land, and in order to insure that sound planning goals are met for the potential use of the land and to prevent piecemeal and

disorderly development of large tracts of ground within the Township; to protect existing uses and to insure provisions for light, air and open space and the prevention of overcrowding of land or buildings; to secure the health, morals and general welfare and for the better securing of adequate municipal, utility and other necessary functions, the following criteria and procedures for multi-family developments are established.

2. General Location. Multi-family developments shall be located in relation to water lines, storm and surface drainage systems, sanitary sewers (if available) and other utility systems and installations. Multi-family developments shall also be located with respect to necessary public facilities (as for example schools, parks and playgrounds) as to have reasonable access to such facilities.

25-10.14.2.2 Accessory Uses.

- a. Private garages
- b. Common swimming pool to be used by entire complex;
- c. Signs, as permitted by Section 25-10.20
- d. Accessory uses subordinate to and customarily incidental to the principal permitted use.

25-10.14.2.3 Conditional Uses. The following uses shall be permitted only after review and approval by the Planning Board in accordance with regulations governing the approval of conditional uses as set forth in Section 25-10.15.

- a. Public utility structures and essential services;
- b. Churches and similar places of worship;
- c. Cluster subdivisions, and

- d. Public schools

25-10.14.2.4 Bulk Requirements.

- a. Minimum Lot size - 10 acres
- b. Minimum Lot width - 300 feet

- c. Required Front Yard - 75 feet from a public street or 20 feet from a private street
- d. Side yards must total 80 feet and any one side yard may be 40'
- e. Rear yard - 60 feet
- f. Space between buildings - 50 feet
- g. Maximum Lot Coverage - 60%
- h. Building Height - 2 ½ stories and 35 feet.
- i. Buffering, if required by Section 25-10.12

25-10.14.2.5 Other Requirements for Townhouses.

25-10.14.2.5.1 Site Considerations. The site shall be suitable for development in the manner proposed, without hazards to persons or property, on or off the tract, from probability of flooding, erosion, cave-ins, subsidence or slipping of the soil, or other dangers, annoyances, or inconveniences. Condition of soil, ground water level, drainage and topography shall all be appropriate to both kind and pattern of use intended.

Projects submitted for the exclusive use of condominium ownership shall not be considered lots and shall not require subdivision approval.

25-10.14.2.5.2 Project Densities. The maximum permitted net project area density as a matter of right in all planned developments shall be as shown in the following Table 2, subject to compliance with other public health and safety standards including, but not limited to, sewage disposal, potable water availability and quality, steep slopes, etc.

**Table
GROSS PROJECT DENSITY (RES. UNITS/ACRE)**

PRD Class	On-Site Sewer and Water	Public Water Only	Public Water & Sewer
Townhouse	0	3.0	6.0

Bedroom Mix. The distribution of bedrooms per dwelling unit for multi-family dwelling units shall be in accordance with the following schedule:

	1BR	2BR	3BR
Townhouse	2-20%	20-80%	10-30%

25-10.14.2.5.3 Accessory Uses. Accessory uses which are customarily incidental to said use, such as, but limited to the following, shall be permitted on the same lot:

- a. Private car garages
- b. Swimming pools for use by development
- c. Recreation areas and incidental structures accessory thereto
- d. No accessory structure shall be permitted in the front yard setback area.

25-10.14.2.5.4 Minimum Floor Area. No dwelling unit shall have a floor area less than eight hundred (800) square feet. No two (2) or more bedroom dwelling unit shall have a floor area of less than nine hundred fifty (950) square feet.

25-10.14.2.5.5 Minimum Bulk Requirements. A townhouse dwelling lot shall have a minimum total lot area of two thousand (2,000) square feet and a minimum lot width of twenty (20) feet. The minimum width of the end lot in a townhouse row shall be thirty (30) feet and a minimum lot area of three thousand (3,000) square feet.

25-10.14.2.5.6 Spacing Requirements. No townhouse dwelling structure shall have more than four (4) contiguous townhouse dwelling units located on the same setback line and at least four (4) and not more than eight (8) dwelling units in a townhouse dwelling structure. Furthermore, there shall be a minimum of fifty (50) feet between structures.

25-10.14.2.5.7 Recreational Requirements. See subsection 25-10.14.3.5.15 for Recreational Requirements.

25-10.14.2.5.8 Patios. Each townhouse dwelling unit shall have an individual private patio area of not less than three hundred (300) square feet in size, having no single dimension of less than twenty-five (25) feet, and shall be designed for the recreational use of the occupants of the dwelling unit. Adequate visual screening from neighboring dwelling units, patios, adjacent parking areas and roadways shall be provided which may consist of plantings, masonry structures or wood fencing. Architectural elements such as masonry walls and fences shall be compatible in both style and materials with the dwelling unit of which it is a part.

25-10.14.2.5.9 Minimum off-street parking requirements. Two (2) spaces shall be required per unit, one of which shall be in a garage. No off-street parking lots shall contain more than twenty (20) contiguous spaces without providing a landscaped area to separate parking sections.

25-10.14.2.5.10 Driveways. Driveways leading to garages shall not be computed as a parking space for compliance with the provision of this subsection.

25-10.14.2.5.11 Access. No townhouse may have direct access onto a public right-of-way.

25-10.14.2.5.12 Buffers. All townhouse developments shall provide a fifty (50) foot wide buffer area in the front yard or abutting a public, right-of-way.

25-10.14.2.5.13 Additional Parking. A minimum of one and one-half (1.5) off-street parking spaces including garages shall be required for each dwelling unit. An additional number over and above these required spaces shall be provided as off-street visitor parking spaces which shall comply in all other respects with other standards of this subsection so that the total parking provided shall be two (2) spaces for each dwelling unit.

1. Each parking area shall contain no more than fifty(50) vehicle spaces and shall be adequately lighted either with wall mounted or post-mounted ornamental fixtures.
2. No off-street parking spaces or detached garages, shall be located closer than seven (7) feet to the principal building and no principal building shall have off-street parking areas on all sides of the building.
3. No off-street parking area shall be located closer than ten (10) feet to a side or rear property line.

25-10.14.2.5.14 Garages. If garages are provided, they shall have a floor space area of not less than two hundred forty (240) square feet and such a garage may be built into the dwelling structure or separately constructed as herein provided. Each group of attached garages shall be no more than one story in height. The architectural design and materials used in the construction thereof shall conform to the design and building materials used in the construction of other buildings and structures. No part of any garage or other accessory building shall be used for living purposes.

25-10.14.2.5.15 Minimum size of recreational areas. The following recreational requirements shall be met and developed with facilities suitable to serve the residents of the dwelling units. Said facilities shall be located so as not to be detrimental to adjacent property owners by virtue of noise, light, glare and any other objectionable features emanating there from:

1. Minimum size of any one (1) recreational area ten thousand (10,000) square feet; however, no accessory structure shall be placed in the front yard setback area.
2. Five (5%) percent of the gross area shall be developed for recreational purposes for projects up to ten (10) acres.
3. Eight (8%) percent of the gross area shall be developed for recreational purposes for projects up to twenty (20) acres.
4. Ten (10%) percent of the gross area shall be developed for recreational purposes for projects over twenty (20) acres.

The recreational areas and the open space related to these recreational areas may be offered to the Township for dedication, having the Township reserve the right to reject such offer.

25-10.14.2.5.16 Landscaping, Lighting and Solid Waste

Enclosures. All multi-family developments shall be provided with professionally-designed and executed landscaping. Areas not utilized for parking areas, driveways, streets and roads, recreational facilities, patios or terraces shall be provided with lawns or other suitable growing ground cover, trees and shrubs. Evergreen screening shall be provided in appropriate areas as set forth in subsections 25-7.1, 25-7.2 and 25-7.2.6; screening to be no less than four (4) feet high when planted. In addition, the Planning Board may, if conditions warrant, require supplemental screening by a solid fence up to six (6) feet in height and/or landscaping.

All multi-family developments shall provide a fifty (50) feet wide landscaping screen, with earth berms or combination thereof, within the front yard setback area of the lot. The Planning Board may require, however, that the buffer area be maintained in its natural state if the existing vegetation is uniquely suited as a landscaping screen.

Shade trees shall be provided along walks, driveways, parking areas, streets, and roads. They shall be planted at a minimum of fifty (50) feet apart, of a species approved by the Township Planner or Environmental Commission if required, and be two and one-half (2 1/2) inches in caliper; balled and burlapped when installed.

Lighting shall be provided every one hundred fifty (150) feet apart along streets, driveways and in parking areas.

Solid waste enclosures shall be constructed of a similar material and in a similar design to the structure to which it serves.

25-10.14.2.5.17 Buffers. Buffers shall be in compliance with subsection 25-10.11.

25-10.14.2.5.18 Services. No outside area or equipment shall be provided for hanging of laundry or the outside airing of laundry in any manner. Sufficient area and equipment shall be made available within each building for the laundering and artificial drying of laundry of the occupants of each building. Waste materials and garbage must be privately disposed of by a method approved by the Township Board of Health.

25-10.14.2.5.19 Site Plan Review. Before any building permit shall be issued, site plan approval shall be granted. The site plan shall comply with all provisions and regulations of this subsection.

25-10.14.2.5.20 Vehicular Circulation. Streets, drives, parking and service areas shall provide safe and convenient access to dwelling units and project facilities and for service and emergency vehicles but streets shall neither be so laid out as to encourage outside traffic to traverse the multi-family development on minor streets nor occupy more land

than is required to provide required access nor create unnecessary fragmentation of the PRD into smaller blocks. In general, block size shall be the maximum consistent with use and shape of the site and the convenience and safety of the occupants.

25-10.14.2.5.21 Pedestrian and Cyclist Circulation. Concrete walkways shall form a logical, safe and convenient system for pedestrian access to all dwelling units, project facilities and principal off-site pedestrian destinations and shall be a minimum four (4) feet in width. Where appropriate, bikeways may be provided instead of sidewalks. Provision of bikeways along streets shall be made upon determination and requirement of the Planning Board.

Maximum walking distance in the open between dwelling unit and parking spaces, delivery areas and trash and garbage storage areas intended for use of occupants shall normally not exceed two hundred (200) feet. Walkways to be used by substantial numbers of children as play areas or routes to school or other destinations shall be so located and safe-guarded as to minimize contacts with normal automotive traffic. If substantial bicycle traffic is anticipated, bicycle paths shall be incorporated in the circulation system.

Street crossings shall be held to a minimum on the walkways, shall be located and designed to provide safety and shall be appropriately marked and otherwise safeguarded. Walkways may be combined with other easements and used by emergency or service vehicles but shall not be used by other automotive traffic.

25-10.14.2.5.22 Aesthetic Considerations. A multi-family development shall provide for safe, efficient, convenient and harmonious groupings of structures, uses and facilities. Natural features such as lakes, rocks, outcrops, streams, topsoil, trees, and shrubs shall be preserved and incorporated into the landscaping and site layout of the PRD to the maximum extent feasible. All multi-family structures should be arranged in small identifiable groups or clusters particularly where such structures adjoin public areas or open space. Buildings shall be so located and oriented as to interfere as little as is reasonably practicable with principal views from other residential districts or from important public viewpoints.

25-10.14.2.5.23 Staging. The number of dwelling units and square footage of nonresidential uses which may be constructed by the developer during any year, may be regulated by the Planning Board at a rate so as not to create excessive demands on any municipal facility or service available to serve the areas proposed for development. Such development as may be allowed pursuant herein shall be controlled by means of the issuance of building permits at a rate allowed by the Planning Board at time of preliminary approval, based upon the projected development.

All existing development upon completion of each approved stage shall be substantially self-functioning and self-sustaining with regard to traffic circulation, access, utility services, off-street parking and loading, open space and other PRD requirements.

25-10.14.3 TH-1 Residential Townhouse District.

25-10.14.3.1 Principal Permitted Uses.

- a. Single Family Dwellings subject to the same conditions as provided in the SF zone.
- b. Townhouses subject to the regulations set forth in this section.

25-10.14.3.2 Accessory Uses.

- a. Private garages
- b. Common swimming pool to be used by entire complex
- c. Signs, as permitted by Section 25-10.20
- d. Accessory uses subordinate to and customarily incidental to the principal permitted use
- e. Recreation areas subject to the provisions of subsections 25-10.14.2.5.15.

25-10.14.3.3 Conditional Uses. The following uses shall be permitted only after review and approval by the Planning Board in accordance with regulations governing the approval of conditional uses set forth in Section 25-10.15

- a. Public utility structures and essential services.
- b. Churches and similar places of worship
- c. Cluster subdivisions, and
- d. Public school.

25-10.14.3.4 Bulk Requirements.

- a. Minimum Lot size - 10 acres
- b. Minimum Lot width - 300 feet
- c. Required Front Yard - 75 feet from a public street or 20 feet from a private street
- d. Side yards must total 80 feet and any one side yard may be 40'
- e. Rear yard - 60 feet
- f. Space between buildings - 50 feet
- g. Maximum Lot Coverage - 60%

- h. Building Height - 2 ½ stories and 35 feet.
- i. Buffering, if required by Section 25-10.11

25-10.14.3.5 Other Requirements.

25-10.14.3.5.1 Project Densities.

- a. The maximum permitted Townhouse and stack dwelling units per acre for this zone shall be four (4) dwelling units per gross acre provided that development projects for townhouse and stacked units shall be served by central water and central sewer facilities as approved by the N.J. DEP. Single-family units are permitted under the same standards provided in the Single-Family (SF) zone. A maximum of 800 dwelling units shall be permitted on the entire tract herein designated as the TH-1 zone.
- b. The distribution of housing type for the development maximum of 800 dwelling units shall be in accordance with the following schedule:

<u>Use Class</u>	<u>Townhouse</u>	<u>Stacked</u>	<u>Single Family</u>
TH-1 Residential Townhouse	25-95%	0-60%	5-25%

Nothing herein shall be construed to require development of more than one class of dwelling units or any further development beyond the maximum permitted number of units of each class.

- c. The distribution of bedrooms per dwelling unit for multifamily units shall be in accordance with the following schedule.

<u>Use Class</u>	<u>1B</u>	<u>2BR</u>	<u>3BR</u>
TH-1 Townhouse	0-40%	10-90%	0-10%
TH-1 Stacked (lower level)	50-65%	35-90%	0-15%
TH-1 Stacked (upper level)	0-40%	10-90%	0

25-10.14.3.5.2 Development Standards.

- a. No accessory structure shall be permitted in the minimum required front yard setback area except fences, mailboxes, driveways and similar structures.
- b. A one-bedroom multifamily unit shall have a minimum livable floor area of 650 sq. ft. A two-bedroom unit shall have a minimum livable floor area of 800 sq. ft. A three-bedroom unit shall have a minimum livable floor area of 975 sq. ft.
- c. Where applicable, any fee ownership of townhouse lot shall have a minimum total lot area of two thousand (2,000) sq. ft. and a minimum lot width of twenty (20) feet per unit. The minimum lot width of the end unit in a building row shall be thirty (30) feet and have a minimum lot area of three thousand (3,000) sq. ft.
- d. No structure shall have more than four (4) contiguous dwelling units located along a single building line. Each structure shall have at least four (4) and not more than sixteen (16) dwelling unit's total.
- e. There shall be a minimum distance between structures and between structures and property lines. This minimum distance shall be as follows:
 - 1. Windowless wall to windowless wall: 20 feet
 - 2. Window wall to windowless wall: 30 feet
 - 3. Window wall to window wall:
 - Front to front 75 feet
 - Rear to rear 50 feet
 - End to end 30 feet
 - 4. Any building face to new right of way: 25 feet
 - 5. Any building face to existing right of way, collector, or arterial road 25 feet
 - 6. Front building face to common parking area 20 feet
 - 7. Rear of side building face to common parking area 15 feet
 - 8. Any building face to existing property line of a single family zone: 75 feet
 - 9. Any building face to existing property line of a non-residential zone: 25 feet

- f. Each fee simple townhouse lot shall have an individual private patio area of not less than two hundred (200) sq. ft. in size, and shall be designed for the use of the occupants of the dwelling unit. Adequate visual screening from neighboring dwelling units, patios, adjacent parking areas and roadways shall be provided which may consist of plantings, masonry structures or wood fencing. Architectural elements such as masonry walls and fences shall be compatible in both style and materials with the dwelling unit of which it is a part.
- g. Minimum off-street parking requirements.
 - 1. One bedroom unit: 1.5 parking spaces per unit
 - 2. Two bedroom unit: 2.0 parking spaces per unit, one of which shall be in a garage, except in such cases where good cause is shown to the satisfaction of the Planning Board, to allow an exception from the said garage requirement.
 - 3. Three bedroom unit: 2.25 parking spaces per unit, one of which shall be in a garage except in such cases where good cause is shown to the satisfaction of the Planning Board.
 - 4. Parking for Commercial uses shall be as provided in the C zone.
 - 5. Parking for Single-family uses shall be as provided in the Single-family zone.
 - 6. No off-street parking lots shall contain more than twenty (20) contiguous spaces without providing a landscaped area to separate parking sections.
- h. No common off-street parking spaces shall be located closer than seven (7) feet to the principal structure and no principal structure shall have off-street parking areas immediately adjacent to all sides of the structure.
- i. Garages shall have a floor space area of not less than two hundred forty (240) sq. ft. and such a garage may be built into the dwelling structure or separately constructed. Groups of attached garages shall be of no more than one

story in height. The architectural design and materials used in the construction thereof shall conform to the design and structure materials used in the construction of other structures. No part of any garage or other accessory structure shall be used for living purposes.

- j. Driveways leading to garages shall not be computed as a parking space unless an additional twenty-five percent above the total required number of parking spaces is provided in common parking areas.
- k. No single-family or townhouse private driveway may have direct access onto a public right-of-way existing at the time this ordinance is enacted.
- l. The structure length shall be limited to two hundred (200) feet.
- m. In all cases, dwelling units shall be designed to have the outside appearance of a single-dwelling unit lying in a vertical plane and not appear as one unit located above another unit. This may require that the design incorporate one front shared access to service two or more dwelling units.
- n. All developments shall provide a seventy-five (75) foot wide buffer area surrounding the perimeter of the tract where the common property line abuts a residential zone; however, a buffer will not be required where a single-family use abuts single-family zone. The required buffer shall be reduced to 25 feet where the common property line abuts a non-residential zone.
- o. There shall be no parking and no structures permitted in the required perimeter buffer area other than access roads and utilities.
- p. Landscaping, Lighting and Solid Waste Enclosures. The application shall provide professionally-designed and executed landscaping for the project. Areas not utilized for parking areas, driveways, streets and roads, recreational facilities, patios or terraces shall be provided with lawns or other suitable ground cover, trees and shrubs, or left undisturbed and preserved. Evergreen screening shall be provided in appropriate areas as set forth in subsection 25-10.11; screening to be no less than four (4) feet high when

planted. In addition, the Planning Board may require supplemental screening by a solid fence up to six (6) feet in height and/or landscaping.

1. The project shall provide a fifty (50) feet wide landscaping screen, with fences, earth berms or combination thereof, within the buffer area. The Planning Board may require, however, that the buffer area be maintained in its natural state if a site inventory of existing vegetation reveals that the existing vegetation is suited as a landscaping screen
 2. Shade trees shall be provided along streets and roads. Appropriate species shall be planted at a minimum of fifty (50) feet apart.
- q. Lighting shall be provided every one hundred fifty (150) feet apart along streets, driveways and in parking areas.
- r. Solid waste enclosures shall be constructed of a similar material and in a similar design to the structure to which it serves. Waste materials and garbage must be disposed of by a method approved by the Township.
- s. No outside area or equipment shall be provided for hanging of laundry or the outside airing of laundry in any manner.
- t. Pedestrian and Cyclist Circulation.
1. Concrete walkways are required, and shall form a logical, safe and convenient system for pedestrian access to all dwelling units, project facilities and principal off-site pedestrian destinations and shall be a minimum four (4) feet in width. Where appropriate, bikeways may be provided instead of sidewalks. Provision of bikeways along streets may be made upon determination and requirement of the Planning Board.
 2. Maximum walking distance between any structure with dwelling units and parking spaces, delivery areas and trash and garbage storage areas intended for use of occupants shall normally not exceed two hundred (200) feet. Walkways to be used by substantial numbers of children as play areas or

routes to safe-guarded as to minimize contacts with normal automotive traffic.

3. Street crossings shall be held to a minimum on the walkways, shall be located and designed to provide safety and shall be appropriately marked and otherwise safeguarded. Walkways may be combined with other easements and used by emergency service vehicles but shall not be used by other automotive traffic.
- u. Aesthetic Considerations. The development shall provide for safe, efficient, convenient and harmonious groupings of structures, uses and facilities. Natural features such as lakes, rocks, outcrops, streams, topsoil, trees, and shrubs shall be preserved and incorporated into the landscaping and site layout of the development to the maximum extent feasible. All structures should be arranged in small identifiable groups or clusters particularly where such structures adjoin public areas or open space. Structures shall be so located and oriented as to interfere as little as is reasonably practicable with principal views from other residential districts or from important public viewpoints.

25-10.14.3.5.3 Open Space, Recreation.

- a. A minimum of thirty percent (30%) of the required acreage of the tract (based on density) shall be dedicated to open space. No more than fifty percent (50%) of said required open space shall be of lands which exhibit slopes in excess of 25%, flood plain, floodway, wetland, wetland transition area characteristics, mining areas not rendered safe for occupancy or use.
- b. Active recreational areas shall not be located over areas which have not been rendered safe pursuant to this ordinance.
- c. A minimum of thirty percent (30%) of the lands required to be dedicated for open space shall be devoted to active recreation, including such facilities as playgrounds, walking trails and tennis courts. All recreational facilities must meet the requirements established by the American Disabilities Act.

- e. In order to provide flexibility in design, should the proposed development consist of a number of stages, the Board may require that acreage proportionate in size to stage being considered for final approval be set aside simultaneously with the granting of final approval for that particular stage, even though these lands may be located in a different section of the overall development.
- f. Passive and active recreational areas may be offered to the Township or dedicated to a homeowner's organization or trust and incorporated in the bylaws. If these recreational areas are not dedicated and accepted by the Township, the landowner shall provide for and establish an open space organization or trust for the ownership and maintenance of all the common lands. Such organization or trust shall not be dissolved, nor shall it dispose of any common lands by sale or otherwise.
- g. If the applicant proposes that the recreational areas within the common lands be dedicated to the Township, the he Board shall forward such request with its recommendation to the Township Council prior to the granting of preliminary site plan approval of any development application containing such recreational lanes.
- h. All lands not offered to and/or not accepted by the Township shall be owned and maintained by a homeowners organization or trust as provided in N.J.S.A. 40:55D-43 and stipulated herein.
- i. In the event that the organization created for common lands and/or recreational land management shall fail to maintain any common land or recreation area in a reasonable order and condition in accordance with the approved site plan, the Township may serve notice upon such organization or upon the owners of the development, setting forth the manner in which the organization has failed to maintain such areas in a reasonable condition. Said notice shall include a demand that such deficiencies of maintenance must be cured within 30 days thereof and shall be held within 15 days of the notice. At such hearing, the Township may modify the terms of the original notice as to deficiency and may give an extension of time not to exceed 65 days within such time the deficiency shall be cured.

1. If the deficiency set forth in the original notice or in the modification thereof shall not be cured within said 30 days or any extension thereof, the Township, in order to preserve the common lands and/or recreational land and maintain the same for the period of one year, may enter upon said lands and maintain same. Said entry and said maintenance shall not vest the public in any rights to use the recreation areas except when same is voluntarily dedicated to the public by the owners.
2. Before the expiration of said year, the Township shall upon its initiative or upon the request of the organization theretofore responsible for the maintenance of said areas, call a public hearing upon 15 days written notice to such organization and to the owners of the development to be held by the Township, at which hearing such organization and owners of the development shall show cause why such maintenance by the Township shall not, at the election of the Township, continue for a succeeding year. If the Township shall determine such organization is not ready and able to maintain said recreation areas in reasonable condition, the Township may, in its sole discretion, continue to maintain said common lands and/or recreation areas during the next succeeding year and subject to a similar hearing, a determination in each year thereafter. The position of the township in any case shall constitute a final administrative decision subject to judicial review.
3. The cost of such maintenance by the Township shall be assessed pro rata against the properties within the development that have a right of enjoyment of the common lands and/or recreational land in accordance with the assessed value at the time of imposition of the lien and shall become a lien and tax on said properties and be added to and be a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the Township in the same manner as other taxes.
4. Any common land organization or trust initially created by the developer shall clearly describe, in its bylaws, the rights and obligations of the

homeowners and tenants in the residential development, and the articles of incorporation of the organization shall be submitted for review by the Board prior to the granting of final approval by the Township.

25-10.14.4 Residential Affordable Housing (RAH) Zone.

25-10.14.4.1 Principal Permitted Uses.

- a. Senior Citizen Housing
- b. Townhouses for Low and Moderate Income Families

25-10.14.4.2 Accessory Uses.

- a. Private garages
- b. Signs as permitted by Section 25-10.20
- c. Accessory uses customarily incidental to the principal permitted use.

25-10.14.4.3 Conditional Uses.

- a. Reserved.

25-10.14.4.4 Mandatory Set-asides/comprehensive Development

Required.

- a. Subdivision and site plan approval for developments within the RAH district shall be denied, unless the developer complies with the obligation to provide affordable housing pursuant to this article, except that improvements to agricultural operations shall be exempt from the provisions of this article.
- b. Up to 20 percent of the units in each development shall be set aside and made available at prices qualifying the units at low income and moderate income units. Of those units, 50% shall be low income units and 50% shall be moderate income units, except that the Planning Board, upon recommendation of the Mine Hill Housing Board, may modify this requirement when financial and other factors make this infeasible
- c. The RAH zoning district shall be developed pursuant to a comprehensive development plan for no less than the entire tract

and no approval shall be granted for any preliminary development application for less than the entire tract.

- d. No lot within an RAH zoning district may be subdivided even if no improvements are proposed thereto, unless a declaration of covenants and restrictions showing how the entire tract will be developed in compliance with the requirements of this article is approved by the Planning Board and filed with the County Clerk. All owners of the subdivided lots shall be bound by such declaration unless they jointly submit a development application covering the entire district and complying with all the requirements of this Ordinance.

25-10.14.4.5 Provisions Applicable to Low and Moderate Income

Units. The following provisions shall apply to low and moderate income units provided pursuant to this article:

- a. Compliance with requirements pertaining to the low and moderate-income units; applicant's agreement with respect to compliance.

The applicant shall offer low and moderate-income units for sale in the manner prescribed in this article and in the implementing regulations of the Mine Hill Township Housing Board and to otherwise comply with the requirements of this article and shall include in the written agreement required by this Ordinance.

- b. Minimum percentage of low and moderate-income units required.

Fifty percent (50%) of units provided by each applicant shall be low-income units and fifty percent (50%) shall be moderate-income units, except that the Planning Board, upon recommendation of the Mine Hill Township Housing Board, may modify this requirement when financial or other factors make this infeasible.

- c. Sighting of the low and moderate-income units.

The low and moderate-income units shall be situated so as not to be positioned in less desirable locations than the other units in the development and shall be no less accessible to the common open space, public facilities, public transportation, and shopping facilities than the other units.

- d. Number of bedrooms in the low and moderate-income units.

The bedroom mix of the low and moderate income units shall reasonably reflect the distribution of household sizes in the low and moderate-income population in the region as determined by the Mine Hill Township Housing Board, except that the Planning Board, upon the recommendation of the Mine Hill Township Housing Board, may modify this requirement in light of the location and nature of the development, the existing need, and the bedroom mix of other low and moderate-income units in the Township.

New construction units for low and moderate income families shall conform to the requirements for bedroom mix at the following bedroom distribution schedule for the low and moderate-income units as prescribed by COAH:

1. A minimum of 35% shall be two bedroom units.
2. A minimum of 15% shall be three bedroom units.
3. A maximum of 20% may be efficiency units.

It is the intention of the Township to seek a 50-50 proportion between low income and moderate income families for these units.

- e. Minimum floor areas of the low and moderate-income units.

The design of low and moderate - income units shall exceed the Minimum Property Standard published by the United States Department of Housing and Urban Development. In addition, minimum floor area for lower income units shall be as follows:

efficiency units	425 sq. ft.
1 bedroom units	550 sq. ft.
2 bedroom units	700 sq. ft.
3 bedroom units	900 sq. ft.

Further provided, however, that the Planning Board may reduce the minimum floor area required if the unit design can be shown to meet or exceed reasonable habitability and health standards.

- f. Provision of the low and moderate-income units when developed in stages.

The low and moderate-income units shall be constructed in tandem with the non-lower-income units according to the following schedule:

Non-low and moderate income unit	Low and moderate income unit
Percentage	Percentage
Up to 25%	0% (none required)
25% + I unit	At least 10%
Up to 50%	At least 25%
Up to 75%	At least 50%
75% + I unit	At least 75%
Up to 90%	100%

The schedule shall refer to the issuance of the Certificates of Occupancy by the Township Building Official.

- g. Calculation of number of units. If the number of low and moderate-income units to be provided includes a fraction, the number shall be rounded up. If the number of non-low and moderate-income units permitted includes a fraction, the number shall be rounded down.
- h. Permitted Signs for Residential Affordable Housing Zone - See Section 25-10.20.

25-10.14.4.6 Revocation and Withholding of Permits. In the event that the applicant does not construct and sell the low and moderate-income units in accordance with its approved development plan and the terms within this Ordinance, the development enforcement officer shall revoke the development permit or development Certificates of Occupancy and withhold the issuance of subsequent development Certificates of Occupancy until the development is brought into compliance.

25-10.14.4.7 Applications for Preliminary Approval. In addition to the requirements regulating, applications for preliminary approval, the following information shall be shown on or shall accompany the application for preliminary approval:

- a. If the development is to include low or moderate-income units, data on or accompanying the preliminary plat showing which dwellings are to be low-income units, and which are to be moderate -income units; and describing the location, floor area and layout of the low-and middle- income units and of the other units.

- b. In the case of a development which contemplates construction in phases, a staging plan setting forth the applicant's plan for phasing the development.
- c. The applicant shall submit with the application for development a narrative description of the mechanism to be used to insure that the required affordable dwelling units are sold only to low and moderate income households and that such units will continue to be occupied by low and moderate-income households for a period not less than 30 years. In addition to such description, actual samples of language to be included in the nature of covenants shall be submitted. The submitted description shall indicate the entity or entities responsible for monitoring the occupancy of the low and moderate-income units and shall provide a detailed discussion concerning resale's, permitted increases in price, pre-qualification of occupants and other relevant considerations.
- d. Such other information as may be required by the Planning Board for purposes of determining the applicant's compliance with the requirements of this Article.

25-10.14.4.8 Applications for Final Approval. In addition to the requirements regulating applications for Final approval, the following information shall be shown or shall accompany the application for final approval:

- a. A written agreement approved by the Township Attorney in which the applicant agrees to construct no less than the number of low and moderate-income units required by the terms of the preliminary approval and to comply with the provisions of this article pertaining to such units. The agreement shall specify the number, type, floor area, number of bedrooms, and location of any low and moderate-income units. It shall also contain a detailed plan for staging construction of all dwelling units in the development. The agreement shall be in recordable form and shall be signed by the applicant and by any other persons whose signatures or consents are required in order to impose these obligations as an affirmative covenant running with the land. The agreement shall be recorded in the office of the County Clerk and a copy of the recorded agreement certified by the County Clerk shall be furnished to the Township by and at the cost and expense of the applicant after the approval of the final plat. The terms of the agreement may not be modified except with the approval of the Planning Board granted after a public hearing.
- b. A declaration of covenants and restrictions duly executed in final and recordable form, subject to and in accordance with the terms of

the preliminary approval, including provisions to assure that any low and moderate-income units will be initially sold in accordance with the requirements of the division as implemented by the Mine Hill Township Housing Board and imposing covenants and restrictions running with those units to assure that subsequent resale's or rental will also be subject to the requirements of this Section as implemented by the Planning Board. The declaration shall also specify by reference of the final plat and, if applicable, the master deed the units or lots which are to be subject to these restrictions. The declaration shall be recorded in the office of the County Clerk and a copy of the recorded declaration certified by the County Clerk shall be furnished to the Township by and at the cost and expense of the applicant after the approval of the final plat.

25-10.14.4.9 Mine Hill Township Housing Board. The Mine Hill Township Housing Board was created together with the RAH Residential Affordable Housing District by ordinance 435-90, approved July 30, 1990. The provisions relating to the creation and powers of this Board are set forth in this Land Use Ordinance.

25-10.14.5 Office/Industrial Zone (O/I).

25-10.14.5.1 Principal Permitted Uses.

- a. Manufacturing; processing, producing or fabricating operations; other than ionizing and particle radiation, but excluding certain diagnostic and analytic x-rays permitting under the performance standards contained in this section and other operations which meet the performance standards contained in this section, provided that all operations and activities except parking are carried on within closed buildings and that there is no outside storage or outside repair of materials, equipment or use.
- b. Scientific research and development;
- c. Light warehousing;
- d. Business offices;
- e. Telecommunication towers and antennae as permitted by Section 25-10.15.8.4.
- f. Solar and Photovoltaic energy facilities or structures:
 1. Minimum lot area shall be 20 acres.
 2. Solar or photovoltaic energy facilities and structures shall not occupy any area beyond the required principal building setbacks for the zone in which the facility is to be located

and they shall not be located within 200 feet of the boundary of a residential zone or residential use.

3. No portion of solar or photovoltaic energy facilities and structures shall occupy areas of land designated by NJ DEP as floodplains, flood hazard areas, wetlands, wetlands transition areas or riparian corridors. A 300 foot buffer shall be maintained from NJ DEP designated Category One waters.
4. No soil shall be removed from any site upon which solar or photovoltaic energy facilities and structures are to be constructed. Within areas containing Prime Farmland Soils and Farmland Soils of Statewide Significance as identified by the USDA Natural Resources and Conservation Service, there shall be no concrete footings constructed to support solar or photovoltaic racking systems or other structures in order to more readily enable the potential future use of these areas for active agricultural uses. Concrete pads for inverters and similar equipment, and concrete footings for security fencing may be constructed within areas containing these soils. Grading within Prime Farmland and Farmlands of Statewide Significance shall be limited to only that necessary to construct access roads and for construction of equipment pads.
5. Solar or photovoltaic energy facilities and structures shall be screened from the public, traveled way, preserved open space, preserved farmland and National or State Registered historic resources or from adjoining residential uses or zones, with said screening by a combination of berms, landscaping and fencing.
6. The maximum permitted vertical height above ground for solar energy panels shall be eight (8) feet.
7. All electrical wire servicing a ground mounted solar system, other than the wires necessary to interconnect the solar panels and the grounding wires, shall be located underground.
8. The design of solar energy systems shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend into the natural setting and existing environment.
9. The installation of a solar energy system shall be in compliance with the National Electric Code as adopted by the New Jersey Department of Community Affairs.

10. Energy systems that connect to the electric utility shall comply with the New Jersey Net Metering and Interconnection Standards for Class I Renewable Energy Systems and as required by the electric utility servicing the parcel.
11. A Maintenance Plan shall be submitted for the continuing maintenance of all plantings. All ground areas occupied by the solar energy facility or structure installation that are not utilized for access driveways shall be planted and maintained with low maintenance sun and shade tolerant grasses for the purpose of soil stabilization. The "OVN" seed mixture provided through the Jersey Farmers Exchange (856-769-0062) is suitable for these purposes. It is a mixture of 40% perennial ryegrass, 30% creeping fescue and 30% chewing fescue applied at a rate of 5 pounds per 1000 sq. ft.
12. A grading and drainage plan shall be submitted under the seal of a licensed professional engineer and shall provide the details to adequately demonstrate to the reviewing agency that no storm water runoff or natural water shall be so diverted as to overload the existing drainage systems or create flooding. Calculations shall be provided to adequately demonstrate that existing preconstruction storm water runoff rates shall not be exceeded in the post-development condition.
13. Solar energy facilities and structures shall not result in reflective glare as viewed from second-story level (20 feet above ground) on adjoining properties.
14. Site Plans and Zoning permit applications for solar energy systems shall be accompanied by standard drawings of the solar panels, inverters, substations and any other required structures. The design shall be signed and sealed by a professional engineer, registered in the State of New Jersey, certifying that the design complies with all of the standards set forth in all applicable codes then in effect in the State of New Jersey and all sections referred to hereinabove.
15. All photovoltaic facilities including all solar arrays and associated equipment shall be dismantled and removed promptly after 180 days of non-use. Applicant shall be required to submit for approval a decommissioning plan at the time that the site plan application is filed.

25-10.14.5.2 Accessory Uses.

- a. Private garages and accessory uses customarily incidental to the permitted principal use.
- b. Off street parking in accordance with Section 25-10.16
- c. Solar or photovoltaic energy facilities or structures shall be permitted as an accessory use provided that the solar or photovoltaic energy facilities are: located on the same property as the principal permitted use; secondary to the use of the property for the permitted principal use; designed to offset part or all of the permitted principal uses on-site energy consumption; and designed to generate not more than 110% of power consumed on site by the permitted principal use. Solar or photovoltaic energy facilities as an accessory use shall comply with the following standards:
 1. Solar panels shall be permitted as a rooftop installation provided that no part of the solar panel or associated equipment shall exceed a height of twelve (12) inches above the roof surface if installed on a sloped roof or three (3) feet if installed on a flat roof. In no event shall the placement of the solar panels result in a total height, including building and panels, more than that which is permitted in the zoning district where the panels are located.
 2. Solar panel shall be permitted as ground arrays in accordance with the following:
 - (a) All ground arrays shall meet the setback requirements for accessory structures in the zone district in which the property is located.
 - (b) Ground arrays shall not be permitted in a front yard.
 - (c) Ground arrays shall be located so that any glare is directed away from an adjoining property.
 - (d) Ground arrays shall not exceed a height of six (6) feet if constructed over gravel, concrete or other impervious surface and shall not exceed a height of eight (8) feet if constructed over grass or other vegetative ground cover.
 - (e) If natural screening does not exist, evergreen screening shall be planted to provide a visual buffer as necessary from the street view or adjacent residential properties, installed a minimum height of eight (8) feet, with appropriate plant species and in design as required by the approving Board. Buffer screening shall be planted in such a manner that does not impair the functionality of the system.

3. All electrical wires servicing a ground mounted solar system, other than the wires necessary to interconnect the solar panels and the grounding wires, shall be located underground.
4. The design of solar energy systems shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend into the natural setting and existing environment.
5. The installation of a solar energy system shall be in compliance with the National Electric Code as adopted by the New Jersey Department of Community Affairs.
6. Energy systems that connect to the electric utility shall comply with the New Jersey Net Metering and Interconnection Standards for Class I Renewable Energy Systems and as required by the electric utility servicing the parcel.

25-10.14.5.3 Conditional Uses. The following uses shall be permitted only after review and approval by the Planning Board in accordance with the regulations governing the approval of conditional uses as set forth in Section 25-10.15.

- a. Essential Services and structures;
- b. Telecommunication towers and equipment,
- c. Public garages;
- d. Soil removal.

25-10.14.5.4 Bulk Requirements.

- a. Minimum Lot Size - 40,000 sq. ft.
- b. Minimum Lot Width - 100 feet
- c. Front yard - 40 feet
- d. Side yards - totaling 50 feet, one of which must be 20 feet
- e. Rear yard - 50 feet
- f. Percentage of lot coverage - 65%
- g. Maximum height 2 ½ stories and 35 feet.
- h. Buffering, if required by Section 25-10.11.

25-10.14.6 Economic Development (ED) District.

25-10.14.6.1 Principal Permitted Uses. The following uses shall be permitted, for the following use categories, such as, but not limited to:

- a. Medical uses such as medical and dental clinics and offices, laboratories and research facilities, animal clinics and hospitals, health clubs, hospitals and other health facilities licensed by the State of New Jersey for the care of sick or injured human beings, hospital pharmacies, and funeral parlors.
- b. Business uses such as computer data processing and storage centers, conference centers, general business and professional offices, research facilities, banks and financial institutions.
- c. Educational uses such as business/vocational/technical and adult schools, executive training centers, studios for art, music, and dance photography, and corporate training centers.
- d. Industrial/manufacturing uses such as warehousing, packaging and distribution of products, printing and publishing, landscaping facilities, automotive maintenance including repair garages and body shops conducted totally inside a building, distribution centers, manufacturing, assembly of products such as electronics, solar and wind generation components, resource recovery, food processing, composting, recycling; limited manufacturing plants of a type which carries on processes within completely enclosed buildings including the manufacture, assembly, or treatment of products from previously prepared materials, laboratories of an experimental, research or testing nature which carry on processes within completely enclosed buildings, contractor storage yards, auction houses, mini-warehouses/self-storage facilities.
- e. Commercial and retail uses such as indoor recreation facilities including theaters, wholesale and retail sales and services stores, including big-box retail, garden centers, restaurants, car rental agencies, the sale of used automobiles, the sale of automobiles through franchised new car dealers, and car washes.
- f. Child care centers.
- g. Public uses such as public playgrounds, public conservation areas, public parks, public open spaces, and public areas.
- h. Utility uses.

25-10.14.6.1 Solar and Photovoltaic Energy Facilities or Structures.

Solar or photovoltaic energy facilities or structures shall be permitted, subject to the following provisions:

- a. Minimum lot area shall be 2 acres.

- b. Solar or photovoltaic energy facilities and structures shall not occupy any area beyond the required principal building setbacks for the zone in which the facility is to be located and they shall not be located within 200 feet of the boundary of a residential zone or residential use.
- c. No portion of solar or photovoltaic energy facilities and structures shall occupy areas of land designated by NJ DEP as floodplains, flood hazard areas, wetlands, wetlands transition areas or riparian corridors, A 300 foot bnffer shall be maintained from NJ DEP designated Category One waters.
- d. No soil shall be removed from any site upon which solar or photovoltaic energy facilities and structures are to be constructed. Within areas containing Prime Farmland Soils and Farmland Soils of Statewide Significance as identified by the USDA Natural Resources and Conservation Service, there shall be no concrete footings constructed to support solar or photovoltaic racking systems or other structures in order to more readily enable the potential future use of these areas for active agricultural uses. Concrete pads for inverters and similar equipment, and concrete footings for security fencing may be constructed within areas containing these soils. Grading within Prime Farmland and Farmlands of Statewide Significance shall be limited to only that necessary to construct access roads and for construction of equipment pads.
- e. Solar or photo voltaic energy facilities and structures shall be screened from the public traveled way, preserved open space, preserved farmland and National or State Registered historic resources or from adjoining residential uses or zones, with said screening by a combination of berms, landscaping and fencing.
- f. The maximum permitted vertical height above ground for solar energy panels shall be eight (8) feet.
- g. All electrical wire servicing a ground mounted solar system, other than the wires necessary to interconnect the solar panels and the grounding wires, shall be located underground.
- h. The design of solar energy systems shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend into the natural setting and existing environment.
- i. The installation of a solar energy system shall be in compliance with the National Electric Code as adopted by the New Jersey Department of Community Affairs.
- j. Energy systems that connect to the electric utility shall comply with the New Jersey Net Metering and Interconnection Standards

for Class I Renewable Energy Systems and as required by the electric utility servicing the parcel.

- k. A Maintenance Plan shall be submitted for the continuing maintenance of all plantings, All ground areas occupied by the solar energy facility or structure installation that are not utilized for access driveways shall be planted and maintained with low maintenance sun and shade tolerant grasses for the purpose of soil stabilization. The "OVN" seed mixture provided through the Jersey Farmers Exchange (856-769-0062) is suitable for these purposes. It is a mixture of 40% perennial ryegrass, 30% creeping fescue and 30% chewing fescue applied at a rate of 5 pounds per 1000 sq. ft.
- l. A grading and drainage plan shall be submitted under the seal of a licensed professional engineer and shall provide the details to adequately demonstrate to the reviewing agency that no storm water runoff or natural water shall be so diverted as to overload the existing drainage systems or create flooding. Calculations shall be provided to adequately demonstrate that existing preconstruction storm water runoff rates shall not be exceeded in the post-development condition.
- m. Solar energy facilities and structures shall not result in reflective glare as viewed from second-story level (20 feet above ground) on adjoining properties.
- n. Site Plans and Zoning permit applications for solar energy systems shall be accompanied by standard drawings of the solar panels, inverters, substations and any other required structures. The design shall be signed and sealed by a professional engineer, registered in the State of New Jersey, certifying that the design complies with all of the standards set forth in all applicable codes then in effect in the State of New Jersey and all sections referred to hereinabove.
- o. All photovoltaic facilities including all solar arrays and associated equipment shall be dismantled and removed promptly after 180 days of non-use. Applicant shall be required to submit for approval a decommissioning plan at the time that the site plan application is filed.

25-10.14.6.2 Conditionally Permitted Uses.

- a. Telecommunication Towers and Antenna (see Section 25-10.15.8.4 for standards).
- b. Soil Removal and Mining (see Section 25-10.15.7 for standards).

25-10.14.6.3 Accessory Uses. Accessory uses permitted in the ED (Economic Development) District are as follows:

- a. Uses customarily incidental to the principal uses.
- b. Off-street Parking and Loading Requirements
 - 1. As specified in Section 25-10.16.
 - 2. No loading areas shall be permitted in front of the building, or in the front yard area.
- c. Solar or photovoltaic energy facilities or structures shall be permitted as an accessory use provided that the solar or photovoltaic energy facilities are: located on the same property as the principal permitted use; secondary to the use of the property for the permitted principal use; designed to offset part or all of the permitted principal uses on-site energy consumption; and designed to generate not more than 110% of power consumed on site by the permitted principal use. Solar or photovoltaic energy facilities as an accessory use shall comply with the following standards:
 - 1. Solar panels shall be permitted as a rooftop installation provided that no part of the solar panel or associated equipment shall exceed a height of twelve (12) inches above the roof surface if installed on a sloped roof or three (3) feet if installed on a flat roof. In no event shall the placement of the solar panels result in a total height, including building and panels, than that which is permitted in the zoning district where the panels are located.
 - 2. Solar panel shall be permitted as ground arrays in accordance with the following:
 - (a) All ground arrays shall meet the setback requirements for accessory structures in the zone district in which the property is located.
 - (b) Ground arrays shall not be permitted in a front yard.
 - (c) Ground arrays shall be located so that any glare is directed away from an adjoining property.
 - (d) Ground arrays shall not exceed a height of six (6) feet if constructed over gravel, concrete or other impervious surface and shall not exceed a height of eight (8) feet if constructed over grass or other vegetative ground cover.
 - (e) If natural screening does not exist, evergreen screening shall be planted to provide a visual buffer as necessary from the street view or adjacent residential properties, installed a minimum height of eight (8) feet, with appropriate plant species and in design as required by the approving Board. Buffer

screening shall be planted in such a manner that does not impair the functionality of the system.

3. All electrical wires servicing a ground mounted solar system, other than the wires necessary to interconnect the solar panels and the grounding wires, shall be located underground.
 4. The design of solar energy systems shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend into the natural setting and existing environment
 5. The installation of a solar energy system shall be in compliance with the National Electric Code as adopted by the New Jersey Department of Community Affairs.
 6. Energy systems that connect to the electric utility shall comply with the New Jersey Net Metering and Interconnection Standards for Class I Renewable Energy Systems and as required by the electric utility servicing the parcel.
- d. Outdoor storage may be permitted only in the rear yard areas and not in the side or front yard area.
 - e. Small wind energy systems as defined in section 25-10.21, as accessory uses.

25-10.14.6.4 Prohibited Uses.

- a. Junk yards
- b. Abattoirs

25-10.14.6.5 Bulk Requirements and other Standards.

- a. Minimum Lot Size - 40,000 s.f.
- b. Minimum Lot Width - 100 feet
- c. Front Yard - 40 feet
- d. Side Yards - totaling 30 ft., one of which must be a minimum of 15 ft.
- e. Rear Yard - 40 ft. where abutting a residential zone and 25 ft. where abutting a non- residential zone
- f. Percentage of lot coverage - 80%
- g. Maximum height - 3 stories and 45 feet where abutting a residential zone and 4 stories and 60 ft. where abutting a non-residential zone

- h. Buffering - as required by Section 25-10.11 (c).

25-10.14.7 Reserved.

25-10.14.8 Commercial (C District)

25-10.14.8.1 Principal Permitted Uses.

- a. All uses permitted in the C/I- 1 District
- b. Sale of Building materials;
- c. Grain and feed establishments
- d. Essential Services
- e. Indoor theaters
- f. Retail goods and services stores
- g. Telecommunication towers and antenna as permitted by Section 25-10.15.8.4.
- h. Funeral Homes
- i. Professional Offices
- j. Offices
- k. Banks

25-10.14.8.2 Accessory Uses.

- a. All accessory uses permitted in the C Zone and as regulated therein.

25-10.14.8.3 Conditional Uses.

- a. Sale of building materials,
- b. Places of worship
- c. School
- d. Telecommunications towers and equipment.
- e. Day Care Centers

25-10.14.8.4 Bulk Requirements.

- a. Minimum lot size - 40,000 sq. ft.
- b. Minimum lot width - 100 feet
- c. Front yard - 40 feet
- d. Side yards - totaling 30, one of which must be 15 feet
- e. Rear yard - 50 feet
- f. Percentage of Lot coverage - 80%
- g. Maximum Height. 2 ½ stories and 35 feet.
- h. Buffering in accordance with Section 25-10.11

25-10.14.8.5 Other Requirements.

- a. Compliance with sign regulations, Sec. 25-10.20
- b. Off-Street Parking and Loading Requirements
 - 1. As specified in Section 25-10.16
 - 2. No loading areas shall be permitted.
- c. Buffer Area Requirements per Section 25-10.11
- d. Outdoor Storage is limited to the rear yard area and must be located behind fencing.

25-10.14.9 Commercial Zone.(C)

25-10.14.9.1 Principal Permitted Uses.

- a. Retail goods and services stores; including food drugs, drink, household supplies, home appliances stores, barber and beauty shOps, shoe shops, clothing and apparel sales, and
- b. Furniture and household appliances sales;
- c. Professional Offices and Bank
- d. Car sales and showrooms;
- e. Funeral Homes
- f. Indoor theaters;
- g. Laundromat and Dry-cleaning stores;
- h. Printing and publishing shops;
- i. General office uses

- j. Motels;
- k. Schools;
- l. Churches and similar houses of worship

25-10.14.9.2 Accessory Uses.

- a. Public, private and commercial parking; and
- b. Accessory uses customarily incidental to the permitted principal use.

25-10.14.9.3 Conditional Uses.

- a. Essential services and structures;
- b. Day care center and
- c. Churches and similar places of worship.

25-10.14.9.4 Bulk Requirements.

- a. Minimum lot size- 10,000 sf
- b. Minimum lot width- 100'
- c. Front Yard-25'
- d. Any one side yard - 10'
- e. Total of two side yards- 25'
- f. Rear yard-20'
- g. Percentage of lot coverage- 65%
- h. Height in stories - 2 ½
- i. Height in feet-35'.

25-10.14.10 Planned Multifamily Age-Restricted Community (PMARC)

25-10.14.10.1 Purpose & Intent.

The Planned Multifamily Age-Restricted Community ("PMARC") District is being created to fulfill three (3) policy goals of the Township. First, the need for age-restricted housing in the Township and the region is a pressing concern. More than 70% of the population growth in the region for the next 20 years is projected to occur in the group over age 55, for which this housing is intended. New construction designed to meet the physical needs of older citizens will enable our society to better serve these needs, and permit the recycling of the existing housing stock that was

designed for the needs of young families to serve that need. Second, the implementation of this zoning district is an integral part of the Township's efforts to acquire and preserve large areas of open space and important historical resources. Third, the implementation of the PMARC District arises from the settlement of longstanding litigation which has been a drain on public resources and energies which will come to halt.

25-10.14.10.2.1 Permitted Uses.

The following uses shall be permitted in the PMARC District:

- a. Residential dwelling units which may be configured as single family attached homes, patio houses, townhomes (including "back-to-back" configurations), and stacked multi-story buildings not exceeding 4 residential levels over 1 additional level of parking with the provision of elevator service. All dwellings will be subject to age and occupancy restrictions authorized by the Federal Fair Housing Act implemented through deed restrictions, reviewed and approved by the Planning Board Attorney. At the time of initial occupancy by each household, one member of the household must be at least fifty-five (55) years of age or older and at no time may any individual under the age of nineteen (19) establish permanent residency in the unit.
- b. Public parks and recreation facilities.
- c. Governmental buildings and facilities, including public and private schools.

25-10.14.10.2.2 Prohibited Uses.

The following uses shall not be permitted in the PMARC District:

- a. Family day care homes, as permitted by N.J.S.A. 40:55D-66.5b(b).

25-10.14.10.3 Accessory Uses.

The following accessory uses are permitted:

- a. Sheds, decks, fences, walls, signs and entry features located in a manner that is consistent with a plan approved by the Planning Board at the time the development receives its development approvals which authorizes specific locations or typical locations for each dwelling type. Only the homeowners' association shall

have standing to apply for amendments to the typical design and location of such structures. Sheds and decks shall be located no closer than ten feet from any rear or side property lines and may not be located in buffers required for the tract.

- b. Recreation facilities, structures, buildings and parks for the use of the residents of the community. Such open space and community facilities must be owned, operated and maintained by an association registered with and approved by the Department of Community Affairs. Any community building may be used to provide services and activities primarily for the benefit and enjoyment of the residents of the community that may include such diverse activities as medical screenings, classes or lectures whether provided for a fee or free of charge, craft fairs or other temporary retail uses, incidental sales of tickets for travel or events, etc.
- c. Utilities and related services such as transformers, pumping stations, treatment facilities, meters, disposal fields, storm water management facilities, etc., necessary for the proper distribution and monitoring of these services.
- d. Sales and construction offices, model units and storage of materials and equipment associated with and necessitated by the development of the tract for the uses approved by the Planning Board in conformance with any phasing requirements set forth by the Planning Board.
- e. Off-street parking and loading areas consistent with New Jersey's Residential Site Improvement Standards.
- f. Parking area for recreational vehicles and/or boats of residents of the community at a separate location on the site, subject to site plan approval.

25-10.14.10.4. Area, Yard, Bulk and Architectural Requirements.

The following tract requirements shall apply:

- a. The following intensity and design ratios are applicable to the entire tract and shall not be applied to any individual lot or lots which may be created as part of the overall plan of development:
 - 1. Maximum Number of Dwellings 275
 - 2. Maximum Density per Gross Tract Acre 6
 - 3. Maximum Tract Dedicated to Development 45
 - 4. Maximum Building Coverage 25%
 - 5. Maximum Impervious Coverage 60%

b. **Buffers and Setbacks.** A buffer of a minimum width of twenty-five (25) feet shall be provided along any tract boundary, except where such boundary abuts publicly owned lands or lands to be dedicated as public or private open space, in which instance the required buffer shall be not less than ten (10) feet in depth. In addition, no homes may be located within 100 feet of Canfield Avenue. Buffers shall be provided in accordance with Section 25-10.11(d) of the Code, except: (1) the applicant may provide that up to 10' of the inside of any buffer may be lawn area and/or shrubs; and (2) where such boundary abuts publicly owned lands or lands to be dedicated as public or private open space, the entire buffer may be planted as lawn area. The buffer requirement is not to be construed in addition to the setback requirement.

c. **Setbacks Applicable to Residential Buildings:**

1. For Residential Buildings of 2.5 stories in height or less which front on streets from all other types of residential buildings:

Minimum Distance from Tract Boundary	
-except where such boundary abuts publicly owned lands or lands to be dedicated as public or private open space	35 Feet
-where such boundary abuts publicly owned lands or lands to be dedicated as public or private open space	20 Feet
Minimum Distance from Cartway of Internal Street	25 Feet
Minimum Distance from Side of Building to Side of Building:	30 Feet
Minimum Distance from Rear of Building to Side of Building:	40 Feet
Minimum Distance from Rear of Building to Rear of Building:	50 Feet

2. For Residential Buildings in excess of 2.5 stories in height from similar types of residential buildings:

Minimum Distance from Tract Boundary	
-except where such boundary abuts publicly owned lands or lands to be dedicated as public or private open space	50 Feet

-where such boundary abuts publicly owned lands or lands to be dedicated as public or private open space	35 Feet
Minimum Distance from Cartway of Internal Street	35 Feet
Minimum Distance between Buildings of similar size:	60 Feet
Minimum Distance between Buildings of Different size:	75 Feet
Minimum Distance from Building to parking Area:	10 Feet

d. Open Space & Recreational Requirements

1. Due to the connection of the PMARC to the preservation of significant open space, there are no additional open space requirements applicable to the tract. Recreational facilities including sidewalks and pedestrian pathways, small parks and gathering areas with seating, picnic areas with graded grass areas for spontaneous activities and other recreational amenities may be located within the open space of the development at the discretion of the applicant and in quantities related to the projected population of the community.
2. Provision for long-term maintenance of all open lands and recreational uses must be provided in a manner satisfactory to the Planning Board. This shall be accomplished through dedication of lands to a homeowners' association unless the Township consents to an alternative means of long-term maintenance such as dedication of lands to the Township or other governmental agency if such governmental agency is willing to accept such dedication or dedication to a nonprofit or for profit organization experienced in the management of open areas for public purposes.
3. Active recreational opportunities provided within the residential community may be restricted against use by nonresidents of the community if owned and maintained by a homeowners' association and shall be accessible to residents in perpetuity.

e. Additional Architectural Requirements

1. Maximum height for single family and townhouse style homes: two and one-half stories and 35 feet as measured from the finished floor elevation of the primary entry (door) for the specific dwelling to the mid-point of the roof between the eave and the peak or highest point of the roof.
2. Maximum height for elevator-served multifamily dwellings: 4 residential stories plus an additional level of parking not to exceed sixty (60) feet as measured from the finished floor elevation at the primary entry (door) for the structure to the mid- point between the eave and the peak or highest point of the roof.
3. Mechanical equipment or other utility hardware on roofs, the ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from any public ways.
4. Where any residential building has a length along any plane longer than 100 feet, there must be at least 2 setback changes along the facade equal to or exceeding 1.5 feet, 3 setback changes along any plane longer than 150', and 4 setback changes along any plane greater than 200'.
5. All setbacks are to be measured from the foundation of the principle structure and do not include bay or other window treatments, eaves or similar architectural adornments, nor decks which are separately regulated as an accessory structure.

25-10.14.10.5. Exceptions from other requirements.

- a. Due to the significant dedication of lands intended to provide large open space areas, recreation potential for the Township, and preservation of historic resources, the development area of the application is exempt from further review related to the presence or absence of historic or cultural resources.
- b. The development is exempt from any requirement for the provision on on-site price restricted dwellings (Mount Laurel housing) and any "growth share" obligations, except that the

development is subject to a maximum 1% development fee established by ordinance generally applicable throughout the municipality and approved by the NJ Council on Affordable Housing that is in place prior to the grant of final approval for the development or any portion thereof.

- c. Development on or near slopes will be subject to review for proper slope stabilization, stormwater management concerns and compliance with RSIS for streets and sidewalks and is not subject to further review or limitations on disturbance as may elsewhere be required by any other municipal ordinance.
- d. No off-tract infrastructure requirements may be assessed or assigned to the development for any improvements not directly related to the provision of public water service. Any such off-site improvements or payments in lieu thereof shall be imposed on a fair share basis strictly in accordance with NJSA 40:550-42.
- e. The Applicant shall prepare a site specific Mine Investigation and Remediation methodology and plan to be reviewed and approved by the Planning Board. The application will not otherwise be subject to any municipal ordinances governing the development of previously mined tracts.

25-10.14.11 MLO - Previously Mined Land Overlay District.

25-10.14.11.1 Permitted Uses. The following uses shall be permitted on any property designated in this Section as being in the Non-Profit I Public Land Overlay Zone after issuance of a permit by the Township Zoning Officer in accordance with paragraph d hereof. Temporary facilities, structures or buildings that are erected not more than 14 days per month shall be permitted to be erected on the property. Other facilities, structures or buildings may be erected only after review and approval by the Planning Board in accordance with the regulations governing the approval of conditional uses set forth in Section 25-10.15 and in accordance with the zoning and other regulations applicable in the underlying zone governing construction of any facility, structure or building and location of the use authorized hereunder on the site in which the Non-Profit I Public Land Overlay Zone is located.

- a. Fund raising events for non-profit organizations, the Township of Mine Hill, the Mine Hill Board of Education and organizations related to the Township and Board of Education to include, but not be limited to: Antique shows and sales; auctions; automobile rallies; band and musical events; barbecues; baseball clinics; baseball games; boat shows; car shows; carnivals; circus; clambake; community garage sales; corporate picnics; country

western night; craft fairs; fireworks shows; health fairs; industrial softball leagues; lacrosse games and leagues; model airplane and rocket races, shows and competitions; motorcycle rallies and events; outdoor movies; pet shows; picnics - including fish & chip events; soccer games, clinics, leagues and club events; sports competition events; sportsman shows; swap meets; tricky tray events; temporary retail uses and sales of tickets for travel or events. The events authorized hereby specifically exclude flea markets, which are regulated separately.

- b. Non-Profit I Public Land Overlay Zone shall consist of the following properties:

Block 1401	Lot 1	School
Block 1401	Lot 8	Property off Randolph Ave
Block 1304	Lot 17	Firemen’s Field
Block 1304	Lot 13	Recreation Field
Block 601	Lot 1	Beach
Block 802	Lot 15	Mine Hill American Legion Post 391
Block 903	Lot 9	Boy Scout Building

- c. Accessory Uses. The following shall be authorized accessory uses in the Non- Profit / Public Overlay Zone: Recreation facilities, structures and buildings for the use in the authorized activity. If the facility, structure or building shall be standing more than 14 days per month, it is subject to review and approval detailed herein.

- d. Permits. A permit shall be required for any use authorized herein. The permit shall be obtained from the Zoning Officer after paying the required fee, which shall be set by Council Resolution. The permit shall be displayed in a weather proof holder on the property.

§ 25-10.14.12. AOZ Agricultural Overlay Zone.

25-10.12.9.1 Permitted Uses

The following are permitted principal uses in the AOZ Agricultural Overlay Zone:

- (a)** Commercial farms as permitted and regulated by §25-10.3.8
- (b)** Any principal permitted use in the underlying zone district.

25-10.12.9.2 Accessory Uses

The following are permitted accessory uses in the AOZ Agricultural Overlay Zone:

(a) Uses customary and incidental to commercial farms as permitted and regulated by §25-10.3.8

(b) Any accessory use permitted in the underlying zone district.

25-10.12.9.3 Conditional Uses

The following are conditional uses in the AOA Agricultural Overlay Zone:

(a) Any conditional use permitted in the underlying zone district.

25-10.15 Regulations For Conditional Uses.

25-10.15.1 Purpose; Site Plan Review Required. The purpose of this section shall be to provide specific regulations applicable to all conditional uses provided for in this Chapter. In all cases, an application for site plan review will be submitted simultaneously with the application for the issuance of a conditional use permit in accordance with the provisions of N.J.S.A. 40:55D-67.

25-10.15.2 Public Schools.

- a. Public Schools shall be located on tracts of land having not less than five (5) acres or one (1) acre per one hundred (100) students whichever is greater.
- b. The maximum height of the building shall be 35 feet;
- c. Off-street parking shall be provided on the basis of one (1) space for each teacher and staff member, plus a minimum of ten (10) spaces for visitors. If there is an auditorium, additional off-street parking shall be provided in accordance with the provisions of Sec. 25-10.16.
- d. Where feasible, there shall be two means of access to the site, one of which may be designated for entry to the site and one for exiting the site.

25-10.15.3 Churches and Places of Worship.

- a. Places of Worship. In reviewing the site plan for churches, the Board shall take particular note of ancillary uses such as social events, recreational activities, convocations, child care, educational services and similar activities. Reasonable requirements shall be established to minimize any adverse impact on surrounding areas.
- b. Minimum Lot Area. The minimum area for Places of Worship shall be as follows:

<u>Zone District</u>	<u>Minimum Site Area Per Square Foot of Floor Area of All Buildings (s.f.)</u>	<u>Maximum Coverage of All Impervious Surfaces (%)</u>
SF	15	65
TH	15	65
C	15	65

- c. Off-street parking shall be provided in accordance with the provisions of Sec. 25-10.16
- d. Where feasible, there shall be two means of access to the site, one of which may be designated for entry to the site and one for exiting the site.
- e. A buffer of fifty (50) feet shall be provided where it abuts a residential zone.

25-10.15.4 Essential Services and Public Utility Structures. Public utility uses and structures necessary and convenient provision of the central services to the neighborhood or area in which the particular use is to be located, shall be permitted on minimum lots of 15,000 sq. ft. subject to adequate buffering and landscaping and adequate off-street parking as determined by the municipal agency based upon the reasonably expectable requirements of the particular facility. No service or storage yard shall be permitted in residential districts. All structures shall be located at least 25 feet from any rear or side property line and 50 feet from any front property line.

25-10.15.5 Cluster Subdivisions.

- a. The Applicant must show that the use of design flexibility in plotting a subdivision under a cluster arrangement would result in the preservation of irreplaceable scenic qualities of land and/or water areas or areas of environmental sensitivity, or mitigate the special health and safety constraints created in mined areas.
- b. The minimum tract size: Not less than ten (10) acres.
- c. Minimum lot size and yard requirements: 70% of that which is required in the applicable zone.
- d. Housing type: Limited to single-family detached residential buildings
- e. No structure shall be erected on lands having a slope in excess of 15% or on wetlands.

- f. Lands required to be dedicated shall be so located as to meet the needs of open playgrounds, rights-of-way protecting major streams or open drainage ways, buffer areas and other environmental criteria, or to provide additional neighborhood area for recreational purposes or school purposes. The Planning Board shall make certain that not only Township requirements shall be satisfied, but that dedicated areas be so located as to meet any possible future needs of the neighborhood or region.
- g. The Planning Board shall have full discretion as to the location and size of the various use need areas and their distribution. The Planning Board shall not generally approve areas of less than five (5) acres except when such a site is considered adequate for its specific use, and the Board shall make certain that a reasonable portion of required dedicated area shall be located so as to specifically serve the need of the development where located.
- h. The Planning Board may require such recreational improvements necessary to promote the use of the open space for its designated purpose.
- i. The open space resulting from approval of a cluster subdivision may be offered to the Township of Mine Hill, but if the Township declines to accept the dedication, the developer shall then establish an open space organization made up of owners of the approved lots in the subdivision, which organization shall meet all of the standards set forth in N.J.S. 40:55D-43. A copy of a Certificate of Incorporation of said organization and of the proposed bylaws thereof shall be submitted by the developer to the municipal agency for review and approval.

25-10.15.6 Day Care Centers.

- a. Any proposed day care center must show that it meets all requirements of the state of New Jersey for issuance of license or that it has obtained such a license.
- b. An opaque fence or dense planting of evergreens shall be maintained between an outdoor play area and any public street or next to a property used for residential purposes.
- c. Access to the site shall be so arranged that children can be discharged and picked up on site.
- d. A buffer of fifty (50) feet shall be provided where such a lot abuts a residential zone.

25-10.15.7 Soil Removal in the ED (Economic Development) District Zone. In addition to the uses permitted in the ED (Economic Development) District, the mining, excavation and removal of soil from the site for commercial purposes shall be allowed as a conditional use, subject to the conditions and limitations set forth below. By “soil” is meant all unconsolidated mineral and organic material of whatever origin including waste material piled or stored on site as the result of previous iron-ore mining activities which overlies the bedrock and which can readily be excavated, including, but not limited to, earth, dirt, stone, gravel, sand, humus, clay, loam, rock and mixtures of any and all such materials.

25-10.15.7.1 Development Plan. No soil mining, excavation and removal use shall be permitted in the ED (Economic Development) District unless the Development Plan for any such proposed soil mining use includes also one or more additional (non-mining) industrial uses requiring construction of buildings and meeting the requirements of the District. Any such additional industrial use(s) must be located and constructed within the ED (Economic Development) District provided all the lands forming a part of such Development Plan are contiguous and adjoining.

25-10.15.7.1.1 Additional Requirements.

- a. The property located within the ED (Economic Development) District are a portion of a substantially larger tract which is currently in common ownership and includes also considerable acreage in the Township of Roxbury and the Borough of Wharton. No subdivision of any portion of such tract located within the Township of Mine Hill shall be permitted if a soil mining operation is to be established thereon, unless and until a Development Plan encompassing this entire tract within the Township of Mine Hill and including a non-mining industrial development proposal for those portions of this tract not a part of the soil removal operations (including, in particular, those portions located in the ED (Economic Development) District is submitted to and approved by the Planning Board and governing body of the Township in accordance with the requirements of said subsection 25-10.10.
- b. The terms of site plan approval and/or the Developer's Agreement with the Township, shall include appropriate provisions and limitations to insure the non-mining industrial development proceeds toward completion simultaneously with the commencement and carrying-on of the soil mining operations. Such provisions shall include mandatory schedules and timetables for completing roads, utilities and other “site” improvements (including offsite and off-tract improvements) required in connection with the non-mining industrial development, as conditions to

be met before soil mining operations can continue and/or proceed to the next stage (phase). Such other provisions and limitations as the Planning Board and/or Governing Body of the Township deem appropriate to insure a development simultaneously of both soil mining and non-mining industrial uses upon the large tract formerly constituting Allen-Wood Steel Co. property, may also be imposed.

- c. Any subdivision re-required or requested in connection with and in order to separate any such proposed non-mining industrial development and any proposed non-industrial development from the soil removal use shall indicate by deed restrictions and/or appropriate statements on the filed subdivision map(s), any such limitations and restrictions imposed upon the continuation of the soil mining operations relating to moving forward and/or completing the non-mining industrial development and non-industrial portions of any such Development Plan for a soil mining use.
- d. Any such non-mining use(s) proposed as a part of a Development Plan for a soil mining operation must encompass and involve not less than one-third (1/3) of the total number of acres within which approval to conduct soil mining is sought.

25-10.15.7.2 Regulations, Requirements, Standards and Limitations Governing Soil Removal and Mining in the ED (Economic Development) District. All commercial soil mining, excavation and removal uses in this ED (Economic Development) District shall comply with the following regulations, standards, requirements and limitations.

25-10.15.7.2.1 Minimum Area. A minimum area of one hundred (100) acres shall be required for a soil mining and removal use.

25-10.15.7.2.2 Maximum Area Within Which Soil Removal Operations Shall Be Permitted to Be Conducted at Any One Time. Limitations on the maximum area within which soil mining operations shall be permitted at any one time shall be accomplished by the phasing or staging of the soil removal operation, the detail of which shall be set forth and approved by the Council of the Township of Mine Hill as a part of the Developer's Agreement with the Township of Mine Hill for a soil removal permit in accordance with the requirements of the Soil Removal Ordinance of the Township ("An Ordinance to Regulate the Removal of Soil for Sale or for Use Other than on the Premises and to Provide Penalties for the Violation Thereof."), as amended from time to time.

- a. Staging (phasing) to be made a part of developer's agreement. The terms, conditions and details regarding such phasing or staging of any soil mining use conducted in the ED (Economic Development) District shall also be set forth in a complete and comprehensive fashion in the Developer's Agreement which the Developer shall be required to enter into with the Council of the Township of Mine Hill, as required by these regulations and more particularly described below.
- b. Staging (phasing) to be shown on site plan. The details regarding the staging (phasing) of any soil mining use or operation conducted in the ED (Economic Development) District shall also be set forth and shown on the development plans submitted to the Planning Board of the Township of Mine Hill for Site Plan Approval.

25-10.15.7.2.3 Monumentation and Benchmarks. Prior to the commencement of any soil mining operations, concrete monuments shall be installed marking the outside limits of all areas to be disturbed. In addition, temporary monuments shall be installed to also mark the limits (boundaries) of the various staging (phase) areas. The developer shall also provide appropriate benchmarks to provide the Township with vertical control over the operations and to facilitate the checking of grades to insure all terms and conditions of site plan approval and the soil removal permit are being complied with by the developer. The location of the concrete monuments shall be set forth on the site plan and referenced to N.J. Plane Coordinate System, and all monumentation and benchmarks (U.S.G.S. -1929 Mean Sea Level Datum) shall be located at such locations and in such fashion as the Township may direct.

25-10.15.7.2.4 Staging Limitations. The right of the developer (owner) to continue soil mining operations shall be contingent upon the developer's performance in the restoration and reclamation of those areas of the site where soil mining operations have previously taken place, in accordance with the requirements of this Land Use Chapter, site plan approval and the Developer's Agreement with the Township.

- a. **Extension of Soil Mining.** Soil mining and removal shall not be extended into the next succeeding phase (section) area, as delineated on the approved site plan, until not less than eighty (80%) percent of the preceding phase (section) area as measured horizontally has been completely restored and such restoration has been inspected and approved by the Township as meeting all controlling regulations and conditions. However, in order to provide adequate area in the adjoining and next succeeding phase (section) area, soil mining and removal operations may be extended into such next phase (section) to a maximum extent of twenty (20%)

percent of the next phase (section). Under no circumstances, however, shall soil disturbance (grading, excavation, removal or any other activity relating to soil mining) take place beyond this maximum of twenty (20%) percent into the next succeeding phase of the approved soil mining operation, unless and until a minimum of eighty (80%) percent of the preceding phase (section) area has been restored.

- b. **Three or More Phases.** Where the soil mining operation receiving approval is divided into three (3) or more phases, no soil disturbance shall take place in the third phase (section) area beyond the twenty (20%) percent limit, unless and until one hundred (100%) percent of the area forming part of the first phase (section) and eighty (80%) percent of the area forming a part of the second phase (section) have been restored and such restoration inspected and approved by the Township, and so set forth where more than three (3) phases are delineated and approved.

25-10.15.7.2.5 Storage and Reservation of Topsoil. A

development plan for conducting soil mining shall make provision for the reservation of all topsoil in stockpiles on the site to be redistributed as a part of the restoration process. No topsoil shall be removed from the site. If the developer cannot otherwise stabilize and restore the disturbed areas in accordance with the controlling Township ordinances and/or the requirements of final site approval and the soil removal permit, the developer shall be required to promptly provide additional topsoil from off-site locations if the site lacks adequate quantities of topsoil to achieve restoration.

This storage and reservation of topsoil shall be accomplished in accordance with the Soil Erosion and Sediment Control Ordinance of the Township, as more particularly described below, and all the requirements of final site plan approval, the Developer's Agreement and the terms and conditions of the soil removal permit issued by the governing body of the Township.

Temporary seeding, as well as appropriate Soil Erosion and Sedimentation control measures, shall be required with respect to the stockpiling and reservation of topsoil on the site.

25-10.15.7.2.6 Soil Erosion and Sedimentation Control. A

detailed plan for soil erosion and Sedimentation control must accompany and be approved as a part of any development plan for soil mining. Such plan shall comply in full with the Soil Erosion, Sediment Control and Flood Prevention Ordinance of the Township, adopted, June, 1977, as amended, and such additional requirements as are imposed by the Township pursuant to this Land Use Chapter as may be made part of the final site plan approval, the Developer's Agreement and/or the soil removal permit. Prior to final approval by the Township, this soil erosion and Sedimentation control plan shall be submitted by the developer to the Morris County

Soil Conservation District for review and recommendations.

- a. **Seeding and Planting.** Any such Soil Erosion and Sedimentation Control Plan shall include detailed specifications for temporary seeding and/or planting of vegetation, as well as for permanent seeding and/or planting of permanent vegetation, mulching, contents of topsoil and details regarding all other aspects of any such plan. Both temporary and permanent measures designed to establish, preserve and restore disturbed areas shall be undertaken as soon as possible, taking into consideration the needs of the developer not to have such measures unreasonably interfere with the ongoing soil mining operations in the area or areas in question.
- b. **Dust Control.** Any such soil erosion plan shall include provisions for dust control for the protection of adjoining and nearby residential and nonresidential properties, including measures for both on-site and off-site dust control. Effective dust control constitutes a major, if not the major objective to be achieved by any approved soil erosion and sedimentation control plan implemented by the developer. In particular, any approved plan for dust control shall take into consideration the peculiar and unique characteristics of the, extensive quantities of “tailings” which are located within this industrial zone as a by-product of iron ore mining.
- c. **Protection of Public Streets.** The Soil Erosion and Sedimentation Control Plan shall also include provisions and details to insure protection of all public streets and rights-of-way in the immediate area and/or used by the developer in trucking soil materials from the site. Such plan shall include procedures for periodically cleaning public streets to insure all dust, soil and other materials spilled from or otherwise resulting from such trucking operations are removed.
- d. **Storm Drainage and Ground Water Control.** Any plan for Soil Erosion and Sedimentation Control forming a part of a Development Plan for soil mining shall also include detailed plans, specifications and provisions to insure storm waters and ground waters created, affected or otherwise involved and/or resulting from such mining operations are properly and adequately disposed of and/or controlled.

Such plans shall include provisions and measures to adequately protect wells serving property owners in the vicinity, as well as all sources of public water supply and all streams, brooks, water courses, ponds and other bodies of water in the immediate area or otherwise affected by the soil mining operations.

- e. **Maintenance of Level Areas.** Level areas, grades and slopes near or around the perimeter of all excavated areas as specified and approved as part of the Development Plan given final site plan approval and/or as set forth in detail in the Developer's Agreement shall be maintained. Such level areas, grades and slopes shall be required and maintained to assure the safety of vehicles and persons in or near all such excavated areas. Temporary seeding, as well as other appropriate soil erosion and sedimentation control measures shall be implemented in these level areas and on these grounds and slopes near or around the perimeters as soon as is practical, taking into consideration the needs of the developer not to have such measures unreasonably interfere with the soil mining operations in progress in the area or areas in question.
- f. **Noise Control.** The Development Plan and Developer's Agreement shall include provisions to keep noise resulting from equipment and trucks used to carry on soil mining operations to a minimum.
- g. **Blasting (Dynamiting) Prohibited.** No blasting, dynamiting or the use of any type of explosives -or charges shall be used in conducting soil mining operations.
- h. **Restoration and Reclamation for Future Use.** Any Development Plan for a soil mining use shall provide for the restoration and reclamation of the site to permit either a future use (industrial, commercial or residential) by the owner in accordance with the Township's then controlling zoning regulations, or use by the public as a park, recreational facility or similar public purposes. Since it is anticipated extensive depressions containing water, i.e., man-made ponds (lakes) will result from soil, the developer and the governing body of the Township shall give consideration to including in their Developer's Agreement appropriate provisions for converting the site or sections thereof into a park, a recreational facility, or similar use beneficial to the public, and, in particular, the residents of

Mine Hill. Any such provision shall take into consideration the plans and rights of the developer as the owner of this soil mining site to use and develop this property for the benefit of the developer.

Restoration and reclamation shall be commenced as soon as soil removal operations are completed in a particular section or area; it being a requirement that restoration and reclamation shall take place simultaneously along with the soil removal and mining operations and as soon as reasonably possible, taking into consideration the impact of the ongoing soil mining activities in the area or section in question on any such restoration and reclamation efforts and the needs of the developer not to have his soil mining operations unreasonably interfered with by any such restoration and reclamation measures.

- i. **Limitations Upon Truck Access to Site.** Trucks entering and/or carrying soil removed from the site of any soil mining operation shall not be permitted to use existing public roads which pass through existing residential areas. Specifically, trucks entering and/or leaving the soil mining site shall not be permitted to use Wharton Avenue, Scrub Oak Road or Randall Avenue.

No Development Plan for a soil mining use shall be approved unless a truck access route satisfactory to the Township is included in and approved as part of such Development Plan. Any such plan shall include provisions for protecting, repairing and restoring the public roads which are to be used for ingress and egress, and which as the result of use of same by trucks entering and leaving the soil mining site are damaged or otherwise require cleaning and/or repairs as a result of such use, including details regarding protection and stabilization of the area at the points of entrance onto public roads.

To the extent deemed necessary by the Planning Board and/or governing body of the Township, the developer shall, be required to improve -including paving - on-site truck routes to those areas which at any particular time are being mined. Such requirement shall be imposed when and where appropriate by the Township for dust control, soil erosion and sedimentation control, for the protection of areas previously restored and reclaimed, for the safety and protection of vehicles and persons using such on-site access

routes, and for other similar objectives designed to protect the public from the adverse impact of soil mining operations upon the environment and properties in the vicinity.

25-10.15.7.2.7 Restriction on Equipment and Processing. "No equipment or facilities for the crushing, mixing, processing or other treatment of soil (materials) which are the subject of the soil mining operations shall be permitted in the ED (Economic Development) District east of Iron Mountain Road or its projection. The only equipment permitted on the site of any soil mining operation shall be equipment required for excavation, soil removal, screening, grading, seeding, restoring and reclaiming the site, and for loading the soil onto and into trucks and vehicles for removal from the site, including portable screening equipment and scales. None of such equipment shall be attached to the site (ground), but shall be movable, and all such equipment shall immediately be removed from the site once the soil mining operations are concluded and/or the equipment in question is no longer needed.

No building shall be erected, constructed or placed upon the site, including temporary structures, unless such buildings are shown upon and made a part of the Development Plan submitted to the Planning Board for approval. All such buildings or structures shall comply with the size, height, bulk and other requirements of this Land Use Chapter governing the erection of buildings and structures in the District.

- a. **Restrictions on Hours of Operation.** No soil mining or soil removal operation or activities shall be conducted on Sundays or holidays. In addition all soil mining and soil removal activities shall be conducted between the hours of 7:00 a.m. and 6:00 p.m. on those days when such activities are permitted.
- b. **Buffer Requirements.** A buffer zone with a minimum depth of three hundred (300) feet shall be provided and maintained along the property lines of all tracts upon which soil mining operations are conducted. Where the property in question extends into an adjoining municipality, or into an adjoining zoning district within the Township of Mine Hill, this buffer zone shall be maintained along the Mine Hill Township municipal boundary line or the zone line, as the case may be.

Where soil mining operations are allowed by the applicable zoning regulations as a permitted use or are otherwise lawfully taking place upon adjoining property located in an adjoining municipality, no buffer zone shall be required along those sections of the municipal boundary line which border upon such property located in another municipality.

All such buffer areas shall be maintained in their natural state where wooded or not previously disturbed. No soil disturbance by grading, excavating or otherwise shall be permitted in any buffer area, unless authorized as part of final site plan approval for the protection of adjoining properties. No structures or any other improvements shall be located within these buffer areas, nor shall any equipment, trucks or other vehicles used in or resulting from the soil mining operations be stored, placed, located or parked in any of these buffer areas.

Where natural vegetation is sparse, plants, seeding and similar landscaping protective measures shall be required. Berms and other screening and protective devices shall be required if deemed necessary by the Planning Board to protect adjoining properties particularly where residential zones and uses are involved.

25-10.15.7.2.8 Fees to Cover Township Expenses. Because of the extensive soil mining operations which are expected to be conducted within this (ED) Economic Development District frequent and continuous inspections and monitoring will be required by Township officials and representatives, throughout the entire period of any such soil mining operation. In addition, an extensive and detailed review of any Development Plan for a soil mining operation will be required by appropriate Township bodies and officials, particularly the Township Engineer. To insure all engineering, legal and other expenses incurred by the Township in reviewing and approving any such Development Plan and in monitoring and inspecting any soil mining use following approval and throughout its entire course of operation, in addition to all other fees and charges required (a) for site plan approval by this Land Use Chapter (b) for a land disturbance permit as required by the said Soil Erosion and Sedimentation Ordinance of the Township, and (c) the charge per cubic yard of soil (material) removed from the site as required by the Soil Removal Ordinance of the Township (“An Ordinance to Regulate the Removal of Soil for Sale or for Use Other than on the Premises and to Provide Penalties for the Violation Thereof), there shall be paid to the Township Clerk at the time an application for the necessary soil removal permit is filed, such sum per acre for each acre on which soil removal operations are to be conducted, which sum is hereby determined to be the minimum “reasonable cost” to the Township, as provided for in the said Soil Removal Ordinance to cover the anticipated engineering and legal fees to be incurred by the Township in processing, reviewing and acting upon the Development Plan and soil removal permit application for a soil mining operation in the (ED) Economic Development District. In the event costs to the Township exceed this minimum “reasonable cost” fee, plus the regular fees, the developer is required to pay for a Development Plan involving soil mining, as specified above, the applicant (developer) shall be required to pay additional sums to the Township to cover the expenses of the Township related to such development proposal in accordance with the procedure set forth in detail in subsection 25-11.1, et. seq.

25-10.15.7.2.9 Monitoring and Inspection. Throughout the entire period and course of any soil operation, there shall be constant and continuous monitoring of such operation by the Township Engineer and/or other officials and representatives designated by the Township. The Township Engineer shall make on-site inspections not less than once per month during all times where soil mining activities are being conducted and shall file monthly written reports to the governing body of the Township setting forth the results of such inspections. As a required condition of all Development Plan approvals for soil mining, the Township Engineer and/or other designated Township officials and representatives shall be permitted at all times to enter the soil mining site for the purpose of monitoring and inspecting.

25-10.15.7.2.10 Monthly Reports of Quantities Removed by Owner. The owner of the property upon which a soil mining operation is located, shall furnish the governing body of the Township with monthly reports giving the details regarding the quantity of soil removed from the site, including total number of truckloads of material taken off the site and the average number of trucks per day, and such other information regarding the ongoing operation as the Township Engineer and/or the governing body may reasonably deem necessary for efficient monitoring.

25-10.15.7.2.11. Certification of Quantities Removed. The owner of the soil mining Operations shall have the topography of the tract flown once every three (3) years during the entire period of any soil mining operations conducted in this O/I-Office Industrial Zone. Immediately following each such three (3) year aerial survey of the topography of the soil mining site, the owner shall provide the Township with a certification of the quantities removed during the three (3) year period in question signed by a licensed New Jersey professional engineer to insure adequate accounting of such quantities. Vertical measurements below the water surface shall be required and furnished to the Township on a one hundred (100) foot grid and also certified by a licensed New Jersey professional engineer, as a part of this three (3) year certification. The Township shall be furnished with sealed copies of all maps and reports which result from each such three (3) year aerial survey.

25-10.15.7.2.12 Violations. If the Township determines that at any particular time, any one or more conditions or requirements of site plan approval, of the soil removal permit, or of the Developer's Agreement are not being satisfactorily met or complied with, a ten (10) day Written Notice of Violation(s) shall be served upon the owner of the subject property and upon the failure to correct such violations within this ten (10) day period, a stop-work order pending the correction of such violations shall be issued.

25-10.15.7.2.13 Site Plan, Soil Removal Permit and Developer's Agreement Required. Any development plan for a soil mining use (operation) to be conducted in the (ED) Economic Development District districts must be in accordance with the requirements of the Township's Land Use Ordinance and be submitted to the Planning Board of the Township for preliminary and final site plan approval. Final site plan approval shall not be granted by the Planning Board until (a) the governing body has issued a soil removal permit to the developer, and (b) the developer has entered into a Developer's Agreement with the governing body of the Township covering the staging (phasing) of the proposed soil mining operation, in order to assure compliance with same by the developer, including the relating of

such staging to a timetable for completion of “site” improvements and/or buildings forming a part of the non-mining industrial development proposed as part of the same development plan. Such Developer's Agreement shall be consistent with the requirement of this section, the Soil Removal Chapter of the Revision and the “Soil Erosion, Sediment Control and Flood Prevention Ordinance of the Township of Mine Hill,” enacted June, 1977, as amended. In any event, soil mining operations, including soil disturbance activities relating or preliminary thereto, shall not commence until such a soil removal permit has been issued to the developer and a Developer's Agreement entered into with the governing body of the Township. Such agreement shall cover not only the soil mining use, but also those sections of the tract forming part of the development plan which are to be devoted to non-mining uses. No construction work or soil disturbance activities relating either to the mining or non-mining uses and development shall be commenced until such a Developer's Agreement has been executed and the necessary performance and maintenance guarantees posted to assure completion of all “site” improvements and/or site restoration and reclamation procedures once work on such improvements and/or soil mining is commenced.

25-10.15.7.2.14 Performance Guarantees. Performance guarantees in accordance with the requirements of this Chapter shall be furnished as a condition for securing final site plan approval and a soil removal permit. Such performance guarantees shall include an amount fixed by the governing body to insure restoration and reclamation of the soil mining site in accordance with the terms and conditions of site plan approval and the Developer's Agreement, as well as the performance by the owner of all other terms and conditions of the Developer's Agreement. All such performance guarantees regarding restoration and reclamation shall remain in full force and effect during the entire period mining operations are conducted and until restoration and reclamation are completed.

As the soil mining operation progresses and restoration is completed in sections and phases of the site upon which the soil mining operations are being conducted, the amount of the performance guarantees posted for such restoration may be reduced in accordance with the procedures established by this Chapter and the Municipal Land Use Law; provided the governing body of the Township approves the amount of any such decrease.

25-10.15.7.2.15 Areas Previously Mined. No soil disturbance by way of excavation, mining, grading, leveling or otherwise shall be permitted within fifty (50) feet of any portion of this (ED) Economic Development District where prior iron ore mining operations were conducted. In accordance with the requirements of this Land Use Chapter, the Development Plan for any soil mining operation in the (ED) Economic Development District and for any non-soil mining industrial development in those portions of the subject tract located in adjoining (ED) Economic Development District shall not be approved unless and until the plans, drawing and proposals forming a part of any such Development Plan indicate that the subject property will be rendered safe for both construction (if any) and human entry by the elimination of all mining hazards resulting from such prior iron ore mining in a manner meeting the standards, requirements and conditions of subsection 25-10.18. As required by such standards of said subsection 25-10.18, mining hazards located in any portion of tract which is the subject any

portion of tract which is the subject any such Development Plan and/or Subdivision Plan, must be eliminated, whether or not the portion or portions of the tract upon which such mining hazards are located is presently proposed for use, construction or development.

25-10.15.7.2.16 Final Site Plan Approval. Prior to the grant of final site plan approval for a soil mining use (operations), the developer shall file (in addition to all other copies of plans required by this Land Use Chapter) one (1) original reproducible (Mylar sepia) copy of the site plan drawings showing all aspects and phases of the soil mining operation, including, but not limited to, the plans for the restoration and reclamation of the affected areas.

25-10.15.8 Telecommunications Tower and Antennae.

25-10.15.8.1 Purpose. The purpose of this section is to set forth terms and conditions for the siting of wireless communications towers and antennas within the geographic boundaries of Mine Hill Township. The goals of this ordinance are to: (1) protect residential areas and land uses from potential adverse impacts of towers and antennas; (2) encourage the location of towers in specific areas within the Township; (3) minimize the total number of towers throughout the Township; (4) strongly encourage the joint use of new and existing tower sites for collocation of antennas as a primary option rather than the construction of additional single-use towers; (5) encourage users of towers and antennas to locate them, to the greatest extent possible, in areas where the adverse impact on the community is minimal (6) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening and innovative camouflaging techniques; (7) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently; (8) consider the public health and safety of communication towers; and (9) avoid substantial detriment to the public good and will not substantially impair the intent and purpose of zoning. In furtherance of these goals, the Township of Mine Hill shall give due consideration to the Township of Mine Hill's master plan, zoning map, existing land uses and environmentally sensitive areas including but not limited to view corridors in approving sites for the location of towers and antennas. This ordinance further seeks to comply with the mandate of the Federal Telecommunications Act of 1996, 47 U.S.C. Section 332(c)(7), which preserves local government authority to manage with respect to cellular and other wireless telecommunications services, to enforce zoning requirements that protect public safety, public and private property and community aesthetics. This ordinance expressly recognizes that the New Jersey Supreme Court, in *Smart SMR of New York, Inc., v. Borough of Fair Lawn Board*, 152, N.J. 309 (1998), has declared that wireless telecommunications facilities are not inherently beneficial uses and that the facility use must be particularly suited for the proposed site.

25-10.15.8.2 Applicability.

- a. New Towers and Antennas. All new towers or antennas in the Township of Mine Hill shall be subject to these regulations, except as provided in Sections b through c.

- b. **Amateur Radio Station Operators/Receive Only Antennas.** This ordinance shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
- c. **Satellite Dish Antennas.** This Ordinance shall not govern any parabolic satellite antennas. However, dish antennas on a tower are prohibited in favor of other forms of antennas, such as whip antennas.

25-10.15.8.3 General Requirements.

- a. **Principal or Accessory Use.** Antennas and towers may be considered an accessory use when located on municipal property, otherwise they are to be considered principal uses.
- b. **Lot Size.** For purposes of determining whether the installation of a tower or antenna complies with zone development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- c. **Inventory of Existing Sites.** Each applicant for an antenna and/or tower shall provide to the Planning Board an inventory of all existing towers (both those controlled by the applicant as well as their competitors) antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Township of Mine Hill or within three (3) miles of any border of the Township thereof, including specific information about the location, height, and design of each tower. The Zoning Officer shall share such information with other applicants applying for administrative approvals or permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the Township of Mine Hill, provided, however, that the Zoning Officer is not, by sharing such information in any way, representing or warranting that such sites are available and/or suitable.
- d. **Aesthetics.** Towers and antennas shall meet the following requirements:
 - 1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or the Township, be painted a neutral color so as to reduce visual obtrusiveness.

2. At a tower site, the design of the buildings and related structures shall to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting surrounding buildings and any sight vistas, and shall be located out of public view (visible from a public street, public land and public buildings) behind existing structures, buildings or terrain features which will shield the buildings and related structure from view.
 3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- e. **Lighting.** Towers shall not be artificially lit, unless required by the FAA. It is the intent of the Township that towers shall not exceed FAA height standards that would require lighting. If lighting is required, the lighting alternatives and design chosen and approved by the Planning Board must cause the least disturbance to the surrounding views.
- f. **Building Codes: Safety Standards.** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Township of Mine Hill concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) calendar days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) calendar days shall constitute grounds for the immediate removal of the tower or antenna at the owner's expenses.
- g. **Not Essential Services or Inherently Beneficial Uses.** Towers and antennas shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as inherently beneficial uses, essential services, public utilities or private utilities.

- h. **Franchises.** Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Township of Mine Hill shall have been obtained and shall file a copy of all required franchises with the Zoning Officer.
- i. **Signs.** No signs shall be allowed on an antenna or tower.
- j. **Buildings and Support Equipment.** Buildings and support equipment associated with antennas or towers shall comply with the requirements of Section 25-10.15.8.7.
- k. **Multiple Antenna/Tower Plan.** The Township of Mine Hill encourages and mandates the users of towers and antennas to co-locate antennas where technically, practically and economically feasible. Applications for approval of collocation sites shall be deemed to have satisfied the purposes of this ordinance.
- l. At the time of application, the tower construction/owner shall be required to submit computer enhanced photos showing how the tower will reflect upon the surrounding properties/geographic area.
- m. All towers shall be equipped with anti-climbing devices to prevent unauthorized access to the tower and the antennas located thereon.
- n. All towers and appurtenances shall be required to have their wiring for such necessities as telephone and electricity (for example) placed underground to the site and tower/appurtenant buildings.
- o. Any towers constructed within the Township shall, if required by the Township, have placed upon such tower any emergency sources antenna required by the Township for its use at no cost to the Township.
- p. **Design Details:**
 - 1. Any proposed new tower shall be of a “monopole” variety, unless the applicant can demonstrate, and the Planning Board agrees, that a different type of pole is necessary for the collocation of additional antennas on the tower.
 - 2. No antenna shall be located on any tower in order to provide non-cellular telephone service. Such service shall be provided via existing telephone lines if available to the site or by the underground extension of telephone lines to the site if necessary.

- q. **Land Disturbance.** The Applicant shall be required to demonstrate that the extent of disturbance shall be the minimum required for the construction of the tower and all the pertinent structures thereto. Said information shall be submitted in a format that is acceptable to the Township Engineer for review. The Applicant shall be required to minimize disturbance by use of appropriate engineering devices including, but not limited to, fences, retaining walls, and the like.
- r. **Access.** The Applicant shall demonstrate to the approving Board that the driveway access shall be sufficient to provide safe and efficient access to and from the site. However, the Applicant shall be authorized to utilize driveway standards of the Township of Mine Hill to meet the access requirements.

25-10.15.8.4 Permitted Uses.

- a. **General.** The uses listed in this Section are deemed to be permitted uses in all non-residential zones and shall not require a conditional use permit or variance application.
- b. **Permitted Uses.** The following uses are specifically permitted:

Antennas or towers located on property owned, leased, or otherwise controlled by the Township of Mine Hill of five (5) or more acres provided a license or lease authorizing such antenna or tower has been approved by the Township of Mine Hill. However, the Township shall, as a condition of such lease, require site plan approval. The decision to extend such leases to an applicant shall be vested solely with the Township; shall not be governed by this ordinance; and shall be subject to the bidding requirements of the Local Public Contracts Law of the State of New Jersey. The Township, in its absolute discretion, reserves the express right to deny any and/or all use of its property for antennas or towers.
- c. The Township encourages the concept of collocation.

25-10.15.8.5 Conditional use Permits and Variance Application.

- a. **List of Conditional Uses.** Towers shall be authorized as conditional uses on all non-residential property in the Township of Mine Hill subject to the following conditions.
 - 1. **Existing and new towers.** Antennas on existing towers consistent with terms below. In fact, the Township

encourages the concept of collocation. An antenna may be attached to an existing tower in any district, and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

- (a) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Planning Board allows reconstruction as a monopole.
- (b) Onsite location.
 - (i) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location.
 - (ii) After the tower is rebuilt to accommodate collocation, only one (1) tower may remain on the site.
 - (iii) A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating required separation distances between towers. The relocation of a tower hereunder shall in no way be deemed to cause a violation of this ordinance.
- (c) **Setbacks.** The following setback requirements shall apply to all towers for which a variance or conditional use permit is required:
 - (i) Towers must be set back a distance equal to at least one hundred twenty percent (120%) of the height of the tower from any adjoining lot line, all non-appurtenant buildings, and street right-of-way line.

- (ii) Accessory buildings must satisfy the minimum zoning district setback requirements.
 - (iii) No tower shall exist within required buffer or conservation easement areas if adjacent to residential zones.
- (d) **Security fencing.** Towers shall be enclosed by security fencing not less than eight (8) feet in height and shall also be equipped with appropriate anti-climbing measures.
- (e) **Landscaping.** The following requirements shall govern the landscaping surrounding towers for which a conditional use permit is required:
 - (i) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from residences or planned residences. The standard buffer shall consist of a landscaped strip at least ten (10) feet wide outside the perimeter of the compound.
 - (ii) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced.
 - (iii) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the perimeter may be sufficient buffer.
- (f) **General Requirements.** The following provisions shall govern the issuance of conditional use permits or variances for towers or antennas by the Planning Board:
 - (i) If the tower or antenna is not a permitted use under this ordinance, then a variance or conditional use permit shall be required for the construction of a tower or the placement of an antenna at designated sites or within

the zoning districts designated for a tower or antenna within Mine Hill Township.

- (ii) In granting conditional use permit or variance, The Planning Board may impose conditions to the extent the Planning Board concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
- (iii) Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a licensed professional engineer.
- (iv) No towers or antennas shall be permitted as conditional uses in residentially zoned districts unless located upon property owned by the Township of Mine Hill and subject to provisions of Section 25- 10.15.8.4 of this Ordinance
- (v) The application fee and escrows shall be paid as required herein.

25-10.15.8.6 Submission Requirements.

- a. **New Towers may be constructed to hold antennas.** In addition to any information required for applications for conditional use permits pursuant to applicable Township Code provisions and State law, applicants for a conditional use permit or a variance for a tower shall submit the following information to the Approving Authority.
 - 1. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), and all properties within the applicable required separation distances adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking and other information deemed by the Planning Board to be necessary to assess compliance with this ordinance.

2. Legal description of the entire tract and leased parcel (if applicable).
3. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and un-platted residentially zoned properties.
4. The separate distance from other towers described in the inventory of existing sites shall be shown on an updated site plan or map. The Applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
5. A landscape plan showing specific landscape materials including, but not limited to, species type, size, spacing and existing vegetation to be removed or retained.
6. Method of fencing and finished color and, if applicable, the method of camouflage.
7. A description of compliance with subsection 25-10.15.8.3 and applicable federal, state or local laws.
8. A notarized statement by the applicant as to whether construction of a tower will accommodate collocation of additional antennas for future users.
9. Identification of the entities providing the network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Township.
10. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
11. A description of the feasibility of locations of future towers or antennas within the Township based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
12. In order to provide evidence that the proposed location of the proposed tower(s) (and proposed antennas and ancillary building enclosing related electronic equipment) have been planned to result in the fewest number of tower locations

within Mine Hill Township at the time full service is provided by the applicant throughout the Township, the applicant shall provide an overall comprehensive plan indicating how it intends to provide full service throughout Mine Hill Township. Essentially and summarily, the overall comprehensive plan shall indicate the following:

- (a) How the proposed location of the proposed tower relates to the location of any existing towers within and near the Township;
 - (b) How the proposed location of the proposed tower relates to the anticipated need for additional towers within and near the Township by the applicant and by other providers of cellular communications services within the Township;
 - (c) How the proposed location of the proposed tower(s) relates to the objective of collocating the antennas of many different providers of cellular communications services on the same tower; and
 - (d) How the proposed location of the proposed tower(s) relates to the overall objective of providing full cellular communications services with the Township, while at the same time, limiting the number of towers to the fewest possible.
13. A visual study depicting where, within a one (1) mile radius measured at ground level, any portion of the proposed tower could be seen.
14. A letter of commitment to lease excess space to other potential users at prevailing market rates and conditions. The letter of commitment shall be in form suitable for recording with the County Clerk prior to the issuance of any permit and shall commit the tower owner(s), property owner(s) and their successors in interest.
15. Documentary evidence regarding the need for the tower which information shall identify the existing wireless network layout and existing coverage areas to demonstrate the need for the new tower at a particular location within the Township. The evidence shall include a radio

frequency engineering analysis for the search area for the towers.

b. **Availability of Suitable Existing Towers, Other Structures, or Alternative Technology.** No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Board that no existing tower structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Board related to the availability of suitable existing towers, stealth tower structures, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

1. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
4. Applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
6. Applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
7. Applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable micro cell network using multiple low-powered transmitters/receivers attached to a wire line system, in

unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

25-10.15.8.7 Buildings or Other Equipment Storage.

- a. **Antennas Mounted on Structures on Rooftops.** The equipment cabinet or structure used in association with antennas shall comply with the following:
 - 1. The cabinet or structure shall not contain more than two hundred (200) square feet of gross floor area or be more than eight (8) feet in height. In addition, for buildings and structures which are less than forty-eight (48) feet in height, the related unmanned equipment structure shall be located on the ground and shall not be located on the roof of the structure.
 - 2. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than ten (10%) percent of the roof area.
 - 3. Equipment storage buildings or cabinets shall comply with all applicable building codes.
- b. For antennas located on towers, the related unmanned equipment structure shall be located in accordance with the minimum accessory structure requirements of the zoning district in which it is located and the building shall be constructed aesthetically to be compatible with the surrounding character of the neighborhood.
- c. Structures or cabinets shall be screened from view of all properties which abut or are directly across the street from the structure or cabinet by a security fence eight (8) feet in height and an evergreen hedge with an ultimate height of eight (8) feet and a planned height of at least six (6) feet.

25-10.15.8.8 Removal of Abandoned Antennas and Towers. An antenna or tower that is not in use or operation for its intended and approved purpose for a continuous period of six (6) months shall be considered abandoned (“no longer operative”) and the owner of such antenna or tower shall remove the same within sixty (60) calendar days of the mailing of notice to the owner of such determination. If not removed within that time period, it shall be grounds for the Township to require removal of the tower or antenna at the owner’s expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The Township shall condition the

issuance of any permit to construct a tower or antenna on the requirement that the property owner be required to remove the tower and restore the property as determined by the Township Engineer when the last user of said tower will no longer actively need the tower for its communications system.

25-10.15.8.9 Existing Towers, Rebuilding Damaged or Destroyed

Nonconforming Towers or Antennas. Nonconforming towers or antennas that are damaged or destroyed to the extent that the nonconforming provisions no longer apply under law may not be rebuilt without having to first obtain approval from the Planning Board and without having to meet the separation requirements hereinabove specified. The type, height and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within one hundred eight (180) calendar days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned.

25-10.15.9 Public Garages.

- a. Minimum Lot area, 40,000 sq. ft.
- b. Minimum front yard, 40'
- c. Minimum side yard, 20', total two side yards, 50'
- d. Minimum rear yard, 50'
- e. Maximum percentage of lot coverage, 65%
- f. Maximum height in feet, 28'
- g. There shall be no structures including canopies within 40' of the right-of-way line. When located adjacent to a residential zone, there shall be a professionally landscaped buffer area of 25'.
- h. As measured from the right-of-way line, the first 25' of the front yard area shall have a professionally landscaped area.

25-10.15.10 Sale of Building Supplies.

- a. Outside storage is only permitted in the rear yard area if there is a building on the lot.
- b. There is to be no display of merchandise within the front yard setback.
- c. When abutting a residential zone any areas of outside storage must be buffered from adjacent residences with a buffer area that is double the minimum required buffer for the zone.
- d. Minimum lot area 40,000 sq. ft.
- e. No materials may be stored within 50' from any side or rear yard.

25-10.16 Off Street Parking, Loading, Unloading. In all zones, in connection with every business, institution, recreational all, manufacturing, research laboratory, public building, hospital, church or any other use, there shall be provided at the time any building or structure is erected, enlarged or increased in capacity, off-street parking spaces and loading and unloading areas in accordance with the requirements set forth herein in this section. Such facilities shall be completed prior to the issuance of a Certificate of Occupancy. All off-street parking facilities for four or more vehicles shall be subject to site plan review. The standards set forth herein shall not apply to single-family detached structures.

25-10.16.1 Plan and Design Standards.

- a. Parking areas (for four (4) or more vehicles) and access to this parking shall be designated and planned in accordance with accepted engineering and parking design principles.

No parking area, driveway, aisle or other impervious improvement shall be permitted to intrude into the buffer zone of any development, and there shall be no parking area permitted in the minimum required front yard of any lot in the C zone.

- b. All parking areas shall be graded and drainage structures installed to effectively carry off surface waters. Parking areas shall be paved and all improvements shall be constructed and installed in accordance with good engineering practices as required by the Township Engineer and Township standards, as set forth in subsection 25-7.2.10.6 and in other regulations of the Township.
- c. For reasons of safety all parking areas shall be lighted but all lighting shall be designed and operated so as not to reflect or shine directly on adjacent properties. Lighting shall be installed and maintained as required in Performance Standards of this section.
- d. Parking spaces, driveways and aisles shall be clearly marked and delineated with a four (4) inch wide painted, white line and repainted from time to time as required by the Zoning Officer. For safety and firefighting purposes, direct through access between adjacent parking areas shall be provided.
- e. All parking areas in excess of one (1) acre in size shall be buffered in accordance with subsection 25-7.2.10.6. At least five (5%) percent of the area of parking lots other than buffer areas shall be landscaped. All parking areas in excess of one (1) acre shall have twenty (20%) percent of the area landscaped.
- f. Concrete or granite block curbing as determined by the Planning Board shall be installed along parking lot perimeters, sidewalks, access drives, driveways and to protect landscaping if required. Bumper guards shall not be considered as curbing but may be used as wheel stops where

appropriate. Utility poles or railroad ties shall not be used as curbs or bumper guards.

- g. Each off-street parking space shall measure not less than nine feet by eighteen (9x18) feet exclusive of access drives and aisles except that parallel curb parking spaces shall be eight feet by twenty-five (8x25) feet. No parking areas provided hereunder shall be established for less than four (4) spaces.
- h. No access drive, driveway, pathway or any other means of egress or ingress shall be located. in any SF zone to provide access to uses other than those permitted in any such SF zone.
 - 1. No driveway to or from a parking area shall be located closer than eighty-five (85) feet from the nearest right-of-way line of an intersecting street.
 - 2. Driveways shall have a minimum width of fourteen (14) feet for one-way traffic and twenty-five (25) feet for two-way traffic.
- i. Aisles from which cars directly enter or leave parking spaces shall not be less than:
 - 1. Twenty-five (25) feet wide for perpendicular parking.
 - 2. Eighteen (18) feet wide for sixty (60) degree angle parking.
 - 3. Fourteen (14) feet wide for thirty (30) degree and forty-five (45)degree angle parking.
- j. All driveways and access ways shall be six (6) feet wider than the minimum required widths at the right-of-way line and be maintained for this width for a distance of at least thirty (30) feet into the lot and be tapered gradually to meet the minimum width.
- k. Sidewalks with a minimum width of four (4) feet, exclusive of car overhang, shall be provided in all parking areas for twenty-four (24) or more vehicles, between parking areas and principal structures, along aisles and driveways, and wherever pedestrian traffic shall occur. Sidewalks shall be raised six (6) inches above the parking area except where crossing street or driveways and curbed as a protection to pedestrians using the walks.

25-10.16.2 Joint Facilities. Any two (2) or more nonresidential establishments may collectively join in providing the required off-street parking spaces provided that the total of such parking facilities shall equal the sum of the required parking for each participating establishment. All required parking spaces shall be on the same block and within four hundred (400) feet of the entrances of each of the participating establishments. A legal agreement ensuring that the facility will be available to all participants shall be approved by the Planning Board Attorney before approval of joint parking.

25-10.16.3 Location of Parking Facilities.

- a. Parking facilities shall be located on the same lot as the principal structure, except if space for the required off-street parking is not available on the same lot, off-street parking may be provided on the same block within four hundred (400) feet of the entrance of the use or structure providing that a legal agreement ensuring that the parking will be available so long as the principal use remains and shall be approved by the Planning Board Attorney.
- b. Whenever parking is provided in the rear of any nonresidential structure or use, suitable rear entrance to the structure or use shall be provided.
- c. Parking areas shall be used solely for the parking of automobiles and no repair work, new or used car storage or storage of merchandise may be conducted in a parking area.
- d. No parking shall be permitted on access roads, aisles or driveways.

25-10.16.4 Responsibilities of Owners. It shall be the responsibility of the owner of the property to maintain all off-street parking, loading and unloading areas, driveways, aisles and access ways in good condition, free of litter and refuse, pot holes, cracked pavement, ice, snow or other seasonal hazards, etc. All lighting, bumpers, markings, signs, drainage and landscaping shall be similarly kept in workable, safe and good condition. If the owner fails to undertake repairs, after proper notification by the Building Inspector or Zoning Officer, the governing body may authorize repairs to be made at the owner's expense if, in the governing body's opinion, conditions constitute a hazard to the safety and welfare of the Township residents and visitors.

25-10.16.5 Off-Street Loading and Unloading. All nonresidential uses with five thousand (5,000) square feet or more of building area shall have provision for off-street loading and unloading.

All such spaces shall be designed and planned in accordance with generally accepted engineering principles and be approved by the Township Engineer and by the Planning Board as a part of site plan review.

25-10.16.6 Planning Board Waiver. Because of unique topographical, horticultural, soils, or similar natural or man-made conditions, the Planning Board, under site plan review, may waive one or more design requirements of this section.

25-10.16.7 Schedule of Minimum Requirements for Off-Street Parking. It is the intent to require all uses to provide for adequate off-street parking for tenants, employees, clients and visitors. The following standards are expected to meet this objective. In the event evidence is presented that a particular use or establishment will require more off-street parking

spaces than required by ordinance, the Planning Board under site plan review, may require that additional off-street spaces be provided.

- a. In the event the number of required parking spaces results in a fraction of space, one more parking space shall be provided.
- b. In cases of uses not specifically mentioned, the Planning Board shall determine the number of spaces required after review and recommendation by the Planning Board consultant and/or the Township Engineer.
- c. In the event of a mixed use, the required off-street parking shall be the sum, of the required off-street parking for each use.
- d. If an applicant can demonstrate that a particular use does not require all the required off-street parking at the time of approval, the Planning Board may authorize up to twenty five (25%) percent of the required off-street parking to be landscaped and maintained as a parking reserve. Said parking reserve shall be converted into parking (paved and in full conformance with this section) at such time as the Planning Board determines that the need exists. However, the computations for Total Impervious Coverage as required for the zone shall include the area offered for parking reserve.

MINIMUM OFF-STREET PARKING REQUIREMENTS

Use	At Least 1 Space for Each
Automobile and Gasoline Service Station	0.3 bays plus one for each service vehicle
Automobile Sales Establishment; Flower or Plant Nursery; Landscape Gardeners Business having Retail Sales Space	1,000 sq. ft. of building areas used for such purposes
Auction Houses	One (1) space per (2) patron seats provided or one (1) space per fifty square feet of gross floor area, whichever is greater.
Church, Synagogue or other Places of Worship	3 seats.

Club, Lodge or Fraternal Organization	200 sq. ft. of gross floor area.
Commercial or Personal Service Establishment	200 sq. ft. of gross floor area.
Dwelling One and Two Family	0.5 dwelling unit.
Educational Institution, Public or Private	Employees including teachers and administration. Sufficient off-street spaces for the safe and convenient loading and unloading of students. Additional facilities for student parking, taking into consideration the total number of students driving automobiles. The requirements for stadium, gymnasium and auditorium use shall be in addition to these above requirements.
Hospital, Medical and Dental Clinics and other facilities	One (1) space per (400) square feet of gross floor area.
Hospital Pharmacies	One (1) space per (250) square feet of gross floor area.
Hotel and Motel-Convention Center	0.75 - Guest or sleeping rooms.
Indoor Commercial Recreation	One (1) space for every three (3) persons that the facilities are designed to accommodate when fully utilized (if they can be measured in such a manner for example, bowling alleys, tennis courts or exercise stations) plus one (1) space per 200 square feet of gross floor area not associated with the recreation facility.
Light Industrial or Manufacturing Establishment	1 space per 100 sq. ft. of gross floor area, one space per 450 sq. ft. of office space.
Medical or Dental Practitioner's Office	0.25 Professional persons occupying or using each office, Plus an additional space for each employee.

Mortuary or Funeral Home	150 square feet of building area and 1 additional space for each funeral vehicle.
Nursing Home	Each bed.
Private Club	200 sq. ft. of gross floor.
Professional Home Office and Home Occupation	150 sq. ft. of office and reception space.
Publicly Owned or Operated Building and Use, Such as Library, Museum or Post Office	200 sq. ft. of gross floor space.
Restaurant or Tavern .(no live entertainment)	2 seats devoted to service or for each 75 sq. ft of gross floor area, whichever is greater.
Restaurant or Tavern (with live entertainment)	20 sq. ft. of gross floor area.
General Office	250 sq. ft. of gross floor area.
Theatre, Auditorium, In-Door Sports Arenas	3 seats or 100 sq. ft. of gross floor area, whichever is greater.
Wholesale Store, Motor Vehicle Establishment, Furniture Store	350 sq. ft. of gross floor area plus 1 for each employee on the maximum shift.

25-10.16.8 Parking of Commercial Vehicles in Residential Districts. Overnight parking of commercial vehicles is prohibited in residential districts with the exception of vehicles on operating farms where the vehicles are kept at least 300 feet from any adjoining residence, and except as follows:

- a. A commercial automobile, station wagon, van and pick-up truck may be kept overnight on a single-family lot providing such commercial vehicle does not (1) exceed ten thousand (10,000) lbs. gross vehicle weight, (2) exceed 22 feet in length, and (3) have more than two (2) axles.
- b. No van truck, tractor- trailer or vehicle having more than two (2) axles shall be kept overnight on a residential lot.
- c. A commercial vehicle shall not be stored out of doors on residential premises unless it can perform safely and effectively at the function for which it is intended or can be made so at a cost not exceeding the value of

the equipment in its existing state. In no case shall any such equipment be so stored for a period of more than six (6) months if not in condition for safe and efficient performance of the function for which it is intended.

25-10.16.9 Parking of Major Recreation Vehicles. Major recreation vehicles including travel trailers, pickup campers or coaches, motorized dwellings, tent trailers, boats and boat trailers and similar vehicles whether self-powered or attached, are permitted in the side yards and rear yards in residential districts in accordance with the following:

- a. A major recreation vehicle may be kept overnight on an owner/occupied, single-family lot. No more than one such vehicle is permitted for each lot.
- b. No major recreational vehicle shall be parked or stored on any lot in a residential district where it causes or creates a safety hazard to pedestrian or vehicular traffic. No such equipment shall be used for living, sleeping or housekeeping purposes.
- c. No major recreational vehicle shall be stored out of doors on residential premises unless it is in condition for safe and effective performance of the function for which it is intended or can be made so at a cost not exceeding the value of the equipment. In no case shall any such vehicle be so stored for a period of more than six (6) months if not in condition for safe and efficient performance of the function for which it is intended or can be made so at a cost not exceeding the value of the equipment. In no case shall any such vehicle be so stored for a period of more than six (6) months if not in condition for safe and efficient performance of the function for which it is intended.
- d. Corner lots shall be considered as having two front yards. The vehicles may not be parked in either of the “front yards” of corner lots.

25-10.17 General Performance Standards

25-10.17.1 Performance Standards

25-10.17.1.1 General Application. As a condition of approval and the continuance of any use, occupancy of any structure, and operation of any process or equipment, the applicant shall supply evidence, satisfactory to the Planning Board or Board (as the case may be) or to its designated representative, that the proposed use, structure, process, or equipment will conform fully with all of the applicable performance standards. As evidence, or compliance the Board may require certification of tests by appropriate government agencies or by recognized testing laboratories, any costs thereof to be borne by the applicant. The Board may require that specific types of equipment, machinery or devices be installed, or that specific operating procedures or methods be followed if the government agencies or testing laboratories examining the proposed operation shall determine that the use of such specific types of machinery,

equipment, devices, procedures or methods are required in order to assure compliance with the applicable performance standards. Permits and certificates required by other government agencies shall be submitted to the Planning Board or Board (as the case may be) as proof of compliance with applicable codes.

The requirements contained in this section shall not apply to residences, except as otherwise specified herein with respect to prohibitions applicable in all zones.

25-10.17.1.2. Issuance of Permit Subject to Conditions. In the event determination cannot be made at the time of application that a proposed use, process or piece of equipment will meet the performance standards established in this subsection, the Board may issue a permit subject to conditions based on submission of evidence that the proposed use, process or equipment will meet the standards established herein after completion or installation and operation.

Within thirty (30) days after a conditional certificate of occupancy is granted, or upon a mutually agreed upon extension, a final permit shall be applied for and satisfactory evidence submitted that all standards established by this subsection have been met.

25-10.17.1.3 Regulation of Nuisance Elements. A nuisance element is any noise, radioactivity, vibration, glare, smoke, odor, air pollution and dust, which exceeds the performance standards established under this section.

- a. Locations Where Determinations Are To Be Made For Enforcement of Performance Standards.
- b. The determination of the existence of nuisance elements shall be made at the following locations:

<u>Nuisance Characteristic</u>	<u>All Zones</u>
Smoke	Vent or Smokestack
Solid Particles	Vent, Smokestack or Building Wall
Odors	Required Setback Lines
Liquid Wastes	Outlet
Solid Wastes	Building Wall
Radiation	Vent, Smokestack or Building Wall
Noise	Required Setback Lines
Vibration	Building Wall
Glare	Required Setback Lines
Heat	Vent or Smokestack for heated air and at the outlet for heat, liquid or solid discharge

- c. **Continued Compliance.** Continued compliance with the performance standards stated herein shall be a requirement for the

continued occupancy of any structure or the operation of any process or equipment.

25-10.17.1.4 Standards to be Enforced.

- a. **General.** No substance shall be emitted into the atmosphere in quantities which are injurious to human, plant or animal life or to property, or which will interfere unreasonably with the comfortable enjoyment of life and property anywhere in the Township. All provisions of the New Jersey Air Pollution Control Code, as amended and as augmented by regulations hereinafter designated as the “Code”, and all the following provisions stated, whichever shall be the more stringent, shall be complied with.
- b. **Smoke.** In any zone no smoke, the shade of which is darker than No. 1 of the Ringelmann Smoke Chart shall be emitted into the open air from any fuel burning equipment, provided, however, the smoke emitted during the cleaning of a firebox or the building of a new fire, the shade or appearance of which is not darker than No. 2 of the Ringelmann Smoke Chart may be permitted for a period or periods aggregating no more than three (3) minutes in any fifteen (15) consecutive minutes. In any SF zone, no visible smoke shall be emitted into the open air.
- c. **Solid Particles.** In any zone no discharge of solid particles through a stack, duct or vent shall be permitted that is greater than seventy-five (75%) percent of allowable emission in pounds per hour established by Chapters 7 and 8 of the New Jersey Air Pollution Control Code.

No open burning shall be permitted in any zone.

All incinerators shall be approved by the State Department of Health.

Any road, parking area, driveway, truck loading or unloading station, or any other exterior area having a substantial movement of vehicles or equipment shall be paved or otherwise stabilized during construction sufficient to prevent the generation of dust from the movement of such vehicles or equipment.

- d. **Odors.** In any zone, no odorous material may be emitted into the atmosphere in quantities sufficient to be detected without instruments.

- e. **Liquid Wastes.** No liquid waste shall be discharged into any water course in the Township except as herein provided. If the applicant proposes to construct facilities for the treatment of wastes he shall supply:
1. Statement by the New Jersey Department of Health that such proposed facilities are in compliance with applicable State laws and regulations.
 2. Approval by the appropriate officials of the installation of such facilities. No liquid waste shall be discharged into the public sewage collection and disposal system unless the appropriate Township or authority officials shall have first investigated the character and volume of such waste and shall have certified that it will accept the discharge of such waste material into the system. The applicant shall comply with any requirements of said officials including the pre-treating of such wastes, the installation of processing methods, separation or 'screening of wastes, control of pH, and other methods of improving such wastes prior to discharge, as a condition of approval of such facilities.
- f. **Solid Wastes.** Each use shall:
1. Assume full responsibility for adequate and regular collection, storage and removal of all refuse except if Township assumes the responsibility.
 2. Comply with all applicable provisions of the Air Pollution Control Code.
 3. Comply with all provisions of the State Sanitary Code, Chapter 8 "Refuse Disposal", Public Health Council of the State Department of Health.
 4. Permit no accumulation on the property of any solid waste, junk, or other materials. Materials for use by a tenant or property owner may be neatly stored on the property provided that no odors are generated and such storage does not attract rodents or constitutes a nuisance.
 5. Shall not engage in any sanitary landfill operation on the property except as may be permitted by other Township Codes and ordinances.

- g. **Radiation.** The use or presence of ionizing radiation and particle radiation including alpha, beta, gamma, high energy electrons, neutrons, protons and other atomic or nuclear particles is prohibited. Nothing in this section shall prohibit the use of x-rays for diagnostic purposes on human beings or animals, or analytical x-ray equipment uses to determine the electron microscopic structure for quality control or composition of material in the manufacturing process.
- h. **Noise.** The purpose of this section is to ensure that the environmental character of the area surrounding the proposed use, with respect to noise, shall not be altered. The standards established herein shall be interpreted in any specific case with this objective in mind.

Measurements required under this section shall be made at the locations hereinafter. Measurements shall be made by a competent acoustical engineer using equipment meeting the United States of America Standards Institute standard S 1.4-1961 or the latest revision thereof and S 2.22 or the latest revision.

The sound pressure level of any operation shall not exceed the described levels in the designated octave bands shown below for the districts indicated:

SOUND LEVELS

Octave Band in Cycles per second	Along Agricultural or Residential District Boundaries	At any other point on the Lot Boundary-
	Maximum Permitted Sound Level in Decibels	Maximum Permitted Sound Level in Decibels
0 to 75	72	79
75 to 150	67	74
150 to 300	59	66
300 to 600	52	59
600 to 1200	46	53
1200 to 2400	40	47
2400 to 4800	34	41
Above 4800	32	39

- i. **Vibration.** In any zone no vibrations discernible without instruments at the measuring point shall be permitted.

- j. **Glare.** Glare is the sensation produced by brightness within the visual field that is sufficiently greater than the luminance to which the eyes are adapted and which causes annoyance, discomfort or loss in visual performance and visibility. Direct glare is glare resulting from insufficiently shielded light sources in the field of view. Reflected glare results from speckling reflections of high brightness in polished or glossy surfaces in the field of view.

No direct glare shall be permitted except as may be caused by lights placed on standards not exceeding the maximum height of structures allowed in the zone and shielded so as to restrict the maximum apex angle of the cone of illumination at ground level of ten (10) foot candles.

Total direct and indirect glare, measured at the buffer area line shall not exceed one (1) foot candle except for lights used to illuminate entrances and exits of roadways and driveways and shall not intrude onto neighboring properties.

- k. **Heat.** Heat is thermal energy of a radiating, conductive or convective nature. In any zone, any use or process shall not produce a temperature rise discernible at the measuring point or discharge water into any natural water course which shall produce a temperature increase of greater than three (3) degrees in the water course within ten (10) feet of the discharge point.

- l. **Fire and Explosion Hazards.** If it appears that any proposed use structure, process or resulting product or material may constitute a fire or explosion hazard, the Planning Board may require the applicant to supply proof of the following:

1. Approval of the use, structure, process or resulting product or material from the State Department of Labor and Industry indicating that adequate safeguards against fire and explosion have been taken or installed.
2. Report from the appropriate Fire Sub code Official or County Marshal applicant has complied with all applicable Township fire prevention regulations.

No building shall be sited or constructed and no building or structure shall be expanded or enlarged if the effect of such construction, expansion or enlargement would be to cast a shadow upon the south wall of an existing building or a

proposed building for which a building permit has been issued for more than twenty-five (25%) percent of the time between 8:45 a.m. and 3:15 p.m. local time on December 21st. Where solar access protection to the south wall precludes full solar access, requirements of this section shall only apply to that portion of the south wall located ten (10) feet above the natural grade of the building. The provisions of this section shall not apply to existing buildings that are shaded for greater than twenty five (25%) percent of the time between 8:45 a.m. and 3:15 p.m. on December 21st and shall not limit the construction of attached single family dwelling units.

25-10.18 Requirements and Standards for Development on Critical Geologic and Previously Mined Lands

25-10.18.1 Purposes and Applicability of Requirements and Standards.

There are areas within Mine Hill Township that are underlain by carbonate bedrock such as limestone and dolomite and/or have been extensively mined. Known areas that have been previously mined are identified on Mine Hill Township Mine Area Overlap Map, Appendix II of this document.

The solution of limestone bedrock and/or the subsidence of soils over openings leading to mines caused surface depressions, open drainage passages, and the development of irregular, subsurface rock topography known as karts. These conditions make such areas unstable and susceptible to further subsidence and surface collapse. As a result, the alteration of drainage patterns in these areas by the placement of impervious coverage, grade changes, or increased loads from site improvements can lead to land subsidence and sinkholes. The presence of both known and unknown areas where mining activities were performed in the past pose a substantial risk to proposed development as well as existing properties immediately adjacent to the development.

Fractures or solution openings and fissures in the limestone rock or mine collapses may lead to public or private water supplies, making those sources especially susceptible to groundwater contamination. Contamination of water sources can occur from solid and liquid wastes, contaminated surface water, septic tank effluent, or other hazardous substances moving through fractures or solution openings and fissures within the rock. Of particular concern is the potential for previously mined areas to collapse, which could result in substantial damage to public and private development.

Carbonate aquifers are an important source of groundwater in Mine Hill Township and surrounding areas. The Township relies on a clean supply of subsurface water to foster and promote human health, welfare and economic and social development. Therefore, the purposes of enacting this chapter are to protect, preserve and enhance a sensitive and valuable potable groundwater resource area and to reduce the frequency of structural damage to public and private improvements by sinkhole collapse or subsidence in areas of limestone geology or past mining

activities, thus protecting the public health, safety and welfare and ensuring orderly development within the Township.

The provisions of this Section shall be applicable to development activities in the entire Township requiring preliminary major subdivision approval or preliminary major site plan approvals from the Township. Minor subdivisions, proposed nonresidential development, or multi-story residential construction are also governed by this Section.

25-10.18.2 Information to be Submitted.

25-10.18.2.1 General Procedures for Geotechnical Investigation.

- a. The applicants filing for preliminary major subdivision or preliminary major site plan approvals and minor subdivision, nonresidential or multi-story residential construction from Mine Hill Township shall undertake a geotechnical investigation program. All projects shall first complete the Phase I requirements. The submission of the Phase II requirements shall be based on the recommendation of the Municipal Geotechnical Consultant (hereafter the "MGC") appointed by the Planning Board, as authorized by the Municipal Land Use Law, pursuant to this section following a review of the Phase I documents.
- b. The geotechnical investigation program shall be prepared by a professional engineer or geologist with experience in karst terrain or mining areas. The municipality's geotechnical consultant (MGC) shall be similarly qualified to review all projects submitted.
- c. The geotechnical investigation program shall identify the geologic nature of the materials underlying the site.
- d. The geologic investigation report shall evaluate site information gathered during the geotechnical investigation and provide recommendations for the planning, engineering design, and construction techniques to be utilized. All design recommendations shall minimize, to the greatest extent practical, impacts upon water quality and structural hazards associated with limestone formations and potential voids due to past mining activities.
- e. In that the results of the geologic investigation are essential for the planning, engineering, design and construction techniques to be utilized on the project, the geologic investigation program shall be completed and the geologic investigation report filed with the formal application for preliminary major subdivision or preliminary site plan approvals. Prior to the submission of an

application for minor subdivision, preliminary major subdivision or preliminary major site plan approvals, the applicant may, and is encouraged, to consult or meet informally with the municipal geotechnical consultant or the Planning Board Engineer as deemed necessary to receive guidance on their investigation.

25-10.18.2.2 Geotechnical Investigation Program Process. For all properties located in the Township, a comprehensive geologic investigation program shall be conducted by the applicant. The purpose of this program is to provide the Planning Board and Township with sufficient data to define the nature of all existing geologic conditions that may affect construction and land use activities on the site. Specifically, the investigation shall yield information that will identify any existing geologic conditions for which appropriate site design and/or engineering solutions may be necessary to minimize any adverse environmental impacts caused by the project as well as possible structural designs. The geotechnical investigation program consists of the following:

- a. The applicant shall complete the Phase I requirements outlined in Section 25-10.18.2.2.1. Upon completion, the applicant shall have the option to submit the information to the Township to obtain an informal review and guidance prior to proceeding with Phase II.
- b. The applicant shall complete the Phase II requirements outlined in Section 25-10.18.2.2.2 if required by the Planning Board. Upon completion, the applicant shall have the option to submit the information to the Township to obtain an informal review and guidance prior to proceeding with the on-site geotechnical investigation.
- c. The applicant shall undertake an on-site geotechnical investigation program in accordance with Sections 25-10.18.2.2.2 and .3 with observation by MGC where Phase II requirements must be addressed.
- d. The submission of a geotechnical investigation report by the applicant.
- e. MGC review of the geotechnical investigation report and submission of final recommendations to the Township.

25-10.18.2.2.1 Phase I Requirements.

- a. U.S. Geologic Survey 7.5 minute topographic quadrangle maps with the parcel identified.
- b. U.S.D.A. Soil Conservation Service soil survey map indicating soils present on the parcel.

- c. Information from any special reports completed by the N.J. State Geological Survey, U.S. Geologic Survey, or the N.J. Department of Environmental Protection.
- d. Plat locating all past mine and mine opening locations within 500 feet of the property. This plat shall be based upon published mapping and historical searches of past mining activities and shall also address mine depth, angle of descent, and length of all mines, mine openings, and shafts.
- e. Aerial photograph print of the proposed site and surrounding area at a minimum scale of 1" = 1000' obtained during periods of minimum foliage.
- f. Location of all known water production wells and well log information within ½ mile of the project.
- g. A project sketch plat at a minimum scale of 1" = 200' with existing surface water bodies, location of any existing water production wells, faults, outcrops, springs, sinkholes, disappearing streams, surface water flows and evidence of mine subsidence.
- h. Narrative describing efforts to date if any to seal, cap, or otherwise render existing mines "safe" for building, development or use of land affected by the mines in question. If mines have been capped, sealed, or made "safe" information should be provided that indicates the location and type of work, the dates the work was done, and the contractor that performed the work.
- i. Written narrative describing proposed activity.
- j. If the project includes the storage or manufacturing of toxic or hazardous materials, provide the explanation of the activity and safeguards to be employed.
- k. Other published geologic information which the applicant deems pertinent, such as information from other geologic investigation programs which are on file with the municipal clerk, other agencies or from past experience.

25-10.18.2.2.2 Phase II Requirements.

- a. General Requirements:
 - 1. Test borings and test pits are to be used as the primary means of identifying potential geologic hazards. Percussion probes and other geophysical

techniques (e.g. seismic refraction and reflection, ground penetrating radar, magnetic gravity and conductivity) can be used to provide data between test borings and pits.

2. Proposed exploration techniques which are not outlined in this section may be submitted to the MGC for review and possible inclusion in the approved investigation program. Alterations to the planned program can be made during the progress of the field investigation upon request to the MGC if so required by the nature of the encountered subsurface conditions.
3. The intention of the site investigation program is to define the nature and limits of possible design, construction and operating concerns that could result from the existence of carbonate soil and/or rock formations mining voids underlining the proposed development site.
4. The name and address of the New Jersey licensed engineer practicing in the field of geotechnical engineering, New Jersey licensed well driller, and geologic consultant familiar with the region geology to be used shall be supplied.

b. Direct Testing Procedures.

1. Provide the number of proposed test borings and/or test pits. The minimum number of borings required is shown in the following Table. However, the MGC may require additional tests as site conditions warrant. Test pits may not be used in lieu of test borings for the requirements in Table for foundations.

TABLE

Type of Development	Foundations	Infrastructure	Storm water Management
Residential			
1-10 dwellings	1 per dwelling	1 per 1000 feet roadway	2 per basin
11-50 dwellings	0.15 per dwelling	0.75 per 1000 feet roadway	2 per basin
>50 dwellings	0.1 per dwelling	0.5 per 1000 foot roadway	2 per basin
Non--Residential			

0-500 S.F building area	0.4 per 1000 S.F. building area	0,33 per 1000 S.Y. impervious	2 per basin
5001-10,000 S.F. building area	0.2 per 1000 S.F.	0.3 per 1000 S.Y. impervious	2 per basin
>10,000 S.F. building area	0.2 per 1000 S.F. building area	0.2 per 1000 S.Y. impervious	2 per basin

2. Provide the anticipated depth of borings. All borings shall have a minimum depth of 65 feet. If rock is encountered within 50' of ground surface a minimum of 15' rock is to be cored. Rock cores shall be a minimum of 2' in diameter to be obtained by double tube, split barrel coring device or equivalent. Rock coring is to continue until RQD values are greater than 80 percent. RQD is defined as Rock Quality Designation. It is computed by taking the total length of rock within the core run with core lengths greater than 4" and dividing it by the total length of rock core obtained.
3. Describe the boring techniques to be used. Unless written approval is obtained, all test borings will be drilled using rotary wash without use of drilling muds. Water losses in borings are to be monitored as to depth and quantities. Air loss, drilling speed and rod drops must also be monitored.
4. Describe the proposed borehole grouting techniques. Grouting shall be in accordance with N.J.A.C. 7:9-9.1 et. seq.
5. Provide a description of proposed monitoring wells including location and material specifications, all wells are to have protective locked casings. A key to the well casings shall be provided to the Township Engineer.
6. Describe anticipated soil and rock sampling procedures. Sampling shall be in accordance with ASTM D410, D1586, D1587 and D2113.
7. Indicate how borings and test pits shall be logged in accordance with the Unified Soil Classification System and in relation to the geologic original of the constituents of the encountered materials.

8. Provide the number and depth of proposed test pits. The minimum bottom area of pits shall be 10 square feet and shall encounter rock surface over 50% of the pit area.
 9. Describe the proposed method of test pit backfill. Test pit backfill shall be composed of excavated material placed in layers and compacted to pre-excavation density, unless authorized otherwise by MGC.
 10. Provide the proposed number and types of Piezo meters to be used. Piezo meters shall be installed and monitored in sufficient locations to identify depth to seasonal high water table and the rate and direction of groundwater flow.
 11. Provide descriptions of any other proposed method of measuring ground water levels and rate and direction of flow.
 12. If the subject development is within 500 feet of past mining activities, additional test borings shall be required at locations to be determined by the MGC. Additional test boring depth over and above the 65 foot minimum may be required, depending upon the historical data provided on the past mine activities. A plan detailing the additional test borings shall be submitted for review by MGC. The purpose of the additional test borings is to ensure that mining voids are isolated.
 13. Provide a description of methods for the geotechnical testing of the properties of soils, rock and water.
- c. Indirect Testing Procedures.
1. Any indirect test procedure shall be approved by the MGC prior to start of work. Indirect testing procedures shall not reduce the number of test borings required for foundations under Table No. 1.

2. Provide the proposed number, anticipated depths, and measuring techniques of proposed percussion probes.
 3. Describe the proposed number of seismic refraction and reflection tests and equipment to be used.
 4. Describe the proposed number of ground penetrating radar tests and equipment to be used.
 5. Describe the proposed number of magnetic, gravity or conductivity tests and equipment to be used.
 6. Described the geologic reconnaissance factors to be examined, i.e. vegetative changes, observable seeps or groundwater discharge, circular depressions, swales.
 7. Described any other geologic reconnaissance field investigation techniques proposed.
- d. Maps. Drawings and Other Documentation
1. Provide the location of the site on 1:24,000 scale U.S.G.S. topographic quadrangle map and general site plan showing proposed locations of all field testing procedures in relation to the planned development at a minimum scale of 1" = 100".
 2. Provide timetable of proposed field investigation, laboratory testing, test data receipt and final report to the Township.
 3. Described proposed technical inspection procedures during investigation. Continuous technical supervision of the field investigation is required.
 4. Describe any special factors or conditions the applicant wishes to bring to the attention of the MGC.

25-10.18.2.2.3 On site Investigation Protocol

- a. On-site investigations and tests undertaken pursuant to this chapter shall not begin until the applicant has submitted the appropriate fees as required in 25-11.1 and has provided

proper notice to the municipality. The Applicant shall be responsible for providing at least fifteen (15) days prior to the commencement of any testing procedures, written notice of same to the municipal clerk and MGC, which notice shall be transmitted by certified mail, returned receipt requested or served personally. All site investigations shall be properly closed in accordance with N.J.A.C. 7:9-9.1 et. seq.

- b. The proposed development site shall be subject to inspect by MGC or designated municipal inspectors at any time. All testing data and results shall be made available to municipal officials and inspectors on demand.
- c. All samples taken shall be properly preserved and shall be available for examination by the municipality upon request until final action is taken by the Planning Board on the application. All samples are to be stored for possible review by the Township for a period of not less than ten (10) years by the developer.

25-10.18.2.2.4 Geotechnical Investigation Report Requirements.

- a. At the completion of the field investigation, a formal site investigation report shall be submitted and include any of the following required information gathered during the testing protocol:
 - 1. Logs of all borings, test pits, and probes including evidence of cavities, loss of drilling fluid circulation during drilling, voids encountered and similar cavities.
 - 2. Type of drilling or excavation technique employed.
 - 3. Drawings of monitoring or observation wells as installed with results of monitoring.
 - 4. Time and dates of explorations and tests.
 - 5. Reports of chemical analyzes of on-site surface and ground water and the potential for reaction with the underlying rock with an assessment of the likelihood of formation of solution cavities.

6. Names of individuals conducting the tests including the licensed geotechnical engineer, the New Jersey licensed well driller, and the geologic consultant.
 7. Analytical methods used on soils, water samples, and rock samples.
 8. A 1" = 100' scale topographic map of the site (at a contour interval of two feet) locating all test pits, borings, wells, seismic or electromagnetic conductivity or other geophysical surveys in relation to the proposed development, as well as any mines, mine shafts, sinkholes, etc. discovered during the investigation.
 9. Analysis of the groundwater including any potentiometric maps constructed from site data or aquifer tests with rate and direction of flow.
 10. A geologic interpretation of the observed subsurface conditions, including soil and rock type, jointing (size and spacing), faulting, voids, fracturing, grain size, and the likelihood of sinkhole formation, especially in projects where water from storm sewers, roof drains, septic systems, etc. is being discharged into the ground.
- b. The report shall also define the extent of geotechnical findings at the site in relation to the planned development or land use. The engineering solutions proposed to minimize environmental and structural impacts for the useful life of the project as well as during construction must be clearly detailed together with the justifications for the conclusions reached. The report shall, as a minimum, address the following:
1. The probable effects of the proposed development upon Township water resources and the likelihood of future sinkhole formations.
 2. The appropriateness of the site for the proposed development and the appropriateness of the location and design of proposed roadways, buildings, facilities for storm water management, utilities, water supply and sewage disposal.

3. The adequacy of support for buildings, roadways, utility lines, detention basins, and other infrastructure. Foundations shall be reinforced to span a minimum of 10' over soft soils or voids.
4. The need for O ring gaskets or other watertight joints for storm water and sanitary sewer construction. Storm water and sanitary sewer lines shall be designed and constructed with watertight joints, which have been tested to ensure their integrity.
5. The need for infiltration and ex-filtration testing on storm sewer lines that shall be built.
6. The need for automatic shutoff devices for pressurized utility lines.
7. The need for site grading and blasting limitations.
8. The need to seal, cap, or make “safe” any mines, mine shafts or sinkholes found during the investigation. Where remediation is required, the location of the work and the methods to be utilized to perform the work shall be shown.
9. General methodology for management of sinkholes, minor voids or solution cavities, depressions, or other questionable areas that have been discovered during construction.
10. Provisions for inspection and monitoring during construction and any long-term inspection or monitoring that may be recommended, including the consultants that are proposed to be retained for such purposes.

25-10.18.2.2.5 Municipal Review of Geotechnical Investigation

Report. The MGC review of the geotechnical investigation report for proposed development shall consider the data, formal reports, maps, drawings and related submission materials. The MGC shall advise the Township whether or not the applicant has provided the municipality with:

- a. Sufficient design, construction and operational information to ensure that the proposed development of the tract will

not adversely impact on the health, safety and welfare of the community.

- b. Proof that the proposed method of development on the tract will minimize any adverse effects on the quality of surface or subsurface water, and will not alter the character of surface and/or subsurface water flow in a manner detrimental to known on-site or off-site conditions.
- c. Specific details ensuring that design concepts and construction and operational procedures intended to protect surface and subsurface waters will be properly implemented to protect against possible sinkhole creation and mine or mine shaft collapse.
- d. Specific details on inspection and monitoring procedures to be following during construction and after project completion.
- e. “The following note on the final subdivision plat or final plan for any project. This site is under lain by limestone formations and/or past mining activity which are susceptible to sinkholes and subsidence. The occurrence of sinkholes and/or subsidence is not predictable and therefore the municipality, its employees, the municipal engineer, and the municipal geotechnical consultant assume no liability for any damages which may occur on private property as a result of the formation of sinkholes or subsidence.”

25-10.18.3 Methods for Reducing Hazards Resulting from Mining.

Acceptable methods for the remedying of the hazards caused by mining or carbonate soils (ARM[S]) are recognized below in paragraphs a.1; alternate methods, acceptable under certain field conditions as specified by the Township Engineer, MGC, or qualified mining expert, are also recognized and described in paragraphs a.2 and a.3.

Performance shall be in accordance with the approved geotechnical investigation report where applicable and these Chapter provisions, dependent upon field conditions as determined by the Township Engineer, MCG. or designated expert. The Township’s experts shall review and approve the forms of repair which may be applicable under the given set of field conditions.

- a. Acceptable Methods.
 - 1. **Filling.** Fine material of one-half (1/2) inch in diameter or less shall be introduced into the mine voids or solution cavity as a slurry with water, obtained, when available, from the voids

themselves. The slurry shall be mixed in a tank and permitted to fill the voids by gravity or by pressure pumping via a pipe, either metal or plastic, let down into the void area to the maximum depth penetrable consistent with the historical data. The filling process shall be continued from opening to opening in the bedrock until each opening will accept no more fill material and the bedrock level is reached. The amount of solid fill hydraulically introduced by gravity shall be carefully measured; unless ninety-five (95%) percent of the calculated voids are filled, pressure filling to fifty (50) # PSI pressure head through a drill hole which has penetrated the void, must be resorted to and shall be continued until, in the opinion of the Township Engineer, MGC, or such other expert(s) as the Township may decide to consult, the voids are safely eliminated. Boulders, large rock and ungraded overburden may be used on top of the finds to top off the upper several feet of the over the course of time.

If developer can demonstrate that suitable fill material cannot be obtained in the area at reasonable cost, then one or more of the alternate methods described in the ensuing paragraphs may be employed, by written authority of the Township Engineer, MGC, or designated expert.

2. **Capping.** Following removal of overburden to bedrock level along the entire strike length of the vein subsidence and to twenty-five (25) feet in either direction beyond the farthest edge of the last opening determined to exist on all veins to be capped, capping shall consist of bridging the void space either by a reinforced concrete slab or by concrete beams and a reinforced slab poured on top. Such beam slab or slab construction must be capable of withstanding a total superimposed load of one thousand eight hundred (1800) pounds per square foot measured directly over the center of the opening. The slab or beam and slab construction must cover the opening completely and extend from five (5) feet into the footwall to fifteen (15) feet into the hanging wall of the rocks enclosing the void. Field conditions may dictate reinforcement of bedrock or a longer beam over the opening, if in the judgment of the Township Engineer, MGC, or such other expert(s) as the Township may decide to consult, such reinforcement or longer beam is necessary. The beam and/or slab construction shall be level, and, if pre-cast, each slab shall butt tightly against each adjoining slab.
3. **Plugging.** Wherever cross-trenching to bedrock has disclosed a mine opening dipping at 45+/- degrees or less and not larger than three (3) feet measured at right angles to the dip nor six (6) feet in

length along strike, such opening may be remedied by placing boulders of sufficient diameter fully to close the measurement across the dip, i.e. boulders of at least four (4) feet in diameter, set side-by-side in sufficient number fully to close the opening along strike (Shea, 1977, "Abandoned Magnetite Iron Mines of New Jersey", Figure 21 available in Township Clerk's office.) Smaller boulders must be so placed as effectively to plug all spaces between the layer boulders, followed by a further thickness of small boulders or broken rock effectively to create an interlocking mat. Such plugging shall be done under the supervision of the Township Engineer, MGC or designated expert.

- b. **Lines of Surface Subsidence.** As indicated in Paragraph c. of this subsection, where existing mine information indicates the land to be developed is traversed by mine workings, in order to eliminate the hazardous impact or voids by ARMS, it shall be required of the applicant (developer) that the line(s) of surface subsidence known or suspected to exist upon the property to be developed shall be excavated to bedrock. Such excavation shall expose in its entirety the vein and all sections thereof from which past mining has removed the ore to the bedrock surface for the full strike length of the vein within the property to at least twenty-five (25) feet past the last known opening in either direction.
- c. **Excavation to Bedrock.** Excavation to bedrock may, if the applicant (developer) so elects, be preceded by cross trenching through to bedrock at each subsidence to determine whether such subsidence is caused by collapse into the mined-out void beneath or whether the pit or depression represents initial prospecting to bedrock without subsequent removal of the ore. If no void is located, and the particular pit is twenty-five (25) feet or more beyond the nearest collapsed void on the line of strike, and there are not further pits on line of strike, then excavation to bedrock along the entire line of strike, as described above, may be terminated at this pit upon written approval of the Township Engineer, MGC, or such other expert(s) as the Township have authorized to supervise such excavation and trenching procedures.
- d. **Mining on More Than One Vein.** Wherever the historical record or surface evidence indicates that mining has been carried out on more than one vein within a width of fifty (50) feet, center to center of subsidence's, the entire width of the vein system shall be stripped to bedrock, in accordance with the procedure set
- e. **Topsoil and Landscaping.** Topsoil from the excavated areas shall be stockpiled for re-use in restoring the surface of all excavated areas, or areas disturbed by the excavating and/or trenching procedures conducted

in accordance with these requirements. Not less than four (4) inches of top soil shall be placed upon all excavated and disturbed areas.

Upon completion of the placing of monuments (subsection 25-10.18.3(9) and compliance with all other provisions of this Chapter applicable to surface restoration, the developer shall cause to be landscaped by appropriate shrubbery and trees all mining areas that he has remedied in accordance with the applicable paragraphs of this subsection 25-10.18.3

- f. **Less Than Five Thousand (5,000) Cubic Yards of Void Space.**
Whenever historical data shows or indicates that the abandoned mine or mines occurring within and/or extending into adjoining lands contain less than five thousand (5,000) cubic yards of void space, such mines shall be filled in accordance with Paragraph a of this subsection, after excavation to bedrock along the line of strike in accordance with the procedures outlined in paragraphs b and c.

- g. **More Than Five Thousand (5,000) Cubic Yards of Void Space.**
Whenever historical data shows or indicates that such abandoned mine or mines contains void space in excess of five thousand(5,000) cubic yards, capping in accordance with the specifications set forth above in Subsection 25-10.18.3a.2 shall be permitted by the Township in lieu of filling, unless the Township Engineer, MGC, or such other expert(s) which the Township may decide to appoint for the supervision of these procedures for elimination of the hazards resulting from the existence of mining voids, recommends against capping. In determining whether capping or plugging shall be permitted in lieu of filling, the extent of the void areas to be filled, the effectiveness of capping or plugging as compared to filling, taking into consideration the existence or possible existence of pinched areas, timbers, rocks or ore pillars, voids inaccessible to any means of observation or addition, although not intended to be the decisive factor, relative costs of these two (2) acceptable remedial methods shall be considered in all situations where void space is indicated to be in excess of five thousand (5,000) cubic yards. Consideration shall also be given to the danger of potential pollution of ground waters and adjacent and nearby properties by discharge and run-off from any proposed use of individual sewerage disposal systems as a result of their proximity to areas which were formerly mined and which have not yet been filled; it being recognized that filling but not capping or plugging is more effective with respect to the elimination of such pollution problems related to the use of individual sewerage disposal systems.

- h. **Supervision of Corrective Measures.** Any and all filling, capping or plugging, as well as excavating to bedrock and cross-trenching or any other tests made to determine the extent of the voids in accordance with the requirements of this subsection 25-10.18.3 shall be performed under

the supervision of the Township Engineer, MGC, or such other expert as the Township shall have authorized and designated to supervise and inspect all work relating to these corrective measures to eliminate the hazards presented by these mining voids. The developer shall notify the Township not less than fifteen (15) days prior to commencement of any work or procedures relating to filling, capping, excavating to bedrock, cross-trenching or other testing to determine the extent of voids, to permit the Township to provide expert on-site supervision and inspection of the entire process. Failure to so notify the Township and to perform the required corrective work under the supervision and inspection of the designated Township expert shall be reason for withholding final approval of such work and/or final approval of the development plan in question and building permit(s) for the building(s) forming a part of the development in question. In determining the amount of inspection fees required pursuant to Section 25-11.1 of Section 11, Fees, the cost of this capping, filling or plugging work, excavation work, cross-trenching and other methods of testing used to determine the extent and location of the voids shall be included as a part of the calculation of such fees to assure the cost of such expert supervision and inspection by the Township's designated expert is reimbursed to the Township by the developer.

- i. **Survey and Monuments.** The margins of the line of voids and vein exposures uncovered by the stripping of overburden to bedrock as prescribed in subsection 25-10.18.3(b and c) above, as the mandatory preliminary step prior to filling or capping, shall be surveyed at applicant's expense by a licensed New Jersey Land Surveyor and tied in to existing permanent survey markers or other acceptable existing points of reference. It shall be the purpose of the survey to establish on the final land surface over such filled or capped or plugged voids their exact location by means of monument or other appropriate lasting material at least three (3) feet in length, four (4) inches to six (6) inches above final ground level. Monuments shall be set on the center line of the original void, one monument at each end of the void and a third halfway between or at twenty-five (25) foot intervals if the original void was determined to be in excess of fifty (50) feet measured along strike. The surveyor shall keep and maintain careful field notes of all measurements and shall record same on a plan at scale of one inch equals ten feet (1" = 10'), which shall be submitted to the Township as part of the required "as built" plans for the development in question. Such survey work shall be under the supervision of such other expert(s) as the Township may designate for such purpose. Further, elevations shall be set to the nearest one-hundredth of a foot (0.01) on each monument by closed leveling from a permanent point, the elevation of which is known and established from the nearest U.S. Geological Survey benchmark.

- j. **Annual Examination.** An annual check of the elevation of the monuments shall be conducted at the expense of the owner of the property which is the subject of the development application by a licensed New Jersey land surveyor to determine whether subsidence has occurred. Such checks shall take place each year under the supervision of the Township Engineer, MGC, or such other expert designated by the Township for such purpose, for five (5) years following the original placement of the monuments and each five (5) years thereafter for twenty-five (25) years within thirty (30) days of the anniversary of the original establishment of the elevations thereof. A written report of the results of such annual check shall be filed with the Planning Board and Township Council. Evidence of subsidence in excess of normal settling four (4) inches or less in the first year, two (2) inches or less thereafter shall cause the area of known filled or capped or plugged voids and any structure or improvements located thereon to be withdrawn from further use, occupancy or development of any kind completed, inspected and approved by the Township. Such corrective measures shall be initiated only upon submission to the Planning Board of an amended development plan setting forth in detail what measures are proposed, and the approval of such plan by the Planning Board or Board. Such corrective measures shall then proceed to be implemented under the supervision of the Township for such purpose, in the same manner as any improvement required as a part of an approved development plan is installed and/or in withdrawal of the Certificate of Occupancy for any building located upon the property in question, and shall also constitute a violation of this Chapter for which the owner of the property shall be subject to a fine and/or imprisonment in accordance with subsection 25-13.14 of this Land Use Chapter of the Township of Mine Hill.

25-10.18.4 Final Approval. The Planning Board shall not grant final approval to a development plan involving a development in any of these mining zones or carbonate soil areas until the hazards of the voids on the property which is the subject of the application, and on the adjoining properties, have been eliminated by either filling or capping or plugging in accordance with the procedures described above in Subsection 25.10.18.3.a.3 or performance guarantees equal to one hundred twenty (120%) percent of the cost of eliminating such hazards (by the method approved by the Planning Board as a part of a minor subdivision plan or a preliminary major site plan or subdivision plan approvals of the development plan in question), as estimated by the Township Engineer, MGC, or by such other expert as the Township may designate for such purpose, has been posted with the Township in accordance with the procedures and requirements of Subsection 25.10.8.3 of this Land Use Chapter of the Township of Mine Hill.

- a. **Completion of Filling or Capping.** In any event, notwithstanding the grant of final approval to a development plan for development in any of these mining zones and the posting of performance guarantees to ensure completion of the filling, capping or plugging of the voids, no building permits for the construction of any building to be constructed upon the

property which is the subject of the application shall be issued until the filling and/or capping work required as part of the Planning Board or Board approval has been completed and inspected and approved by the Township Engineer, MGC, or by such other expert(s) as the Township may designate for such purpose.

- b. **“As Built” Plans.** In accordance with the requirements of this Land Use Chapter of the Township of Mine Hill “as built” plans of all work required and performed in connection with filling and/or capping or plugging the voids caused by prior mining activities shall be furnished to the Township upon completion, inspection and approval of such work by the designated Township representative. Such “as built” plans shall be furnished immediately upon completion of rendering the mine safe and prior to release of any of the performance guarantees furnished to assure elimination of the hazards created by these mining voids.

25-10.18.5 Maintenance Guarantees. Maintenance guarantees with respect to all work relating to the elimination of the voids caused by mining or carbonate soils by capping and/or filling in accordance with the requirements and procedures set forth in Subsection 25-10.18.3.a(1), (2) and (3) above, consistent with the maintenance guarantee provisions of Subsection 25-8.5a of this Land Use chapter of the Township of Mine Hill shall be furnished to the Township at the time of final approval of the development plan for the use in question. In any event, no building permit for the construction of any building upon the property which is the subject of a development plan in any of these mining zones shall be issued until satisfactory maintenance guarantees regarding such work have been posted with the Township, and in particular, to insure the required annual survey and report on subsidence as is required by Subsection 25-10.18.2.2.4.

- a. **Amount of Maintenance Guarantee.** Maintenance guarantees covering the work related to elimination of the hazardous mining voids shall be fifteen (15%) percent of the actual cost of such work, or of the estimate of such cost as determined by the Township Engineer or such other expert designated by the Township for such purpose, unless the Planning Board determines that a sum less than fifteen (15%) percent is adequate, taking into consideration the total cost of the work in question, as well as the extent of such work and the degree of danger presented by such voids.

25-10.18.6 Adequacy of Fees. In accordance with Subsection 25-11.1 through 25-11.2.18 of this Land Use Chapter, the Planning Board at both the time of minor subdivision plan review and review of applications for preliminary and final major site plan and subdivision plan approvals for a use in any of these mining zones, shall review the adequacy of fees paid to date by the applicant in terms of expenses incurred and to be incurred by the Township in processing and reviewing such development plan and in supervising the work related to the elimination of the hazards of the mining voids by filling and/or capping. In accordance with Subsections 25-11.2.a of this Land Use Chapter, prior to granting preliminary and final approval (as the case may be) and in view of the extensive fees and expenses which the Township

anticipates it will incur to secure the advice and supervision of professional experts (geologists, mining engineers, etc., which will be required to adequately protect the interests of the Township in its objective to ensure the area in question is rendered safe for human entry prior to commencement of construction, the Township shall require the applicant to pay whatever additional amounts are reasonably required pursuant to Section 25-10.18.5a to assure the Township that all expenses incurred and to be incurred by it in connection with the remedial work associated with the development plan in question are reimbursed to the Township by the applicant. In any event, no building permit shall be issued for any building to be erected upon the property which is the subject of any such development plan until all fees assessed to the applicant in accordance with said sections of this Land Use Chapter and provisions of this section are paid in full by applicant.

25-10.18.7 Subdivision or Site Plan Approval. No subdivision or site plan approval shall be granted for any portion or section of any tract of land in the Township, whether or not such portion or section is intended to be developed currently and notwithstanding the fact that available and known information regarding prior mining operations indicates no mining took place upon such portion or section, unless and until a development plan encompassing the entire tract is presented to the Planning Board for approval, which plan must include provisions for elimination (by capping or filling) of the hazards resulting from the existing voids caused by prior mining or carbonate soils upon the tract in question, and/or upon adjoining properties. It is the purpose of this provision to prohibit any development upon any portion of a tract of land unless and until the entire tract is rendered safe for human entry and elimination of the hazards of the mining voids by either capping or filling in accordance with the procedures and requirements of subsection 25-10.18.3a through j. The plan need only be conceptual regarding development of those portions of the entire tract which applicant does not intend to develop at the present time.

25-10.18.8 Construction Over Voids. No principal building or building intended for human occupancy shall be built over the voids filled, capped, plugged or covered in accordance with the above requirements of Subsection 25-10.18.3 above, nor shall such buildings be located within the immediate area of such filled or capped voids determined as follows:

- a. If filling Has Taken Place. No end (outside) wall of any principal building or building intended for human occupancy shall be located closer to the filled mine void than ten (10) feet from the edge of the filled void on the foot wall side or closer to the filled mine void than twenty (20) feet from the edge of the filled void on the hanging wall side.
- b. If Capping or Plugging Has Taken Place. No end (outside) wall of any principal building or building intended for human occupancy shall be located closer to the mine void than the point of intersection with the final surface grade by a line drawn at thirty-five (35) degree angle from each end of the concrete beam or slab forming the cap to such final surface

grade; said thirty-five (350) degree angle being the angle between such intersecting line(s) and the bedrock upon which the cap has been placed.

25-10.18.9 Light-Weight Structures. Buildings and structures of light-weight construction, which are detached from the principal building, and which are not primarily intended for human occupancy such as garages, storage and utility sheds and structures, and parking areas and driveways - may be constructed and located over capped or filled voids and in the restricted areas immediately adjacent thereto (as identified above). However, the weight of any such building, structure or improvement erected over the plugged, capped or filled void or in the said restricted area immediately adjacent thereto, shall not exceed one thousand five hundred (1,500) pounds per square foot, including the weight of the soil, overburden or fill.

No building permit for any such “light-weight” construction shall be issued, however until the expert(s) designated by the Township for such purpose has reviewed detailed plans and specifications for such construction, and based upon such review and consideration of the plugging, capping and filling work which has taken place upon the site in question, reports to the Planning Board that such construction may safely be permitted both from a point of view of human safety and safety of construction.

25-10.18.10 Additional Restrictions Applicable in the Mined Land Overlay

District.

- a. Tax Lots 1 and 4 Block 1201. Tax Lots 1 and 4, Block 1201 shall be considered as a single tract or parcel of land for all purposes involving a development plan for a conditional use on any portion or section of said tax Lots 1 and 4. Furthermore, all known information and data regarding the mining operations and works in this District (see in particular the sources specified above in Overlay Map, Appendix II) indicate that the mining activities and works which took place on said tax Lots 1 and 4 and on adjoining tax Lot 5, Block 1201 were part of a single mining operation known as the Randall Hill Mine. All available data indicates the main line of depressions which marks the principal vein mined at this location constitutes one continuous line extending in a general northeasterly direction from Randall Avenue across said Lot 5 into Lot 1 and across Lot 1 for over two thousand (2,000) feet. Thus, all available data indicates the void left by the mining of this series of principal veins may constitute one continuous void which crosses the property line dividing said Lots 1 and 5. Furthermore, all available mining information indicates a major shaft is located upon Lot 5 and several additional shafts including the main central shaft in close proximity to said boundary line between said Lots 1 and 5 - are located upon the southwesterly-most portion of said Lot 4. In view of this integral relationship between said tax Lots 1 and 4 and tax Lot 5 (Block 1201), the following limitations are placed upon the development of these properties for any of the uses authorized in the zone District in which the tax lots are located.

1. No development plan for a use upon tax Lots 1 and 4 shall be approved by the Planning Board, unless the plans and proposals for filling and/or capping the mine voids on said Lot 4 include also filling and/or capping of the voids located upon said Lot 5. No final approval of any such development plan shall be granted unless all the mine voids located on both Lot 4 (including Lot 1) and Lot 5 (block 1201) have been filled, capped or plugged or performance guarantees to assure such capping or filling have been posted by the Applicant in accordance with this Section 25-10.18.5a.
2. The applicant for the development of Lot 4 shall furnish satisfactory proof to the Planning Board that permission has been secured from the owner of said Lot 5 to perform the required filling, capping or plugging of the mine voids located on said Lot 5.
3. In the event the applicant for development of Lots 1 and 4 establishes to the satisfaction of the Planning Board, that despite diligent effort on the part of applicant, permission upon reasonable terms cannot be secured from the owner of tax Lot 5 to fill, cap or plug the mine voids located on said Lot 5, the following additional restrictions shall control the development of Lots 1 and 4 for conditional use:
 - (a) No principal building shall be erected upon Lot 1 closer than five hundred (500) feet to the common property line dividing Lots 1 and 5;
 - (b) No auxiliary building or “light-weight” construction as described in subsection 25-10.18.9 above which is not intended for human occupancy shall be erected closer than one hundred (100) feet to said common property line.
 - (c) A chain-link fence at least eight (8) feet high, with an arm atop each post carrying three (3) strands of barbed wire directed toward Lot I shall be erected along the entire length of said common property line between said Lots I and 4.
 - (d) There shall also be erected along the entire length of the remaining three (3) property lines of said Lot 5 the same type of chain-link fence (with the strands of barbed wire directed outward from Lot 5) as specified immediately above, unless applicant establishes to the satisfaction of the

Planning Board that, despite diligent effort on the part of applicant, permission upon reasonable terms cannot be secured from the owner of tax Lot 5 to erect such fence around tax Lot 5.

- b. Additional Restrictions. Whenever available mining data indicates that mining occurred upon property immediately adjacent to the property which is the subject of a conditional use application before the Planning Board, and that the mining activities upon such adjacent property were conducted within two hundred fifty (250) feet of the common property line between such property and the property which is the subject of the use development application, then the following restrictions, requirements and conditions shall apply:
1. If the subject property and the adjacent property are owned by the same person or persons, then the applicant shall be required (in accordance with the procedures established herein for and as a part of securing preliminary and final approval of a conditional use in a Mining District) to eliminate the hazardous impact of the subsurface voids left by such prior mining activities upon such adjacent property by capping, filling or plugging such voids upon such adjacent property in accordance with procedures and requirements of subsection 25-10.18.3 above to the limit of such voids or for a distance (along each line of depressions) of five hundred (500) feet into such adjacent property measured from its common boundary line with the property which is the subject of the use application. The Planning Board shall not grant final approval to a development plan involving a use in any of these mining zones until the hazards of the voids on any such adjacent property within five hundred (500) feet of the subject property have been eliminated or performance guarantees to insure the required capping, filling or plugging on such adjacent property is properly completed, have been posted in accordance with the requirement of said subsection.
 2. All the requirements of subsections 25-10.18.3 shall be equally applicable to the elimination of mining hazards located upon such subject property.
 3. If the adjacent property upon which mining activity was conducted within two hundred (250) feet of the common boundary line with the subject property is not owned by the same person or persons who own(s) the subject property, the adjacent property shall nevertheless be rendered safe from the hazards of the prior mining activities to the extent, and in the same manner as required for the

subject property immediately above where both properties are owned by the same person(s) as a condition of final approval of the pending development plan unless the applicant for development establishes to the satisfaction of the Planning Board that, despite diligent effort on the part of applicant, permission upon reasonable terms cannot be secured from the owner(s) of the adjacent property to fill, cap or plug the mine voids located thereon (or to perform the tests and activities described above to determine whether or not capping and/or filling is required).

4. In the event applicant cannot secure permission from the owner of the adjacent property to fill, cap or plug the mine voids located thereon for a distance of five hundred (500) feet into the adjacent property (or to take the necessary steps to determine whether capping and/or filling are necessary in accordance with the standards and requirements of this ordinance, then the following additional restrictions shall control the development of the conditional use upon the property which is the subject of the development application:
 - (a) No principal residential building shall be erected upon the subject property closer than two hundred fifty (250) feet and no principal commercial or industrial building closer than one hundred fifty (150) feet to the common property line dividing such property and the adjacent property upon which prior mining activity took place within two hundred (200) feet of such common line.
 - (b) No auxiliary building or “light-weight” construction as described in subsection 25-10.18.9 above which is not intended for human occupancy shall be erected closer than one hundred (100) feet to said common property line.
 - (c) A chain-link fence at least eight (8) feet high, with an arm atop each post carrying three (3) strands of barbed wire directed toward the subject property shall be erected along the entire length of said common property line between the subject property and the adjacent property limited, however, to that portion of the common property line located within the Overlay Mining District in question, or running along an Overlay Mining District line.
 - (d) In any event, no principal residential building shall be erected upon the property which is the subject of the Use Development Application closer than three hundred (300) feet from any area which was previously mined (or any

area where there is reason to believe same was previously mined, based upon all available mining data and information) located upon such adjacent property which has not been rendered safe by capping, filling or plugging (or investigated to determine if capping, filling or plugging is required) in accordance with the standards hereinabove set forth.

- (e) Similarly, no principal commercial or industrial building (i.e. any nonresidential principal building) shall be erected upon the property which is the subject of the use application closer than two hundred fifty (250) feet from any such area which was previously mined located upon any such adjacent property which has not been rendered safe by capping, filling or plugging (or investigated to determine if capping, filling or plugging is required) in accordance with the requirements of subsection 25-10.18.3
- (f) The requirements established herein to render the adjacent property safe from hazards resulting from prior mining activities by plugging, capping or filling the voids located upon such adjacent property shall not apply if such adjacent property is separate tracts of land and not part of Lot 1, Block 411 or Lot 1, Block 1101 whether or not such property is owned by the same person(s) who own(s) the property which is the subject of the use application pending before the Planning Board.
- (g) Except as stated in paragraph (e) above in this subsection all other requirements controlling development of property adjacent to property upon which uncorrected mining hazards (voids) exist, shall be applicable where the adjacent property is located in the Overlay Mining District, including, in particular, the requirement to fence along the common property line.
- (h) Under no circumstances shall any principal residential building be erected upon any property which is the subject of a use development application closer than three hundred (300) feet, or any nonresidential principal building closer than two hundred (200) feet to the nearest known abandoned mine workings, at which location there exists or there is good reason to believe (based on all available mine data and information) there exists a subsurface mine void', which has not been rendered safe by capping, filling or

plugging in accordance with the procedures established by subsection 25-10.18

25-10.18.11 Mining Hazards Outside the Mined Land Overlay District. The investigations, reports and maps described above in Overlay Map, Appendix II reveal that iron mining operations took place in various sections of Mine Hill Township which are not in any of the Mining Districts established by the Land Use Chapter of the Township of Mine Hill, as amended. Notwithstanding the fact that a particular trace, parcel or lot may not be located in any of the various mining districts shown upon the current Zoning Map of the Township of Mine Hill, no building permit shall be issued, or a development plan shall be approved (involving a site plan, subdivision or variance application) unless or until the property in question is rendered safe from the hazards resulting from such prior mining operations in accordance with the standards and procedures hereby established with respect to and governing conditional uses in these said mining districts.

- a. Application of Standards. In addition to complying with the general requirements of subsection 25-10.18 (“Information Regarding Previous Mining Operations”), any property owner or developer seeking either a building permit for any residential, commercial or industrial use (including even a permit for one single-family dwelling) or approval of a development plan for any type of use, shall apply to the Planning Board for review and approval of the plans for the proposed construction and development. The Planning Board in reviewing such application shall apply all the standards, requirements, terms and conditions applicable to establishment of a use in the Overlay Mining District, hereinabove set forth, and shall not approve the proposed construction or proposed development (and consequently no building permit shall issue) unless the plans and other data submitted by the property owner or developer indicate that the subject property and property immediately adjacent thereto will be rendered safe for both construction and human entry by the elimination of all mining hazards in accordance with such standards, requirements, terms and conditions.

25-10.18.12 Re-evaluation. In certain situations, a specific mining or geologic hazard may not be identified while the geologic investigation program is underway and may be discovered during or after construction. In such cases the applicant shall:

- a. Report the occurrence of the hazard to the municipal clerk and MGC within twenty-four (24) hours of discovery.
- b. Halt construction activities, which would impact the mining or geologic hazard.

- c. Prepare a report on the mining or geologic hazard which analyzes the impact of the hazard and details a remediation plan for review and approval by the MGC.
- d. After obtaining approval from the municipality, perform necessary remediation of the hazard to prevent or minimize damages to buildings, structures, utilities, driveways, parking areas, roadways, or other site improvements, and to minimize pollution of the groundwater.
- e. Repair any damage to improvements and restore ground cover and landscaping.
- f. In those cases where the hazard cannot be repaired without adversely affecting the previously approved site plan or subdivision plan, the applicant shall file an amended application for site plan or subdivision approval in compliance with the provisions of this chapter.

25-10.18.13 Compliance and Enforcement.

- a. Compliance with this chapter is required prior to the granting of preliminary major subdivision, preliminary major site plan, minor subdivision approvals and approvals for projects involving, nonresidential or multi-story residential uses unless waivers have been granted by the Planning Board pursuant to 25-10.18.15. The enforcement officials for any application requiring approval under this chapter are the Township Engineer and/or the MGC.
- b. Failure to comply with any of the conditions in this chapter may result in the issuance of a stop-work order, revocation of building permits, or denial of certificate of occupancy requests. Remedial and corrective measures may be mandated if the appropriate construction and site planning techniques, as outlined in the applicant's approved geotechnical investigation report, are not followed and result in actions that adversely impact karts features or past mining voids.

25-10.18.14 Application and Escrow Review Fees.

- a. Application Fee. For any project requiring a submission, the applicant shall pay an application fee of \$500.00 over and above that required in Sections 25-11.1.3 through 25-11.1.6 of the Land Use Regulations.
- b. Review fee. Funds shall be placed in escrow for review of the application as follows:

1. Major Subdivision or Site Plan
 - (a) Escrow for Phase I Submittal: \$ 5,000.00
 - (b) Escrow for Phase II Submittal: \$10,000.00

2. All other applications:
 - (a) Escrow for Phase I Submittal: \$ 1,500.00
 - (b) Escrow for Phase II Submittal: \$ 3,000.00

- c. Inspection fee. It is recognized that the Municipal Land Use Law, particularly N.J.S.A. 40:55D-53(h) provides a limitation on engineering inspection fees which shall, in all cases, be reasonable and shall, except for extraordinary circumstances, be limited to greater of \$500 or five(5%) percent of the cost of improvements, which cost of improvements shall be determined pursuant to N.J.S.A. 40:55D-53.4.

It is also recognized that when the testing methodology provided for herein has been employed and determines the existence of critical geological formations and mining voids underlying the site of the proposed development, extraordinary and exceptional construction methods may be required to be employed by the developer during the construction of site improvements, which work is required to be witnessed by the Township Engineer or his representative or the MGC.

The construction of improvements in developments underlain by critical geological formations and mining voids is herewith deemed to constitute an extraordinary circumstance, thereby rendering inapplicable, the engineering inspection fee limitations otherwise comply with the requirements of N.J.S.A. 40:55D-53.

25-10.18.15 Waivers. Subsequent to the submission of the Phase I information required in Subsection 25-10.18.2.2.1 the Planning Board, upon recommendations by the MGC, may grant a waiver from all or any part of the geotechnical investigation testing and report requirements in Subsection 25-18.2.2.1.

25-10.18.16 Disclaimer of Liability. In limestone and past mining areas, the alteration and development of land may be hazardous with respect to the safety of structure foundations, create unstable land as a result of changes in drainage and grading, and contaminate ground and surface waters.

The exact occurrence of sinkholes and/or subsidence is not always predictable; therefore, the administration of these regulations shall create no liability on behalf of the municipality, the municipal engineer, the MGC, municipal employees, or municipal agencies as to damages that may be associated with the formation of sinkholes or subsidence. Compliance with these regulations represents no warranty, finding, guarantee, or assurance that a sinkhole and/or

subsidence will not occur on an approved property. The municipality, its agencies, consultants, and employees assume no liability for any financial or other damages that may result from sinkhole activity.

It is also noted that sinkholes and ground subsidence may occur in areas outside the subject property and/or in areas of carbonate geology or past mining activities presently not identified as such. The applicant and/or property owner shall always make independent investigations of these matters prior to using this land for construction of a building or structure or any activity that alters the soil and bedrock materials.

25-10.19 Environmental Impact Statement Requirements.

25-10.19.1 Purpose. Environment includes physical, social and aesthetic considerations both natural and man-made which affect the quality of life.

25-10.19.2 Comprehensive Description of Existing Conditions Comprehensive description of existing conditions including but not limited to:

NOTE: All applicable detail should be included; however in many cases maps and diagrams provide information for several topics. Cross reference of these materials will facilitate review.

25-10.19.2.1 Location, Size of Site.

25-10.19.2.2 Natural Resources of the Site and the Region:

- a. Geology;
- b. Soils, bedrock, surficial; interpretive factors;
- c. Landforms; topography, natural features,
- d. Ground water; resource quantity, quality, location;
- e. Surface water; streams, ponds, marshes, wetlands;
 1. Location; drainage basins, sub-watersheds,
 2. Description; including flows, other measurements, Water quality; biological and chemical over four seasons; explanation of relationships;
 3. Water quality analysis including, but not limited to the following: chlorinated hydrocarbons, nitrated organic compounds, heavy metals and acetone.
- f. Drainage ways; natural, man-made-analysis of runoff characteristics;
- g. Vegetation; site and surrounding area, relate to region;
- h. Wildlife; include species diversity and frequency, index for study area;

- i. Climatology:
 - 1. Precipitation; storm patterns, hyetographs;
 - 2. Wind patterns; air sheds, analysis of regional factors;
- j. Air quality;
- k. Noise: levels and patterns;
- l. Mineral resources;
- m. Unique physical features;
- n. Food chains.

25-10.19.2.3 Man-Made Resources:

- a. Past and present land use; historical, socioeconomic analysis;
- b. Existing land use of area and region adjacent to site use cause and effect analysis;
- c. Access and transportation patterns;
- d. Zoning and Master Plan-County and Local;
- e. Utilities including:
 - 1. Sewer/septic,
 - 2. Water supply; source, quantity, quality,
 - 3. Solid waste removal,
 - 4. Energy; inventory and analysis of efficiency,
 - 5. Communication facilities;
- f. Population density and distribution local and regional;
- g. Recreational uses public and private;
- h. Growth generators.

25-10.19.2.4 Cultural Resources:

- a. Cultural and social features;
- b. Aesthetic features;
- c. Historical features;
- d. Archaeological features;
- e. Architectural features.

25-10.19.2.5 Economic Resources:

- a. Local tax base analysis;
- b. Levels of economic development within municipality and the region.

25-10.19.2.6 Identification of All Existing Environmental, Demographic, Economic and Cultural Problems Existing in the Area Affected by the Project including but not Limited to:

- a. Pollution:
 - 1. Water;
 - 2. Air;
 - 3. Noise.
- b. Demographic:
 - 1. Capacity of services, road, police, medical, schools;
 - 2. Housing choices.
- c. Economic;
 - 1. Tax rate vs. land values;
 - 2. Employment factor;
- 3. Employment potential diversity and rate of existing area job market.

25-10.19.3 Comprehensive Description of Proposed Development in Certain Phases. Comprehensive description of proposed development at (1) opening (2) each phase and (3) at capacity: including but not limited to the following:

25-10.19.3.1 Identification of Project - Ownership and Management, Personnel.

- a. Full disclosure of ownership or contractual land use controls interests;
- b. Affidavit from owner regarding permission of sub-divider to submit application.

25-10.19.3.2 Certificate that All Taxes Have Been Paid.

- a. Explain Purpose of project including:
 - 1. Description of products, services or facilities provided;
- b. Extent of cultural, economic and natural resource benefits to be realized:
 - 1. By the owner,
 - 2. By the municipality,
 - 3. By the residents,
 - 4. By the broader County and regional area.
- c. Need for project:
 - 1. Public,
 - 2. Private.
- d. Economic feasibility:
 - 1. Short term,
 - 2. Long term.

25-10.19.3.3 Locate Project in Regional, Municipal and Neighborhood Setting Including Key Map Showing Entire Project and its Relation to Surrounding Properties.

- a. Surrounding properties to be clearly marked as to lot, block, owner and acreage;
- b. Roads, rivers, streams, vegetation patterns and other important features to be shown.

25-10.19.3.4 Describe the Projected Development Including the Following and Any Other Pertinent Data.

- a. Site plan of project at scale of a minimum of one (1) inch to fifty (50) feet. Showing all proposed items as follows:
 - 1. Dimensions and acreage of each lot/plot to be built on or otherwise used. Existing grades/contours on the lot to U.S.G.S. or aerial interpretations.
 - 2. Size, shape, and location of all buildings and paved areas to be built on lot, and presently existing on neighboring lots, analysis of runoff.

3. Location and layout of parking areas, parking spaces in those areas and driveways including: setbacks, screening, runoff control.
4. Entrance and exits to and from public roadways including sight lines, acceleration, deceleration storage lanes, traffic controls.
5. Walkways, bikeways, and interior roadways functional analysis.
6. All utility lines existing and proposed whether above or below ground.
7. All easements deed restrictions and rights-of-way including stream encroachment and flood plain delineations.
8. Sewer and water connections if off-site services.
9. All required setback lines per zoning.
10. Location of fences, signs, lights on applicant's property and on neighboring properties and streets.
11. Outdoor storage areas function and need effects on area.
12. All proposed landscape features including ground cover, trees, shrubs, screening, streams, ponds, other pertinent data.
13. All final grades indicating where grading and re-grading has taken place; analysis of soil factors.
14. Floor plan and elevations of all proposed structures including signs and outside lights.
15. Calculation of floor area ratio lot coverage per ordinance.
16. Analysis of land use components and housing components.

25-10.19.3.5 Manpower Requirements.

- a. Numbers and types of employees and/or homes involved in operation of project;
- b. Expected local recruitment;

- c. Number of employees expected to move into area short and long term.

25-10.19.3.6 Energy Requirements.

- a. Amount and type required for all purposes;
- b. Certification by supplier as to availability of energy and location of proposed hookup;
- c. Approval of source including existence of capacity to meet need by NJ DEP, NJ PUC, State and Federal energy office and any other agency involved, State, Federal, or local.

25-10.19.3.7 Water Supply Requirement.

- a. Amount required for all purposes;
- b. Describe proposed water storage facility, if any, and transmission lines;
- c. For onsite supply give:
 - 1. Location, depth capacity and water analysis of all private and public water supplies within five hundred (500) feet of development;
 - 2. Location, depth capacity and water analysis for all public and private water supplies on developer's property;
 - 3. Geologic description of sub-surface conditions including expected ground water yields;
 - 4. For development of the equivalent of fifty (50) or more dwelling units provide approval of water supply plans by NJ DEP;
 - 5. List and discuss permits required, relation to statute, regulations.
- d. For offsite supply provide:
 - 1. Source of supply:
 - (a) Company or agency;

- (b) Location of actual route and trunk lines, to be used;
- (c) Amount of diversion granted to supplier by NJ DEP with summary of diversion conditions (documented);
- (d) Maximum amount of water pumped by supplier in any one month from proposed original source;
- (e) Maximum gallons of water pumped during past twenty-four (24) months from proposed original source;
- (f) Expected demand from previously approved but not completed improvements to use same original source: List individually showing location, flow and date planned for going online;
- (g) For development of the equivalent of fifty (50) or more dwelling units provide NJ DEP approval of plan and copy of documents and conditions;
- (h) If expansion of facilities required to supply demands of this project, Environmental Impact Survey for said expansion.
- (i) To be delivered on site in what time frame;
- (j) Analysis of quality of water;
- (k) Analysis quantity of water from each alternative.

25-10.19.3.8 Drainage-Storm Water Runoff.

- a. Volume of storm water run-off estimated for 25-year, 50-year, 100-year, and record-year storm;
 - 1. Minimum time of concentration ten (10) minutes U.S.C. A.S.C.I. manual of run-off coefficients;
- b. Plans, specifications for management of run-off under above storm conditions (designed to preclude increase in potential downstream flooding and on and off site erosion);
- c. Describe potential flood damages and flood stages as delineated by Federal and State agencies including SCS designation;

- d. Sediment and erosion control drawn in accordance with guidelines and standards of Soil Conservation Service (SCS), Conservation District, of Department of Agriculture;
- e. Plan for any proposed fill, diversion of a water channel, alteration of a stream, repair or construction of a bridge, culvert, reservoir, dam, wall, pipeline or cable crossing include DEP permit;
- f. Receiving stream, sub watershed:
 - 1. Flow during storms listed above;
 - 2. Water quality analysis;
- g. Effect of run off neighboring properties;
- h. File for all necessary Township, County, State and Federal permits;

25-10.19.3.9 Liquid Waste Facilities-Sewerage, Thermal, Radioactive, Chemical, Biological.

- a. Quantity and nature of liquid waste;
- b. For on-site facility provide:
 - 1. Description of facility;
 - (a) Plot plan locating system;
 - (i) Contours at minimum of five (5) feet intervals, streams, drainage ways, vegetation, location of soils, pits and percolation holes;
 - (ii) Establish known bench mark.
 - 2. Percolation tests and soil logs for each (min. 2) possible lot or system location. Relate to soil infiltration rate.
 - 3. Soil analysis and description of bedrock and surficial geology of area, including soil logs from each different soil type as noted on SCS soils maps, indicating depth to water table and bedrock. Assess ground water hydrology.

4. Engineer's design for proposed system or systems and supporting data.
 5. For onsite "package" plant provide all information listed in paragraph 2, and 3 below;
- c. For offsite facilities:
1. Describe treatment plant;
 - (a) Location;
 - (b) Administering agency or organization, ownership, responsibility;
 - (c) Design capacity-description of treatment;
 - (d) Monthly average flows, peaks, lows, monitoring
 - (e) Status of EPA/DEP permits for plant and conditions of permits:
 - (f) Flow from previously approved but as yet incomplete developments planning to use same facility, list individually showing location, estimated flow, and data planned for connection;
 - (g) Capacity of plant to treat industrial wastes if applicable.
 2. Describe water receiving plant effluent:
 - (a) Water quality standards (NJ DEP), US EPA Permit objectives;
 - (b) Biological and chemical water analysis of stream-Baseline studies;
 - (c) Four-season study if receiving waters are in the municipality.
 - (d) Summary of studies USGS, DEP, and Health, EPA when available;

- (e) Stream flow (minimum average 7-day consecutive flow with frequency of occurrence for ten (10) years);
- 3. Monitoring program:
 - (a) Receiving stream;
 - (b) Waste water effluent;
 - (c) Storm water runoff.
- 4. Local, State and regional plans for sewerage treatment facilities.
 - (a) Local Board of Health approval of conceptual design in conformity with standards.

25-10.19.3.10 Solid Waste.

- a. Description of quantity and quality of waste;
- b. Plan for onsite gathering and storage;
- c. Plan for disposal of non-recyclable wastes:
 - 1. If private scavenger or municipal service:
 - (a) Disposal site capacity in terms of volume and time;
 - (b) State permit and compliance with State and local codes;
 - (c) Disposal site capability:
 - (i) Estimated length of life; at present rate; with other new development facilities already approved; with this project added;
 - (ii) Cost of service to the Township.
- d. Plan for handling of recyclable wastes;
 - 1. Storage locally, regionally;
 - 2. Transportation for all operations;
 - 3. Receiving depot or processing operations:

- (a) Locations.
 - (b) Affidavit of acceptance of material by licensed operator.
4. Township Board of Health approval of plan (document).

25-10.19.3.11 Air Pollution.

- a. Describe all air home emissions in terms of quantity and rate chemicals content, times of emission, pattern of dispersion related to locality and region:
- 1. Stationary sources:
 - 2. Mobile sources;
 - 3. For facilities with plus four hundred (400) parking spaces (EPA complex source):
 - (a) Transportation management plan;
 - (i) Employee use of mass transit facilities (see Section 25-10.19.3.13);
 - (ii) Incentive plans (see Section 25-10.19.3.13) identify alternatives;
 - (iii) Shipping and receiving.
 - (b) Effect of emissions on ambient air quality of locality and region by quarter mile gradients;
 - (c) Effect of emissions on climate of area, include fog and frost;
 - (d) Proposed monitoring program, all studies;
 - (e) Compliance with State and Federal regulations in specific inventory form:
 - (i) NJ DEP approval in writing, including conditions or suggestions if any;
 - (ii) EPA approval in writing, including conditions or suggestions of any.

- (f) Municipal Board of Health approval in writing.

25-10.19.3.12 Noise.

- a. Projected noise levels with contour plots for intensity levels:
 - 1. On site, location of stations, data;
 - 2. Off site, location of stations, data;
- b. Proposed monitoring program, detail timing, technique, discuss;
- c. Approval of State, comparison with standards, includes EPA;
- d. Municipal Board of Health approval in writing with conditions if any.

25-10.19.3.13 Transportation.

- a. Provide analysis and plans for following: at beginning of project, at each construction phase, and at completion, include capacity and flow designs.
 - 1. Employee and/or resident traffic:
 - (a) Modes of travel, primary, secondary, tertiary, options;
 - (b) Hours of peak traffic for primary modes;
 - (c) Traffic patterns, analysis of flow, conflicts;
 - (d) Commuter shed of area and region;
 - (e) Mass transit use at present, projected. Influence of project;
 - (f) On site circulation and parking facilities adequacy or over design;
 - (g) Off site during workday (lunch, shopping, etc.). Alternatives considered.
- b. Raw materials imports:
 - 1. Number and types of vehicles per day, month, year;

2. Traffic pattern, vehicles loaded and empty;
 3. On site circulation and unloading facilities;
 4. Onsite parking for vehicles.
- c. Product exports:
1. Number and type of vehicles per day, month, year; Traffic patterns;
 2. Onsite circulation;
 3. Onsite parking for vehicles.
- d. Messenger or shuttle bus traffic:
1. Number and type of vehicles used;
 2. Traffic patterns;
 3. On site circulation and loading and unloading facilities;
 4. On site parking for vehicles if used. If not specify location;
 5. Facilities for servicing vehicles on site or off.
- e. Emergency vehicles:
1. Services to be provided by offsite organizations specify. Document with letter of agreement:
 - (a) Type of service required (special equipment)
 - (b) Availability (on site, off site) or combinations;
 - (c) Access to site locations; comments from suppliers;
 - (d) Cost to municipality; direct and indirect;
 - (e) Comments from fire company and first aid squad on general plans;
 2. Number and type of vehicles kept on site;
 - (a) Parking and servicing facilities;
 - (b) Provision for manpower, maintenance, operations;
 - (c) Comments from local fire company and first aid squad on general plans.
- f. Customer and/or visitor traffic comparability with paragraphs a, b, c, d, and e (above).

1. Number and type of vehicles per hour, day, and week;
2. Modes of travel;
3. Traffic patterns;
4. Peak hours of traffic;
5. Commuter shed;
6. On site circulation and parking facilities.

25-10.19.3.14 Employee Services.

- a. List those provided on site (recreation, lunch room, shops, etc.);
- b. List those required from community.

25-10.19.3.15 Municipal Services Other Than Emergency Services.

- a. Security and traffic direction:
 1. Comments from police department;
- b. Road maintenance; include private roads maintenance plans, provisions, agreements;
 1. Comments from road supervisor.
- c. Schools including cost/revenue analysis:
 1. Comments from Board of Education.

25-10.19.3.16 Aesthetics.

- a. Description of completed project including relationship to terrain and existing buildings and thoroughfares,
 1. Include materials, designs, height, special effects, etc.
- b. Description of landscaping of proposed project; including existing vegetation and grades;
 1. Include size and type of new or moved trees, shrubs, etc.
- c. Discussion of relationship of completed project to neighboring properties, the municipality in general:

1. Include historical buildings and/or natural landmarks;
2. Aesthetic comparability with community and regional existing planned facilities.

25-10.19.3.17 Land Management.

a. Plans for management of open spaces:

1. Legal instrument providing for preservation and maintenance of open space;
2. Land management programs, conceptual and/or operational plans;
 - (a) Wildlife protection;
 - (b) Used by public;
 - (c) Recreation private, public;
 - (d) Vegetation;
 - (e) Agriculture.
3. Water Resource Management Program; flood, flow control, irrigation, etc.

b. Critical Impact Areas:

1. Map at scale of at minimum one (1) inch to fifty (50) feet and two (2) foot contours showing relationship of proposed project to:
 - (a) Streams, ephemeral and constant, outline the sub watersheds and flood plains;
 - (b) Wetlands and water table gradients;
 - (c) Ponds and other water courses with profiles;
 - (d) Slopes greater than fifteen (15) at two (2) foot gradients;
 - (e) Soils of plus thirty (30) K factor;
 - (f) Soils of ph four (4) or less, eight (8) or greater;

- (g) Shallow bedrock (under five (5) feet);
- (h) Areas of seasonal high water table under three (3) feet (according to SCS Soils Maps);
- (i) Aquifer recharge areas; discuss geologic relationship;
- (j) Mature trees and shrubs inventory, relate to ordinance, permits, plans if any;
- (k) Grades and/or contours on U.S.G.S. Datum of the entire tract and Map sheet;
- (l) Historic or archeological feature;
- (m) Unique natural features.

2. Listing of all Federal, County, Local Permits Required and Status of each. (including those noted above).

25-10.19.4 Comprehensive Description of Construction Phase.

Comprehensive description of the construction phase of the project from start to opening:

25-10.19.4.1 Proposed Construction Schedule in Detail.

25-10.19.4.2 Work Force and Equipment.

- a. Number of individuals and skills required at each phase (cross relate local services);
- b. Description of equipment necessary at each phase (cross relate air and noise pollution).

25-10.19.4.3 Traffic.

- a. Access to property during construction, temporary, permanent;
- b. Routing of heavy equipment; special permits, safety, noise, damage factors;
- c. Analysis of traffic at each phase of construction;
- d. Truck deliveries of materials; timing and number;
- e. Parking areas for workers;

- f. Use of mass transit or car pools;
- g. Use of aircraft of any kind for construction, delivery or supervision.

25-10.19.4.4 Site Preparation Include Plans and Schedule For:

- a. Clearing; environmental effects, forestry plan;
- b. Excavation; spoil areas relationships;
- c. Filling, cut areas cross analysis;
- d. Cutting, fill area cross analysis;
- e. Burning or alternatives as chipping or incinerators;
- f. Lasting; needs, techniques, timing, safety;
- g. Soil and erosion control; consistency with official standards. See item h.;
- h. Water quality monitoring in receiving waters for run-off quality –quantity.

25-10.19.4.5 Materials Required From Site.

- a. Source, plans, approvals for removal;
- b. Route of delivery trucks, safety plans-comments by police.

25-10.19.4.6 Storage of Materials On Site.

- a. Type;
- b. Location;
- c. Special precautions for hazards-identify each and specify plans.

25-10.19.4.7 Temporary Structures, Trailers and Facilities during Construction.

- a. Schedule of erection and removal;
- b. Location; provide site map relating to access and utilities;
- c. Sanitation facilities, temporary and/or permanent as phased in;
- d. Utilities temporary and permanent with phasing schedule.

25-10.19.4.8 Design and Schedule of rise of Measures for Protection of Environment during Construction.

- a. Sediment and erosion controls-schedule for hydro seeding or other stabilization;
- b. Run-off control-schedule for basin, pond, etc. construction;
- c. Noise abatement;
- d. Dust control;
- e. Solid waste disposal;
- f. Air pollution;
- g. Water quality monitoring;
- h. Inspection and monitoring.

25-10.19.4.9 Necessity for Municipal Services During Construction Phase.

- a. Security and traffic direction:
- b. Comments from applicant, contractor and police department;
- c. Fire:
 - 1. Comments from applicant, contractor and fire company;
- d. First Aid:
 - 1. Comments from applicant, contractor and first aid squad;
- e. Road maintenance:
 - 1. Comment from applicant, contractor and road supervisor.

25-10.19.5 Assessment of Environmental Impact. Probable environmental impact of project if implemented - An assessment.

NOTE: In order that a determination can be made as to the appropriateness of a project, and the environmental and socioeconomic conflicts, the proposal must be compared with resource supplies.

All anticipated primary and secondary impacts whether beneficial or adverse must be identified and evaluated. These impacts must include those that will occur during all aspects of site preparations, construction, and operation during the life of project and in the long term over twenty (20) years.

Using the existing environment, without the project as a basis for analysis, provide the following:

25-10.19.5.1 Land Use.

- a. Discuss consistency of proposed action with accepted regional, State, County and local planning and zoning regulations.
- b. Discuss how the proposed action will affect population trends in industrial growth and economy of the region, County, and Township.
- c. Discuss whether proposed action will result in the loss or alteration of ecologically sensitive areas but not limited to such as stream corridors, streams, wetlands, steep slopes, highly erodible soils, areas of seasonal high water table, mature stand of vegetation, aquifer recharge areas.

25-10.19.5.2 Water.

- a. Discuss possible instances, on site or off site of noncompliance between proposed action and New Jersey and Municipal Water Quality Standards, particularly during low flow periods.
- b. Discuss effects of project on assimilative capacity, aquatic biota and habitat, pollution and turbidity levels in any receiving waterway on or off site and the effect of these changes upstream and downstream from site.
- c. Discuss the effects of the project on local groundwater quality and quantity
- d. Discuss changes in flood levels or flow in the Township and downstream caused by the proposed project.
- e. Discuss cumulative effect on water quality and flooding of this project and others already approved now and when they all reach capacity.
- f. Discuss alternatives for water supply, wastewater disposal and drainage.

25-10.19.5.3 Air.

- a. Discuss ambient air quality data present and projected with attention to all possible receptor sites of air pollutants directly or indirectly from the proposed project. Draw direct comparisons between present air quality, projected air quality and air quality standards.
- b. Discuss if project will meet applicable air quality standards contained in New Jersey implementation plan.
- c. Discuss effect of any changes in ambient air quality caused by project on criteria for future projects in view of cumulative effects.
- d. Discuss long term consideration given to the relationship between nearby properties, the project and prevailing wind patterns, on the seasonal and annual air quality in the area.
- e. Discuss possible net influence of the proposed project on the air quality exported from the site.
- f. Discuss effect of project on climatology of the region.

25-10.19.5.4 Aquatic and Terrestrial Wildlife.

- a. Discuss the gain-loss of wildlife habitat and its effect.
- b. Discuss the effect of gain-loss of food chain on the aquatic or terrestrial wildlife.
- c. Discuss effect of changes in the environment, including noise, dust, lighting, turbidity, siltation and others, during and after construction, on wildlife.
- d. Discuss any recreation gain-loss due to project.

25-10.19.5.5 Social and Economic.

- a. Evaluate the primary and secondary socioeconomic effects on the community brought about in the long and short term by this project. Include such things as necessary community services i.e., schools, police, roads, parks, etc.
- b. Discuss local controls and philosophy of growth as they pertain to this project. Include all predictable growth inducing impacts.

- c. Discuss the gain-loss in housing choices, recreation, open space, service business in the community due to this project.

25-10.19.5.6 Noise.

- a. Discuss effect of projected noise levels on humans and wildlife over the long and short term.
- b. Discuss noise control measures to be used during and after construction.

25-10.19.5.7 Solid Waste.

- a. Evaluate the gain-loss results of proposed solid waste handling proposed during and after construction.

25-10.19.5.8 Cultural and Aesthetics.

- a. Discuss how the project will affect historical and archaeological values both on and off site in the community and region.
- b. Evaluate how the natural or present character of the area will be changed as a result of the proposed action.

25-10.19.6 Evaluation of Unavoidable Impacts and Irretrievable Commitment of Resources.

NOTE: The adverse environmental and socioeconomic effects of the proposed project and the irretrievable commitment of resources must be identified and described. Discussion of justification, mitigation or tradeoffs should not be included in this section.

- a. Discuss in detail the kinds of magnitude of adverse impacts and their implications for the community, region, and State. If methods of mitigating any impacts have been discussed previously discuss implications of remaining impact.
- b. Identify the extent to which the proposal curtails or alters the range of beneficial uses of natural and manmade resources including but not limiting comments to:
 - 1. Renewable and non-renewable resources used during construction and operation.

2. Energy consumption during construction and operation including examining alternative energy sources.
3. Share of existing regional resources utilized by project.

25-10.19.7 Methods of Mitigating Adverse Environmental Impacts.

NOTE: In response to adverse impacts described in the previous section, discuss the remedial, protective and mitigating measures to be taken as part of the proposed project. Note in each case measures to be used to bring the project into compliance with all local, State and Federal requirements. Mitigation of adverse environmental effects should reflect latest state-of-the-art technology. Discussion of mitigating measures should include but not be limited to the following design considerations and operational strategies:

- a. Site location;
- b. Emission control apparatus for air and water discharges;
- c. Erosion and sedimentation control measures, storm water run off control;
- d. Noise control;
- e. Traffic control;
- f. Solid waste recycling;
- g. Buffer zones.;
- h. Land management;
- i. Selective clearing and/or landscaping;
- j. Protective measures for aquatic and terrestrial wildlife;
- k. Architectural design techniques;
- l. Contingency plans for emergencies, accidents, abnormal natural conditions;
- m. Traffic control and mass transportation strategies
- n. Employee education;
- o. Employee services;
- p. Housing, recreation.

Measures to be taken over the life of the project to assure continued use of state-of-the-art technology in mitigation of adverse environmental impacts.

25-10.19.8 Alternatives to the Proposed Project.

NOTE: An analysis of alternatives must be sufficiently detailed and rigorous to permit independent and comparative evaluation of the benefits, costs, and environmental risk of the proposed project and each reasonable alternative. Project justification should not be a part of this discussion.

- a. Discuss Alternative Locations for Project Site:
 1. Reason for proposed site selection
 2. Unique qualities site provides for project;
 3. Other sites considered;
 4. Reasons why other sites were rejected.

- b. Discuss Alternative Processes or Methods:
 1. Other solutions available to achieve the same goals;
 2. Alternative process or method. Including any proposal to add to existing facilities;
 3. Alternate methods of construction and design considerations.

- c. Discuss Alternative Configurations Within Site:
 1. Protection of critical areas;
 2. Reduction of aesthetic impact
 3. Reduction of secondary impacts.

- d. No Action Alternatives:
 1. Consequences of no project, public, local and regional;
 2. Likely alternative use of site;
 3. Discuss adverse impacts that would be avoided both long and short term;
 4. Discuss public ownership option cost-benefit relationships use.

25-10.19.9 Monitoring.

NOTE: In order to acquire sufficient base line data for impact evaluation and to ascertain the effectiveness of proposed protective measures, suitable monitoring programs should be undertaken. In this section describe, in detail, programs designed to obtain this information at various phases of the project.

- a. Pre-Construction Monitoring:
 - 1. Programs planned or already instituted to provide base line data parameters including but not limited to:
 - (a) Air quality;
 - (b) Water quality;
 - (c) Noise levels;
 - (d) Animal (aquatic and terrestrial) population;
 - (e) Vegetation;
 - (f) Traffic movements.

- b. Construction Monitoring:
 - 1. Programs to provide continuous monitoring of parameters indicated to be relevant;
 - 2. Communication plan to assure guide response including cautionary warnings when limits are approached and to modify construction practices if standards are exceeded;
 - 3. Operational monitoring:
 - (a) Programs to provide information to establish whether protection devices are functioning as expected;
 - (b) Communications plan to assure prompt, continuous response to monitoring information should requirements be exceeded.

25-10.20 Signs.

25-10.20.1 Permitted Signs. The following signs shall be permitted:

- a. Official signs erected by any governmental agency.
- b. A name plate sign showing the name and address of the house or family on the premises, not larger than one (1) square foot in area.
- c. A temporary sign advertising the prospective sale or rental of the premises upon which it is located, not exceeding eight (8) square feet in area, and providing that it shall be maintained and removed within seven (7) days after consummation of a lease or sale transaction.

- d. Non-illuminated temporary signs on new construction sites, not exceeding seventy-five (75) square feet in area, provided that they shall be maintained and removed within seven (7) days after completion of the construction work.
- e. Temporary signs:
 - 1. Temporary sale, such as garage, moving, political, household, crafts and the like, for a consecutive period of seven (7) days before the sale; said signs are to be removed within three (3) days after the sale or election.
 - 2. Holiday sales for trees, crafts, etc., for a consecutive period of thirty (30) days prior to the holiday; said signs are to be removed within three (3) days after the holiday.
 - 3. Identification signs for churches, hospitals, clinics, schools, parks and playgrounds, commercial recreation areas, public utility installations and similar uses, which shall be non-flashing, and shall not exceed sixteen (16) square feet in area.
 - 4. Customary warning or “no trespassing” signs not exceeding one (1) square foot.

25-10.21 Small Wind Energy Systems

- a. The primary purpose of a small wind energy system, as defined in Section 25-2.2, will be to provide power for the principal use of the property whereon the system is to be located and shall not be for the generation of power for commercial purposes, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time from a wind or solar energy system designed to meet the energy needs of the principal use. For the purposes of this ordinance, the sale of excess power shall be limited so that in no event an energy system is generating more energy for sale than what is otherwise necessary to power the principal use of the property.
- b. Small wind energy systems shall only be permitted as an accessory use on the same lot as the principal use in the ED and O/I districts. All energy systems require approval from the zoning officer and construction officer prior to installation. Applications for an energy system shall include information demonstrating compliance with the provisions of this ordinance. In the event a zoning officer or construction officer does not believe the provisions of this Ordinance will be satisfied, an applicant may request a variance.
- c. All applications for small wind energy systems shall be presented to the Planning Board for site plan approval.
- d. Design criteria.

1. Wind turbines shall be designed with an automatic brake or other similar device to prevent over-speeding and excessive pressure on the tower structure.
 2. Wind energy systems shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
 3. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
 4. The tower shall be designed and installed so as not to provide step bolts, a ladder, or other publicly accessible means of climbing the towers for minimum height of eight (8) feet above the ground.
 5. All moving parts of the small wind energy systems shall be a minimum ten (10) feet above ground level.
 6. The blades on the small wind energy systems shall be constructed of a corrosion resistant material.
 7. All guide wires or any part of the wind energy system shall be located on the same lot as the energy system.
 8. All equipment, sheds and tower bases shall be enclosed with a security chain link or wood fence of at least seven (7) feet in height, but no higher than eight (8) feet unless otherwise approved by the Township Engineer. All fences shall include a locking security gate.
 9. The connection between the wind energy system in the building, electrical grid or street shall be underground.
- e. Wind Turbines are permitted in the Economic Development District (ED) and the Office Industrial District (O/I) subject to the following requirements:
1. Minimum lot size of ten (10) acres.
 2. Minimum setbacks: all wind turbines shall be set back from all setback lines a distance equal to 100% of the height of the structure plus ten (10) feet, including the blades.
 3. Wind turbines shall not be permitted in any front yards, unless in the opinion of the Planning Board the front yard is the most suitable place, based upon topographic conditions.
 4. Maximum height. Freestanding wind turbines shall not exceed a high of 120 feet, plus blades, but in no event higher than 135 feet. The maximum height shall include the height of the blades at its highest point. If a height variance is granted, any approved tower must be monopole construction.
 5. No more than one wind turbine shall be permitted on any parcel of property.
 6. Wind turbines shall not be allowed as rooftop installations.

7. Wind turbines on property shall have a nameplate capacity (maximum ability to generate energy) of ten (10) kilowatts or less. If a height variance is granted, any approved tower must be of monopole construction.
 8. The base of the tower(s) for the wind turbines shall be no larger than 13 x 13 feet in size.
- f. Noise. All wind energy systems shall comply with the following:
1. At the boundary between the zone in which the wind energy system is erected and each surrounding residential use or zone, sound levels of the wind energy system shall not exceed 55 dBA at the common property line as measured by the State standards.
 2. These sound levels may be exceeded during short-term events such as utility outages and/or severe wind storms, for a maximum of four (4) hours.
- g. Site location. It is important to preserve the scenic beauty of the Township's ridgelines as commonly understood, with the understanding that the ridgeline may be an optimum site location. With that understanding, the Planning Board shall make the final selection as to the location of the wind turbine taking into consideration the ridgeline, scenic vistas, the size of the turbine proposed, location of the structures on the property, nearby residences and other pertinent factors.
- h. Abandonment.
1. A small wind energy system that is out of service for a continuous 12-month period will be deemed to have been abandoned.
 2. At any time after the expiration of the 12-month period, the zoning office may issue a "Notice of Abandonment" to the owner. The notice shall be sent by regular mail and certified mail return receipt requested to the owner of record at the address shown on the Township's records.
 3. Any abandoned system shall be removed at the owner's sole expense within 6 months after the owner receives the "Notice of Abandonment" from the municipality. If the system is not removed within 6 months of receipt of the notice from the Township notifying the owner of such abandonment, the Township may remove the system as set forth below.
 4. When an owner of a wind energy system has been notified to remove same and has not done so 6 months after receiving said notice, the township may remove such system and place a lien upon the property for all of the costs incurred in its removal. If removed by the owner, a demolition permit shall be obtained and the facility shall be removed. Upon removal, the site shall be cleaned, restored and re-vegetated to blend with the existing surrounding vegetation at the time of abandonment.

25-11 FEES AND DEPOSITS

25-11.1 Fee Schedule. Every applicant filing an application for development or for other relief for which notice must be given pursuant to Section 25.5.5 shall pay the following non-refundable fees as herein specified.

25-11.1.1 Subdivisions

	Application Fee	Escrow (Account) Fund
a.	Minor Plat \$50	\$1,000
b.	Preliminary Major Plat \$200	\$60 per lot, plus \$0.01 sq. ft. of lot area, provided a minimum \$2,000 shall be deposited.
c.	Final Major Plat \$100	\$30 per lot, provided a minimum \$1,000 shall be deposited.
d.	Concept Plan for review, N.J.S. 40:55D-10.1	
	1. Minor Plat \$50	\$500
	2. Major Plat \$100	\$1,000

25-11.2 Site Plans

a.	Preliminary Plan	
	1. Non-Residential \$200	\$100 per acre or part thereof, Plus \$0.20 sq. ft. of gross floor area, provided a minimum \$2000 shall be deposited
	2. Residential \$200	\$100 per acre or part thereof, plus from 1 – 10 units \$4,000 plus \$40 per unit from 11 – 100 units; plus \$30 per unit for 100 units or more,

provided a minimum fee of \$2,000 shall be deposited

b.	Final Plan		
	1. Non-residential	\$100	\$50 per acre or part thereof plus \$0.10 per sq.ft. of gross floor area, provided a minimum \$1000 shall be deposited.
	2. Residential	\$100 plus: from 1 to 10 units \$200	\$50 per acre or part thereof; plus \$20 per unit from 11 to 100 units, plus \$15 per unit for 100 units or more provided a minimum fee of \$1000 shall be deposited
c.	Concept Plan for Review		
	1. Minor Plan	\$50	\$500
	2. Major Plan	\$100	\$1,000.

25-11.1.3 Variances

a.	Appeals (40:55D-70a)	\$150	\$1,000
b.	Interpretation (40:55D-70b)	\$100	\$1,000
c.	Bulk (40:55D-70c)	\$200	\$1,000 with subdivision
		(\$100 when filed with Site Plan)	Site plan application, \$200 for all other applications
d.	Use (40:55D-70d)	\$250	\$1,000
e.	Permit (40:55D-34, 35, & 36)	\$300	\$2,500

25-11.1.4 Concept Plan

Zone Change	\$500	\$2,500
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25-11.1.5 Conditional Use Application

- | | | |
|----|-----------------------|--------|
| a. | Residential zones | \$200. |
| b. | Non-residential zones | \$750 |

25-11.1.6 Appeals to

- | | | | |
|----|------------------|-------|---------------|
| a. | Township Council | \$250 | none required |
|----|------------------|-------|---------------|

25-11.1.8 Certified List

Property Owners	\$10.00 whichever is greater	none required
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25-11.1.8 Copy of Minutes

Transcripts of Decision	\$5.00 per page for first copy of said page plus \$0.25 per copy for each Additional copy of said Page
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25-11.1.9 Special Meeting

Held at Request of Applicant	\$200	\$1,000
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25-11.1.10 Application Fee. The application fee is a flat fee to cover administrative expenses and is non-refundable. The escrow fund account is established to cover the costs of professional services including engineering, planning, legal and other expenses connected with the review and processing of the submitted materials. Sums not utilized in the review process shall be returned to the applicant. If additional sums are deemed necessary, the applicant shall be notified of the required additional amount and shall add such sum to the escrow within fifteen (15) days.

25-11.1.11 Exemption from fees. The municipality may by ordinance exempt, according to Uniform Standards, charitable, philanthropic, fraternal and religious non-profit organizations holding a tax-exempt statutes under the Federal Internal Revenue Code of 1954 (26 U.S.C. 501(c) or (d) from the payment of any fee charge under this Act.

25-11.1.12 Multiple approvals. Where one application for development includes several approval requests of one variance type, the cumulative sum of the individual required variance application fees shall be paid.

25-11.1.13 Professional reviews. Each applicant for subdivision or site plan or construction permit approval shall agree to pay all reasonable costs for professional review of the application and for inspection of the improvements. All such costs for review and inspection must be paid before any approval plat, plan or deed is signed or any construction permit is issued and all remaining costs must be paid in full before any occupancy of the premises is permitted or Certificate of Occupancy issued. The cost per each inspection related to a single-family home shall be One Hundred Dollars (\$100) unless specified elsewhere in this ordinance or in the construction code.

25-11.1.14 Court Reporters. If an applicant desires a court reporter, the cost for taking testimony and transcribing it and providing a copy of the transcript to the Township shall be at the expense of the applicant who shall arrange for the reporter's attendance.

25-11.1.15 Conditional use application fees.

- a. In residential zones: two hundred dollars (\$200).
- b. In non-residential zones: seven hundred fifty dollars (\$750).

25-11.1.16 Revision fees for applications previously approved.

- a. Residential use minimum of one hundred dollars (\$100) or twenty-five percent (25%) of original fee, which ever is greater.
- b. Commercial use: minimum of one hundred dollars (\$100) or twenty-five percent (25%) of original fee, whichever is greater.

25-11.1.17 Miscellaneous. Fees for items not covered; two hundred dollars (\$200).

25-11.1.18 Zoning permit.: twenty dollars (\$20), plus all fees for normal subdivisions and site plans.

25-11.1.19 Annexation. For hearing on a petition for annexation: one thousand dollars (\$1,000).

25-11.1.20 Farmland Preservation. To review a petition for inclusion of a parcel in a municipally approved farmland preservation program: five hundred dollars (\$500).

25-11.1.21 Waiver of Fees. When an application is made by a nonprofit charitable corporation, by a fire company which is part of the Township Fire Department, a first aid and rescue squad receiving appropriations from the Township, or a governmental agency, Township, State or Federal, the municipal agency having jurisdiction of the application may in its discretion, waive all or part of any filing fee hereinabove provided for.

25-11.2 Payments of Deposits In Escrow.

25-11.2.1 Payment of Deposits; Acceptable Charges. The Chief Financial Officer of the municipality shall make all of the payments to professionals for services rendered to the municipality or Planning Board for review of applications for development, review and preparation of documents, inspection of improvements or other purposes under the provisions of N.J.S.A. 40:55D-1 et. seq. The initial escrow deposit shall be as hereinafter set forth. The application review and inspection charges shall be limited only to professional charges for review of applications, review and preparation of documents; inspections of developments under construction and for review by outside consultants when an application is of a nature beyond the scope of the expertise of the professionals normally utilized by the municipality. The only costs that shall be added to any such charges shall be actual out-of-pocket expenses of any such professionals or consultants, including normal and typical expenses incurred in processing applications and inspecting improvements. No applicant shall be charged for any municipal clerical or administrative functions, overhead expenses, meeting room charges or any of the municipal costs and expenses, except as provided for specifically herein, nor shall a municipal professional add any such charge to his bill.

25-11.2.2 Professional Services Defined. The term “professional services” as utilized herein include the services of a duly licensed engineer, surveyor, planner, attorney, scientist, realtor, appraiser or other professional or expert who provides services for review, advice, preparation of reports and/or expert testimony, for inspection of proper surrounding area and for tests performed, in order to assist the Board in the review of the application before it.

25-11.2.3 Amount of Escrow. Subject to the provisions of Subsection 25-11.2.4 each applicant shall, prior to the application being ruled complete pursuant to the provisions of the Municipal Land Use Law and this section, submit the following sums to be held in escrow in accordance with the provisions hereof-

	Residential Developments
Number of Units	Escrow to be Posted
0 to 2	\$500.00
3 to 25	An additional \$2,000.00
26 to 100	An additional \$2,000.00
101 to 500	An additional \$5,000.00
501 to 1,000	An additional \$7,000.00
1,001 or more	An additional \$10,000.00

Commercial Development Application
Not Involving Structures

Lots	Escrow to be Posted
0 to 3	\$3,500.00
3 or more	\$5,000.00

Involving Structures

Total Floor Plan	Escrow to be Posted
1,250 to 2,500 square feet	\$1,000.00
2,500 to 20,000 square feet	\$2,000.00
20,000 or more square feet	\$5,000.00

Soil Removal

Activity	Escrow to be Posted
Soil removal	\$3,500.00

25-11.2.4 Escrow Fees, Review for Adequacy.

- a. The Planning Board and/or the Board or its authorized committee or designee, as the case may be, shall, in conjunction with the appropriate representatives of the staff of the Township of Mine Hill, review said application for development to determine whether the escrow amount set for the above is adequate. In conducting such review, said Board shall consider the following criteria:
 - 1. The presence or absence of public water and/or sewer servicing the site.
 - 2. Environmental considerations, including but not limited to geological, hydrological and ecological factors.
 - 3. Traffic impact of the proposed development.
 - 4. Impact of the proposed development on existing aquifer and/or water quality.

- b. Upon completion of said review, the Board or its authorized committee shall determine whether the escrow amount specified above is sufficient, excessive or insufficient. In the event that the Board or its authorized committee shall determine that the amount is excessive, it shall specify the amount that shall be deemed sufficient, including a specification, if appropriate, that no escrow be posted. In the event that the Board or its authorized committee shall determine the amount specified above is insufficient, it shall so specify and shall further set forth the amount to be posted in light of the criteria specified herein.

- c. No application for development be deemed complete until such time as the applicant shall have posted with the Township of Mine Hill, in cash, check or money order, the amount of escrow deposit determined by the Planning Board and/or Board to be required in accordance with the provisions of this section.

25-11.2.5 Additional Escrow Deposits. The Board may require additional escrow deposits by the applicant to be posted during the course of the review of an application, provided that:

- a. The original amounts escrowed pursuant to this section have been exhausted; and
- b. Additional professional services or expert services must reasonably be incurred in order to complete the review of the application and to properly decide the same. In the event that additional escrow moneys are required, they shall not be deemed items required for the application to be complete but may be required as additional information reasonably required to decide the application. In the Board's discretion, their payment may be required as a condition of any approval granted.

25-11.2.6 Charges for Professional Services. The applicant shall be responsible to reimburse the municipality with regard to specific professional services in accordance with the following:

- a. Charges for any professional for required attendance at a regular or special meeting during which hearings are held on the application in question; provided, however, that where hearings are held on other applications at the same hearing, the cost of attendance of the municipality's professionals shall be reimbursed on a pro rata basis.
- b. The review of applications both as to completeness and as to content and for the review and preparation of documents, such as but not limited to drafting resolutions, developer's agreements and necessary correspondence with applicant or applicant's professionals.
- c. The cost of all necessary inspections and for such other services necessary to assure that all work is performed in compliance with the approved plans and governing laws or ordinances.

25-11.2.7 Deposit of Escrow Funds; Refunds. Deposits received from any applicant in excess of five thousand dollars (\$5,000.) shall be held by the Chief Financial Officer in a special interest-bearing deposit account, and upon receipt of bills from professionals and approval of said bills as hereinafter provided for, the Chief Financial Officer may use such funds to pay the bills submitted by such professionals or experts. The municipality shall not be

required to refund an amount of interest paid on a deposit which does not exceed one hundred dollars (\$100.) for the year. If the amount of interest exceeds one hundred dollars (\$100) the entire amount shall belong to the applicant and shall be refunded to him by the municipality annually or at the time the deposit is repaid or applied for the purposes for which it was deposited, as the case may be, except that the municipality may retain for administrative expenses a sum equivalent to no more than thirty-three and one-third percent (33 1/3%) of that entire amount, which shall be in lieu of all other administrative and custodial expenses. All sums not actually so expended shall be refunded to the applicant within ninety (90) days after the final decision by the appropriate municipal agency with respect to such application, upon certification by the Board Secretary that such application has been finally decided.

25-11.2.8 Reimbursement for Inspection of Improvements. The developer shall reimburse the municipality for all reasonable inspection fees paid to the Municipal Engineer for the inspection and/or testing of improvements. The municipality may require the applicant to make a deposit for all or a portion of the reasonably anticipated fees to be paid to the Municipal Engineer for such inspections pursuant to N.J.S.A. 40:55D-53h.

25-11.2.9 Inspection of Improvements. All of the improvements in a subdivision or site plan shall be inspected and approved by the Township Engineer. The subdivider or his agent, employee or contractor shall notify the Township Engineer and the Secretary of the reviewing Municipal Board that the work is ready for any required inspection specified herein or required to be performed by the Township Engineer, the Construction Official or the appropriate subcode official. This notice shall be given at least forty-eight (48) hours prior to the start of the construction and at least forty-eight (48) hours prior to the time the inspection is desired. Inspection shall be performed within three (3) business days of the, time for which it was requested. The work shall not proceed in a manner which shall preclude the inspection until it has been made. No underground installation shall be covered until inspected and approved.

25-11.2.10 Payments; Vouchers; Insufficient Deposit.

- a. 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-fourth (1/4) of an hour increments, the hourly rate and 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..
- b. 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 one thousand dollars (\$ 1,000.) or less, or on a monthly basis if monthly charges exceed one thousand dollars (\$ 1,000.). If an escrow account or deposit contains insufficient funds to enable the municipality or Planning Board 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 upon by the municipality or Planning Board and the applicant. In the interim, any required health and safety inspections shall be made and charged back against the replenishment of funds.

25-11.2.11 Liens on Property.

- a. Should any fees for applications for development, expert witness fees, consultants fees, review fees, inspection fees or fees of any nature connected with an application for development be due and unpaid by an applicant for development and/or owner of the subject property for a period of fourteen (14) days after written notice of the amount due was mailed to the owner and applicant, the Township Clerk or Mayor or Assistant Clerk or other officer or employee of the Township of Mine Hill may execute a written statement of lien showing the amount due to the Township and may record the same in the Morris County Clerk's Office as a lien on the subject property. The lien shall include interest at the rate of twelve percent (12%) per annum, recording fees and reasonable attorney's fees.
- b. Should the lien remain unpaid, the Township Tax Collector, Clerk or other officer authorized by the Township Committee shall have the power to sell the property to collect the amount of the lien, together with interest, attorneys fees and recording fees pursuant to N.J.S.A. 54:5-19 et seq. and other applicable laws of the State of New Jersey.

25-11.2.12 Payments Required Prior to Issuance of Permits. No zoning permits, building permits, certificates of occupancy or any other types of permits may 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 made.

25-11.2.13 Close Out Procedures.

- a. The following close out procedures shall apply to all deposits and escrow accounts established under the provisions of N.J.S.A. 40:55D- I et seq.,

and shall commence after the Planning Board has granted final approval and signed the subdivision plat or site plan, in the case of application review escrows and deposits, or after the improvements have been approved in N.J.S.A. 40:55D-53, in the case of improvement inspection escrows and deposits.

- b. The applicant shall send written notice, by certified mail, to the Chief Financial Officer of the municipality and the Planning Board and to the relevant municipal professional that the application or the improvements, as the case may be, are completed. After receipt of such notice, the professional shall render a final bill to the Chief Financial Officer of the municipality within thirty (30) days and shall send a copy simultaneously to the applicant. The Chief Financial Officer of the municipality shall render a written final accounting to the applicant on the use to which the deposit was put within forty-five (45) days of receipt of the final bill. Any balances remaining in the deposit or escrow account, including interest in accordance with N.J.S.A. 40:55D-53.1, shall be refunded to the developer along with the final accounting.

25-11.2.14 Scope of Charges. All professional charges for review of an application for development, review and preparation of documents or inspection of improvements shall be reasonable and necessary, given the status and progress of the application or construction. Review fees shall be charged only in connection with an application for development presently pending before the Planning Board or upon review of compliance with the conditions of approval or review of requests for modification or amendment made by the applicant. A professional shall not review items which are subject to approval by any state governmental agency and not under municipal jurisdiction, except to the extent consultation with a state agency is necessary due to the effect of state approvals on the subdivision or site plan.

25-11.2.15 Limitation of Inspection Fees. Inspection fees shall be charged only for actual work shown on a subdivision or site plan or required by an approving resolution. Professionals inspecting improvements under construction shall charge only for inspections that are reasonably necessary to check the progress and quality of the work, and such inspections shall be reasonably based on the approved development plans and documents.

25-11.2.16 Substitution of Professionals. If the municipality retains a different professional or consultant in the place of a professional originally responsible for the development application review or inspection of improvements, the municipality or Planning Board shall be responsible for all time and expenses of the new professional to become familiar with the application or the project, and the municipality or Planning Board shall not bill the applicant or charge to the deposit or the escrow account for any such services.

25-11.2.17 Estimate of Cost of Improvements. The cost of the installation of improvements for the purposes of N.J.S.A. 40:55D-53 shall be estimated by the Municipal Engineer based on documented construction costs for the public improvements prevailing in the

general area of the municipality. The developer may appeal the Municipal Engineer's estimate to the County Construction Board of Appeals, established pursuant to N.J.S.A. 52:27D-127.

25-11.2.18 Appeals

- a. An applicant shall notify, in writing, the governing body, with copies to the Chief Financial Officer, the Planning Board and the professional, whenever the applicant disputes the charges made by a professional for a service rendered to the municipality in reviewing applications for development, review and preparation of documents, inspection of improvements or other charges made pursuant to N.J.S.A. 40:55D-53.2. The governing body or its designee shall within a reasonable time attempt to remediate any disputed charges. If the matter is not resolved to the satisfaction of the applicant, the applicant may appeal to the County Construction Board of Appeals, established pursuant to N.J.S.A. 52:27D-127, any charge to an escrow account or deposit by any municipal professional or consultant or the cost of the installation of improvements estimated by the Municipal Engineer pursuant to N.J.S.A. 40:55D-53.4. An applicant or his authorized agent shall submit the appeal, in writing, to the County Construction Board of Appeals. The applicant or his authorized agent shall simultaneously send copies of the appeal to the municipality, Planning Board and any professional whose charges are the subject of the appeal. An applicant shall file an appeal within forty-five (45) days from receipt of the informational copy of the professional's voucher required by N.J. S.A. 40:5 5D-53.2(c), except that, if the professional has not supplied the applicant with an informational copy of the voucher, then the applicant shall file his appeal within sixty (60) days from receipt of the municipal statement of activity against the deposit or escrow account required by N.J.S.A. 40:55D-53.2(c). An applicant may file an appeal for an on-going series of charges by a professional during a period not exceeding six (6) months to demonstrate that they represent a pattern of excessive or inaccurate charges. An applicant making use of this provision need not appeal each charge individually.
- b. The County Construction Board of Appeals shall hear the appeal, render a decision thereon and file its decision with a statement of the reasons therefor with the municipality or Planning Board not later than ten (10) business days following the submission of the appeal, unless such period of time has been extended with the consent of the applicant. The decision may approve, disapprove or modify the professional charges appealed from. Copies of the decision shall be forwarded, by certified or registered mail, to the party making the appeal, the municipality, the Planning Board and the professional involved in the appeal. Failure by the Board to hear an appeal and render and file a decision thereon within the time limits prescribed in this subsection shall be deemed a denial of the appeal for

purposes of a complaint, application or appeal to a court of competent jurisdiction.

- c. Appeals shall be taken in accordance with the rules and procedures established by the County Construction Board of Appeals.
- d. During the pendency of any appeal, the municipality or Planning Board shall continue to process, hear and decide the application for development and to inspect the development in the normal course and shall not withhold, delay or deny reviews, inspections, signing of subdivision plats or site plans, the reduction or the release of performance or maintenance guaranties, the issuance of construction permits or certificates of occupancy or any other approval or permit because an appeal has been filed or is pending under this subsection. The Chief Financial Officer of the municipality may pay charges out of the appropriate escrow account or deposit for which an appeal has been filed. If a charge is disallowed after payment, the Chief Financial Officer of the municipality shall reimburse the deposit or escrow account in the amount of any such disallowed charge or refund the amount to the applicant. If a charge is disallowed after payment to a professional or consultant who is not an employee of a municipality, the professional or consultant shall reimburse the municipality in the amount of any such disallowed charge.

25-12 STORMWATER MANAGEMENT

25-12.1 No land area in the Township shall be developed so that:

- a. The rate of storm water runoff occurring at that area is increased over what occurs there under existing conditions.
- b. The drainage of adjacent areas is adversely affected.
- c. Soil erosion during and after development is increased over what naturally occurs there.
- d. Soil absorption and groundwater recharge capacity of the area is decreased below what occurs under existing conditions.
- e. The natural drainage pattern of the area is significantly altered.

25-12.2 Runoff Control Details

In order to duplicate as nearly as possible natural drainage conditions, the regulation and control of storm water runoff and erosion for any land area to be developed shall be

through on-site water detention and/or ground absorption systems, which include but are not limited to the following:

- a. Detention areas, which may be depressions in parking areas, excavated basins, basins created through use of curbs stabilized earth berms or dikes or any other form of grading which serves to temporarily impound and store water.
- b. Rooftop storage through temporary impoundment and storage of storm water on flat or slightly pitched building roof tops by use of drain outlets which restrict the storm water runoff from the roof surface.
- c. Dry wells or leaching basins which control storm water runoff, ground absorption and temporary storage.
- d. Porous asphalt pavement, which preserves the natural ground absorption capacity of a site and provides a subsurface reservoir temporary storage of storm water.
- e. Any system of porous media, such as gravel trenches drained or porous wall or perforated pipe, which temporarily stores and dissipates storm water through ground absorption.
- f. Any combination of the above-mentioned techniques which serves to limit storm water runoff from a given site to what presently occurs.
- g. Preservation of natural vegetation.

25-12.3 Standards For The Design Of Storm Water Detention Facilities

- a. Storm water detention facilities shall be designed to contain an amount equal to the increase in volume of runoff which would result from development of any site during storm frequencies of 1, 5, 10, 25, 50 and 100 year storm events. The volume of runoff shall be computed on the basis of the total rainfall which produced the flood of record for the area involved and shall be equivalent to the rainfall excess, as previously defined. The total rainfall which produced the flood of record shall be determined from accurate local records of the United States Department of Commerce, National Weather Service, or by calculations using accepted engineering design techniques.
- b. Design of the detention basin must demonstrate that storm water runoff from the site is so controlled that on-site and off-site erosion is neither caused nor worsened and that the potential of downstream flooding is not increased from the proposed development. In calculating the foregoing, volumes and rates for 1, 5, 10, 25, 50 and 100 year storm frequencies having durations producing maximum runoff rates before and after the proposed development. The changes of runoff rates and volumes, to be caused by alterations in land use and time of concentration. The plans for disposition of storm water, either by retention or

detention on site, or by means of channeling detail, so as to protect downstream property. A description of potential flood damages, including a summary of flood stages from State and Federal sources and an erosion and sedimentation control for both the construction phase and post-construction phase, including a review by the Morris County Soil Conservation Service is required.

- c. The runoff coefficients shall be determined for each site for both existing and proposed conditions and the difference in the same shall be used to compute the volume of rainfall excess for design of storm water detention facilities. The volume for design is equal to the depth of the rainfall excess multiplied by the area of the site. If any such facility will contain water under normal conditions, the amount so contained shall not be counted in calculating the capacity required for the detention of water for the design storm. Rainfall intensity shall be as recommended by the Board's engineer.
- d. In the case of detention facilities utilizing porous media for ground absorption, such as dry well, porous pavement or the like the volume of the porous media shall be large enough to contain the total volume of rainfall excess within the voids. Ground, absorption systems shall be used only where the infiltration rate of the receiving soil is acceptable is determined by percolation tests and soil borings to determine the soil characteristics and groundwater table elevations or as determined by the Board's Engineer. Provisions shall be made to contain overflow of such systems on-site or to surface drain the overflow in such a way as not to adversely affect any other property.

If detention facilities utilizing surface impoundment, such as detention basins or rooftop storage, are used, sufficient volume to fully contain the total volume of rainfall-excess shall be provided. The outlets of such facilities shall be designed to limit the maximum discharge rate of storm water runoff to what occurs at the site under existing conditions and shall discharge in such a way as not to adversely affect any other property. If rooftop storage is proposed, the weight of the impounded water on the roof shall be accounted for in the structural design of the building and the roof shall be designed to provide maximum protection against leakage. If berms or dikes are used to create the impounding area, they shall be adequately stabilized and the slopes protected with vegetative cover paving or rip-rap to protect against failure or breaching.

- e. If a combination of different storm water detention techniques is used, combined volume of the systems shall be large enough to fully contain the total volume of rainfall excess.
- f. Storm water detention facilities shall be constantly maintained by the owner to ensure continual functioning of the systems at design capacity and to prevent the health hazards associated with debris buildup and stagnant water. In no case shall water be allowed to remain in any facility long enough to constitute a mosquito-breeding disease or any other type of health problem, unless approved as a

multifunction facility to include water such as a pond. If the land or storm water detention facility or facilities are proposed to be dedicated to the Township and said dedication is accepted by the Township Council, the procedures for the construction, dedication and acceptance and maintenance of such facilities set forth in this Ordinance, including but not limited to performance and maintenance bonds inspections, etc., shall govern.

- g. Detention and sediment and erosion control facilities shall be designed in conformance with the Standards for Soil Erosion and Sediment Control in New Jersey of the New Jersey Soil Conservation Commission as approved by the Board's Engineer or the Morris Soil Conservation District under agreement, except where the Board's Engineer has determined that conditions peculiar to a certain site warrant exception.
- h. Sediment and erosion control measures shall be installed prior to any other site development, shall apply to all aspects of the proposed development and shall be in operation during all stages of development. Increased runoff and sediment resulting from modified soil and surface conditions caused by the proposed development shall be minimized and, where possible, retained on-site.

25-12.4 Design Of Detention Facilities - Hydrology

- a. This section presents the hydrologic method to be used by Mine Hill Township for developing inflow hydrographs and determining maximum release rates for proposed detention basins. It should be noted that wherever possible, stream flow records should be utilized in determining design flows and the hydrologic method presented in this section will only be used when such records are unavailable.

Mine Hill Township adopts the hydrologic methods of the Soil Conservation Service (SCS) as the basis for calculations. The SCS publication "Urban Hydrology for Small Watersheds", Technical Release No. 55, June 1986 as published by the United States Department of Agriculture or as amended. Further, the SCS Type III 24-hour design rainfall distribution as presented in TR-55 is to be utilized.

Briefly, the procedure for developing inflow and outflow hydrographs is as follows:

1. Determine tributary drainage area to proposed detention basin in square miles.
2. Determine, the ground conditions and convert this to a Runoff Curve Number (CN).
3. Obtain the 24-hour design rainfall in inches for the given storm (See Table I, below).

4. Convert the 24-hour rainfall into inches of runoff using the computed CN and the SCS runoff equation.
5. Multiply the drainage area in square miles from Step 1 by the inches of runoff computed in Step 4 to obtain a constant multiplier with units of square miles-inches.
6. Determine the time of concentration to the proposed basin utilizing TR-55 Chapter #3.
7. Construct the hydrograph by multiplying the Type III Tabular Hydrograph Coordinates (TR-55 Exhibit 5-III) for the time of concentration obtained in Step 6 by the multiplier in square mile-inches computed in Step 5 to obtain flows in cubic feet per second for the various times listed in the tabular coordinates.
8. The 24-hour design rainfalls to be utilized by Mine Hill Township are as follows:

Table I
24-Hour Principal Rainfalls

Storm Frequency (Years)	24-Hour Rainfall (Inches)
1	2.7
2	3.3
5	4.3
10	5.2
15	5.5
25	6.0
50	6.5
100	7.5

9. Runoff Curve Numbers are parameters that reflect both the average soil type and land use prevalent in the drainage basin. All of the soil types in the municipality have been classified, labeled and mapped on aerial photographs by the National Cooperative Soil Survey of the Soil Conservation Service. Lists of these soils, by soil name and symbol, as well as the Hydrologic Soil Group to which they belong, are contained in Exhibit A-1 of TR-55, June 1986. To account for varying land uses and soil covers within each soil group, these soil groups have been broken down into different land use categories as shown in Table 2-2a, 2-2b and 2-2c of TR -55.
10. Time of Concentration is defined as the time required for runoff to travel from the most hydraulically-distant point in the drainage area to the point

at which a hydrograph or peak flow rate is to be computed. It should be noted that separate time of concentrations representing both undeveloped and developed conditions in a watershed are to be computed. Chapter 3 of TR-55 is to be utilized to calculate the Time of Concentration.

25-12.5 Hydraulics

- a. The hydraulics of all proposed detention basins will be reviewed utilizing standard hydraulic formulas and parameters.
- b. In order to prevent the erosion of channels and spillways, the maximum flow velocities at the outlet of proposed detention basins and erodible spillways are of particular concern. Minimum velocities are also of interest so as to prevent siltation and the subsequent loss of flow capacity. In light of the concerns, maximum allowable design velocities for unlined channels shall comply with the criteria contained in “Hydraulic Engineering Circular No. 15 - Design of Stable Channels with Flexible Linings”, published by the Federal Highway Administration of the U.S. Department of Transportation. When the maximum allowable velocities cannot be maintained in an unlined suitable channel, channel lining shall be provided in accordance with “Hydraulic Engineering Circular No. 15”.
- c. All detention basin routings will be performed using acceptable routing methods. Selected time increments will be of short enough duration to allow reasonable approximation of the inflow hydrograph.

25-12.6 Structural Requirements

The following list of general structural criteria shall be used when reviewing a proposed storm water detention basin.

25-12.6.1 Principal Outlets and Structures

- a. To minimize the chance of clogging and to facilitate cleaning, outlet pipes should be at least 18” in diameter. All pipes are to be reinforced concrete pipe conforming to ASTM C 76 with rubber gaskets pursuant to ASTM C 443.
- b. Eight (8) inch thick anti-seep collars are to be installed along outlet pipes. Reinforcement steel shall be No. 5 at 12 inches both ways with 2 inches of cover on both faces
- c. All principal outlet structures shall be steel reinforced concrete cast in place. All construction joints are to be watertight. All pipes, stubs, and/or fittings are to be cast ethically in the walls.

- d. Trash racks and anti-vortex devices will be required where necessary and should be designed to facilitate cleaning. A rise-type outlet structure which conveys flow over its top should have an anti-vortex cover constructed of reinforced concrete.
- e. Suitable lining is to be placed upstream and downstream of principal outlets as necessary to prevent scour and erosion. Such lining shall conform to the criteria contained in “Hydraulic Engineering Circular No. 15 - Design of Stable Channels with Flexible Linings”, or “Standards for Soil Erosion and Sediment Control in New Jersey” published by the State Soil Conservation Committee.
- f. All concrete shall have a minimum 28-day compressive strength of 3000PSI. Allowable extreme fiber stress in compression shall be 1200 PSI.
- g. All reinforcing steel shall be intermediate grade, new deformed billet-steel conforming to ASTM A615 (latest edition). Grade 40 minimum. Allowable stress in tension shall be 20.000 PSI.

25-12.6.2 Emergency Spillways

- a. Vegetated emergency spillways shall have side slopes not exceeding 4 horizontal to 1 vertical.
- b. Emergency spillways not excavated from undisturbed soil shall be suitably lined and shall comply with criteria contained in “Hydraulic Engineering Circular No. 15” or “Standards for Soil Erosion and Sediment Control” mentioned above.
- c. Maximum velocities in vegetated emergency spillways excavated from undisturbed soil shall be checked based on the velocity of the peak flow in the spillway resulting from the routed Emergency Spillway Hydrograph.

25-12.6.3 Dams and Embankments

- a. The minimum top widths of all dams and embankments are listed below. These values have been adopted from the “Standards for Soil Erosion and Sediment Control in New Jersey”.

TABLE II

MINIMUM TOP WIDTHS

Height(feet)	Top Width (feet)
0-15	10
15-20	12

- b. Maximum side slopes for all dams and embankments are 4 horizontal to 1 vertical.
- c. All earth fill shall be free from brush, roots and other organic material subject to decomposition.
- d. Cutoff trenches are to be excavated along the dam or embankment centerline to impervious subsoil or bedrock.
- e. An impervious central core is to be constructed in the dam/embankment consisting of compacted clay material
- f. Safety ledges shall be constructed on the side slopes of all detention basins having a permanent pool of water. The ledges shall be 4 to 6 feet in width and located approximately 2-1/2 to 3 feet below and 1 to 1-1/2 feet above the permanent water surface.
- g. The upstream face of the dam and/or embankment of a permanent pool detention basin shall be stabilized to protect it against wave erosion.
- h. The fill material in all earth dams and embankments shall be compacted to at least 95% of the maximum density obtained from compaction tests performed by the appropriate method in ASTM D698.
- i. A detention basin with a permanent pool shall have a gravity drain to permit complete emptying of the basin when necessary.

25-12.7 Water Quality Storage All site developments shall provide water quality storage in accordance with this Ordinance. The standard requires that a proposed “dry” storm water detention basin must detain the runoff from a 1.25-inch, 2-hour rainfall or the 1 year 24-hour SCS Type III storm in such a way that no more than 90 percent of this runoff will be gradually drained from the basin at the end of:

- a. 18 hours for residential development, and
- b. 36 hours for all other types of development.

The retention time shall be considered a brim-drawdown time, and therefore shall begin at the time of peak storage. In providing the above retention times, the required outlet diameter should not be less than 3 inches. For all projects, the required detention time shall be equal to the values given above or the time which results from the use of a 3-inch diameter orifice, whichever is less.

In permanent pond or “wet” basins the water quality storage requirement shall be satisfied when the volume of permanent water is at least three times the volume of runoff produced by the water quality design storm.

All outlets shall be designed to function without manual, electric, or mechanical controls. The required orifice may be constructed from metal, concrete or appropriate material and placed over a larger opening in the basin's outlet structure and attached with non-corrosive, removable fittings where suitable. Gasket material should be placed behind the plate to insure a watertight fit where appropriate. A removable trash rack is required in front of the outlet to prevent clogging. All trash racks should be designed to limit flow velocities through them to a maximum of 2 feet per second.

For a proposed detention basin which has off-site as well as on-site areas tributary to it, the computation of the resultant runoff from the 1.25-inch, 2-hour water quality design storm should either include or exclude the off-site area depending upon the following conditions:

1. Include -the off-site area if it is presently undeveloped or developed to a lesser extent than is proposed for the project site.
2. Exclude the off-site area if it is presently developed to an equal or greater extent than is proposed for the project site.

In addition, on-site areas not controlled by the detention facility should be kept to a minimum. Where the impact of an uncontrolled, on-site area is felt to be significant, special measures may be required including, where possible, the storage of an equivalent amount of runoff from developed off-site areas normally excluded from the computations (see 2 above). Projects of this nature and all other projects with unusual site characteristics will be reviewed on an individual basis, and preliminary discussions with the Board's Engineer. Both wet and dry basins can be utilized to comply with the requirements of the storm water management regulations.

25-12.8. General Requirements of Stormwater Management

- a. A subsurface soils investigation is to be performed at all basin sites, the results of which are to appear on the plans.
- b. The minimum bottom slope of the basin shall be 2% unless extraordinary site conditions prevent practical installation. In all cases low flow channels may be required to convey small inflows to the basin outlet.
- c. The basin is to have sod or top soil and seeded including the bottom, side slopes and all earthen dams and embankments.
- d. The design dimensions of the detention basin shall be maintained throughout construction unless it is to be used as a siltation basin during construction in the

watershed. If so, It shall be immediately returned to design dimensions following the completion of such construction.

- e. Water quality for the basin shall be provided by controlling the one year storm. The minimum size of the orifice shall be 3 inches in diameter.

25-13 ADMINISTRATION, ENFORCEMENT AND PENALTIES

23-13.1 Enforcement in General. It shall be the duty of the Planning Board Engineer to enforce the provisions of 25-6 and the duty of the Zoning Officer to enforce the provisions of this 25-10 of this chapter. Pursuant to that duty, they shall investigate any alleged violation of this chapter coming to their attention.

25-13.2 Zoning Permit; Application For. The application shall be made to the Zoning Officer for issuance of a zoning permit, which permit shall be issued and a copy delivered to the Construction Official before issuance of a building permit. The Zoning Officer shall require two (2) sealed plot plans with an embossed seal prepared by a New Jersey licensed professional engineer, land surveyor or architect, as authorized by N.J.A.C., Subchapter 7 of Title 13, drawn to scale and showing the size and location of all existing and proposed buildings, structures and other facilities, all streams, wetlands, easements and other natural features sufficient to enable him to determine whether all zoning requirements are met. The requirement for sealed plot plans may be waived for additions, alterations or accessory structures to existing single-family dwellings and a sketch, prepared by the owner or applicant, accepted in lieu thereof where there is a question as to the size, location or other zoning, requirement, he may require a sealed location survey. In the event of any material deviation from the approved application, plot plan or building plans, the Zoning, Officer may stop construction by posting, a stop-work notice at the building site. The Zoning Officer shall have the right to enter a building or premises during the daytime in the course of duty after proper notification to the property owner or occupant of the property.

25-13.3 Zoning Permits.

- a. A zoning, permit shall be required in the following instances:
 1. Before issuance of any building permit and before using or allowing the use of any structure, building or land or part thereof hereinafter created, erected, changed, converted or enlarged, wholly or partly.
 2. Before changing the size of any building, property or part thereof or allowing, a change of use of any building, property or part thereof.
 3. A zoning permit shall show that every building or premises or part thereof, and the proposed use thereof, is in conformity with the provisions of this chapter or in conformity with the provisions of a variance granted according to law.

- b. Any person desiring to change the use of his premises shall apply to the Zoning Officer for a zoning permit, stating under oath such facts as required. A copy of the zoning permit shall be kept on file at all times upon the premises affected and shall be displayed upon the request of any authorized official.
- c. All zoning permits shall be issued in triplicate, and one (1) copy shall be posted conspicuously on the premises affected whenever construction work is being performed thereon. No owner, contractor, workman or other persons shall perform any building, operations of any kind unless the zoning permit covering such operation has been previously issued. Furthermore, no building operations of any kind shall be performed after notification of the revocation of the zoning permit.
- d. Records and Reports.
 - 1. Records. It shall be the duty of the Zoning Officer to keep a record of all applications for zoning permits and a record of all permits issued, together with a notation of all special conditions involved. He shall file and safely keep copies of all plans submitted, and the same shall form a part of the records of his office and shall be available for the use of the Township Council and of other officials of the township.
 - 2. Reports. The Zoning Office shall prepare a monthly report for the Township Council summarizing, for the period since his last report, all zoning permits issued, complaints of violations received and action taken by him with respect thereto. Such report shall be in a form and shall contain such information as the Township Council may direct. A copy of such reports shall be made available to the Construction Official and to the Tax Assessor.
- e. A zoning permit, once granted, shall continue in effect so long as there is no change of use or occupancy of the premises.

25-13.4 Time for Decision. The Zoning Officer shall act upon all such applications within fifteen (15) days after receipt of a fully filled in application or shall notify the applicant, in writing, of his refusal to issue a permit and the reasons therefore. Failure to notify the applicant in case of such refusal within fifteen (15) days shall entitle the applicant to file an appeal to the Board, as in the case of a denial.

25-13.5 Exceptions. The Zoning Officer may waive plans on minor alterations not affecting structural change.

25-13.6 Fees. Fees shall be paid in accordance with the provisions of 25-11.1.

25-13.7 Revocation of Permit. If it shall appear at any time to the Zoning Officer that the application or accompanying plans is in any material respect false or misleading or that the

work is being done upon the premises differing materially from that called for in the application previously filed with him and may be in violation of any provision of this chapter he may forthwith revoke the zoning permit.

25-13.8 Issuance of Permit for Existing Use. Within one year from the effective date of this chapter or from the effective date of any subsequent amendment to this Chapter, the effect of which is to make certain uses nonconforming, the owner of the property upon which any such nonconforming use exists may apply for and obtain at no charge a zoning permit certifying the extent and kind of use and specifying the nonconformity in detail. After the expiration of any such one-year period, a zoning permit may be issued for a nonconforming use only by the Planning Board after a hearing held on notice to all persons entitled thereto in accordance with Subsection 25-5.5.

25-13.9 Certificates of Occupancy. It shall be unlawful for an owner to use or permit the use of any building, or part thereof, hereafter erected, altered, converted or enlarged, wholly or in part, until a certificate of occupancy shall have been issued by the Construction Official.

25-13-10 Temporary Use Permits. Recognizing, in certain instances, the necessity for certain temporary uses, the Board, after hearing, may authorize temporary use permits pursuant to the authority of N.J.S.A. 40:55D-70b.

- a. Such permits may be issued for a period not to exceed one (1) year and, on future application to the Board, may be extended, for good cause shown, for an additional period not to exceed one (1) year. Thereafter, such temporary use permit shall expire, and the use so permitted shall be abated. Any structures erected in connection therewith shall be removed. Where deemed appropriate, the Board may require such guaranties as it may deem sufficient to cause such abatement and/or removal.
- b. Where a building permit has been issued, a temporary certificate of occupancy for a dwelling house may be granted to a developer to permit such dwelling house to be used, temporarily, as a sales and management office for the sale of those homes within a subdivision, provided that all of the following requirements are met:
 1. The house to be used as such office is built upon a lot approved as part of a subdivision that has been approved by the Planning Board.
 2. The house is of substantially the same quality of construction as those homes to be sold within the subdivision.
 3. No other business than that which is accessory to the management and the sale of lands owned by the developer shall be permitted.
 4. The dwelling house shall meet all other requirements of the zone district in which it is located.

- c. Where a building permit has been issued, the Board may grant a temporary use permit for a nonconforming use incidental to construction projects on the same premises, such as the storage of building supplies and machinery and/or the assembly of building materials. For example, but not by way of limitation, such temporary use permit may be issued to permit the parking of a construction trailer on such a site or a house trailer to be parked only during reconstruction of a building damaged by fire, flood or other casualty.
- d. The Board may grant a temporary use permit for the erection and maintenance of temporary structures or buildings for the conduct of permitted uses where such permitted uses have been interrupted by reason of fire or other casualty. Such temporary use permit shall expire at the time the necessary repair or reconstruction of the permanent structures or buildings has been accomplished or within one (1) year, whichever occurs first.
- e. The Board may grant temporary use permits for the location of temporary structures, in connection with permitted uses, on the site of such permitted use, which is either existing or about to be established, upon the construction of permanent facilities which are an addition to the permitted use or which will result in permanent facilities to house the permitted use. For example, but not by way of limitation, such temporary use permits may be issued to permit the parking of a trailer housing banking facilities, temporary office space, temporary classroom space and/or temporary warehouse space on such a site.

25-13.11 Sign Permits. A sign permit shall be required prior to the erection or alteration of any sign.

25-13.12 Temporary Certificates of Occupancy and Zoning Permits. The Zoning Officer may issue a temporary zoning permit related to the development of a permitted use of the property. In evaluating any application for such temporary permits, the building or structure in question must meet the minimum requirements as set forth in the New Jersey Uniform Construction Code Act for the issuance of temporary certificates of occupancy and a performance Guaranty shall be posted which is sufficient, in the judgment of said Zoning Officer, acting with the advice of the Planning Board engineer or Municipal Engineer that will guarantee the completion of the project; if said guaranty is in the form of a cash deposit, it shall be held in a deposit or escrow account and shall, upon completion of all requirements, be returned to the developer without interest. Such temporary permits may be extended for an additional period not to exceed six months subject to extension of any security or guarantee.

25-13.13 Violations of Subdivision and Site Plan Requirements.

25-13.13.1 Failure to Obtain Approval. 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 part of a subdivision on which, by ordinance, the Planning Board is required to

act, such person shall be subject to a fine and penalty as provided for in Section 25-13.14. Each parcel or lot so disposed of shall be deemed to be a separate violation.

25-13.13.2 Civil Action. In addition to the foregoing, the township may institute and maintain a civil action:

- a. For injunctive relief.
- b. To set aside and invalidate any conveyance made pursuant to such contract of sale, if a certificate of compliance has not been issued in accordance with the provisions of N.J.S. 40:55D-56. Any such action shall be brought within two (2) years after the date of the recording of the instrument of transfer, sale or conveyance of such land or within six (6) years if unrecorded.

25-13.13.3 Lien to be Held as Security. In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land from which the subdivision was made that remains in the possession of the sub-divider or his assigns or successors, to secure the return of any deposit made or purchase price paid and also a reasonable search fee, survey expense and title closing expense, if any.

25-13.14 Violations and Penalties. For any and every violation of the provisions of this chapter, the owner, contractor or other persons interested as general agent, architect, building contractor, owner, tenant or any other person who commits, takes part in or assists in any violation of this chapter, or who maintains any building or premises in which any violation of this chapter shall exist, and who shall have refused to abate such violation within five days after written notice shall have been served upon him, either by registered mail or personal service, shall, for each and every violation, be subject to a fine of not more than \$1,000 or imprisonment in the county jail for a period not exceeding 30 days, or both, at the discretion of the court or judicial officer for whom a conviction may be had. Each and every day that the violation continues after such notice shall be considered a separate and specific violation of this chapter.

25-13.15 Repeal. Any and all ordinances or parts thereof in conflict with or inconsistent with any of the terms and provisions of this chapter are hereby repealed to such extent as they are so in conflict or inconsistent, provided that the adoption of this chapter shall not prevent or bar the continuance of or institution of any proceedings for offenses heretofore committed in violation of any existing ordinances of the township.

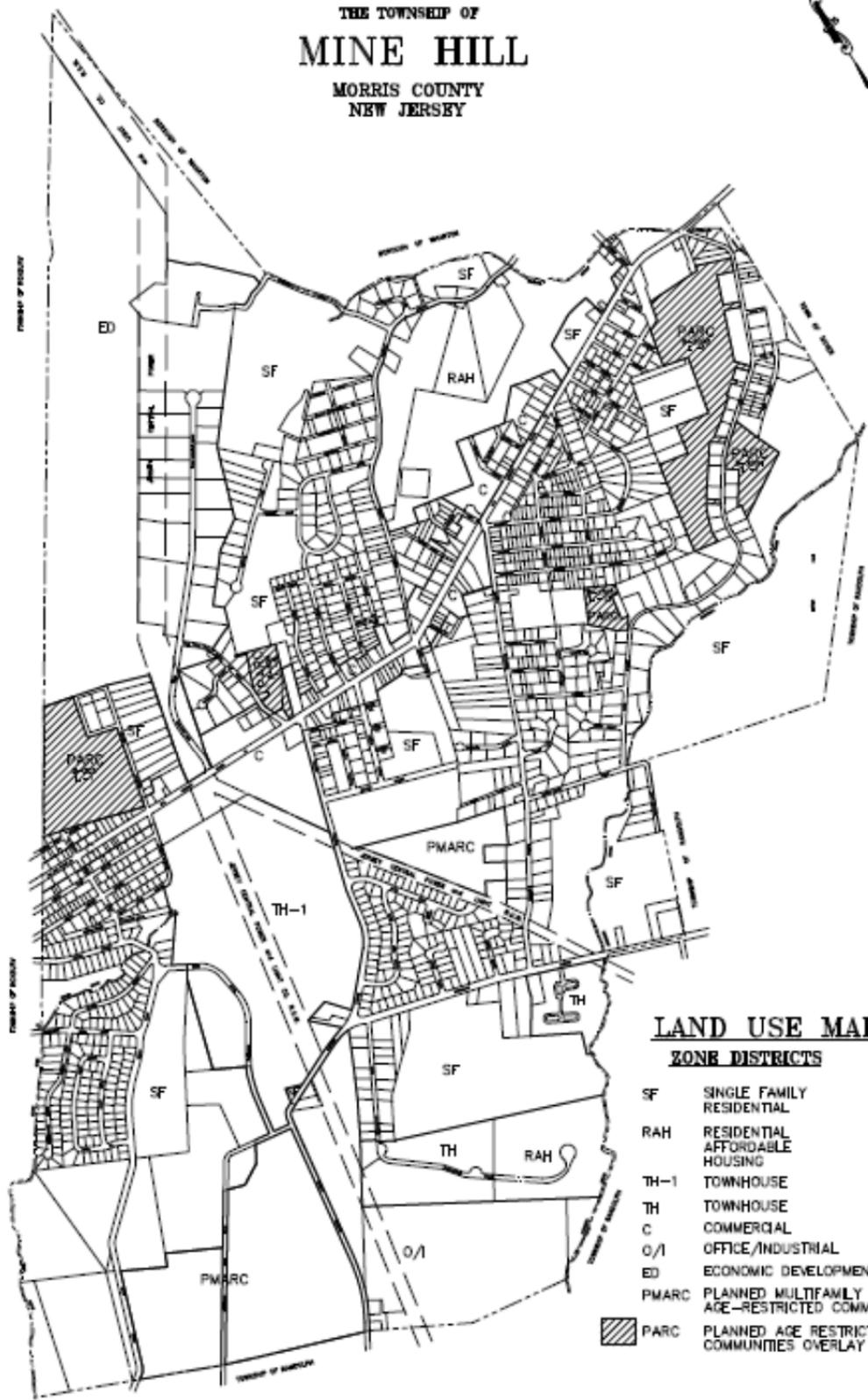
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APPENDIX I

Zoning Map

THE TOWNSHIP OF
MINE HILL
 MORRIS COUNTY
 NEW JERSEY



LAND USE MAP
ZONE DISTRICTS

- SF SINGLE FAMILY RESIDENTIAL
- RAH RESIDENTIAL AFFORDABLE HOUSING
- TH-1 TOWNHOUSE
- TH TOWNHOUSE
- C COMMERCIAL
- O/I OFFICE/INDUSTRIAL
- ED ECONOMIC DEVELOPMENT
- PMARC PLANNED MULTIFAMILY AGE-RESTRICTED COMMUNITY
- PARC PLANNED AGE RESTRICTED COMMUNITIES OVERLAY

PREPARED BY:
 PAUL M. STERBENZ, P.E., P.P., U.C. NO. 3702

NOTICE:
 THIS MAP IS FOR ALL TOWNSHIP USES AND IS NOT TO BE USED FOR ANY OTHER PURPOSES. THE TOWNSHIP ENGINEER HAS REVIEWED THIS MAP AND APPROVES IT FOR THE TOWNSHIP ENGINEER'S USE ONLY. THIS IS A 10-2.

REV. 08-08-2010



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APPENDIX II

Mined Areas Overlay Map

APPENDIX III

MINE HILL TOWNSHIP HOUSING BOARD - CREATION AND POWERS

1. **Formation, composition; terms; vacancies; compensation.**
 - a. There is hereby created the Mine Hill Township Housing Board, which shall consist of five members appointed by the Township Council . At least one member shall be a member of the Township Council or the Mayor.
 - b. The term of the member of Township Council shall correspond to his official tenure. The terms of the remaining members shall be four years, computed from the first day of January of the year of appointment, provided that the terms of such members are staggered so that one term expires each year. If a vacancy occurs among such members, it shall be filled for the unexpired term only. Members shall serve after the expiration of their terms until their successors have been appointed and qualified.
 - c. Members shall serve without salary.
2. **Officers.** The Mine Hill Township Housing Board shall elect a chairman and a vice-chairman from among its members. Their terms of office shall be one year and they shall be eligible for re-appointment. The Board shall also elect a secretary, who may but need not be a member of the Board, and it may create and fill such other offices as it shall determine.
3. **Staff and consultants.** The Mine Hill Township Housing Board may employ or contract for and fix the compensation of such experts and other staff and services as it deems necessary. Obligations for the foregoing shall not exceed, exclusive of gifts and grants, the amounts agreed upon and appropriated for the Board's use. Costs for such services shall be borne by the developer of the low and moderate-income project.
4. **Powers and duties.** The Mine Hill Township Housing Board shall have the powers and duties established by this article.
5. **Operation of the low and moderate-income housing program.** The following regulations shall apply to the lower and moderate income units produced pursuant to this Article to the extent not inconsistent with the laws regulating them:
 - a. Sales prices. The initial sales prices (including such fees and charges as are imposed on the buyer by the seller) shall not exceed to be applicable maximums established from time to time by written regulation of the Mine Hill Township Housing Board. No separate parking fee (other than for trailers and mobile homes) shall be charged, and any fees for use or recreational facilities shall not be

charged greater than those charged owners of the non-low and moderate-income units.

- (1) The Mine Hill Township Housing Board shall establish and periodically revise sales price levels for the low and moderate-income units in order at such units are affordable to low and moderate-income households and may vary the sales prices on the basis of the type of structure, the floor are of, number of bedrooms in the unit, and other relevant factors.
- (2) The sales prices shall be set so that units shall be affordable not only by households at the ceiling income for low-income households and moderate-income households respectively, but by a reasonable cross-section of households within each category. The sales prices shall be set so as to be affordable to households with incomes between 40% and 50% of the median, for low income households, and between 65% and 80% of the median, for moderate income households. Maximum sale prices shall be established based on the following assumptions on occupancy of units by household size:

Efficiency	1 person
1 bedroom	1-2 persons
2 bedrooms	3 persons
3 bedrooms	4-5 persons

- b. When establishing sales prices for resale of the low and moderate-income units, the Mine Hill Township Housing Board shall assure that the units remain affordable to low and moderate-income households, if they initially were low-income units, and moderate income households, if they initially were moderate-income units, and shall limit price increases to the household income in the region in which Mine Hill Township is located or in such other manner as will assure continued availability of the units to low and moderate-income households and a fair return to the homeowner. In addition, the Board shall by regulation provide for the manner and extent to which out-of-pocket costs of closing and the value of reasonable improvements are recoverable by the homeowner upon sale and the manner in which needed repairs are made or paid for by the owner. It may establish procedures whereby homeowners can secure certification of improvements in advance of their construction, in which case the homeowner shall recover the value of same at the time of sale.
- c. The Mine Hill Township Housing Board may grant exceptions to the sales and rent ceilings established by this section when peculiar circumstances associated with a low and moderate-income unit make such ceilings impracticable or otherwise inappropriate.

6. **Eligibility.**

- a. The lower-income units shall be sold only to persons who meet the eligibility standards established by written regulation of the Mine Hill Township Housing Board for ownership of such units and who are certified by the Board as eligible. Necessary costs related to qualifying and processing applications of prospective residents shall be borne by the developer of the low and moderate income project.
- b. The Mine Hill Township Housing Board shall establish and periodically revise eligibility standards for the low and moderate income units in order that only low and moderate income households are eligible therefore and shall establish standards relating to maximum level of assets.

7. **Sales procedures and standards.**

- a. The Mine Hill Township Housing Board shall by regulation establish:
 - (1) procedures providing for notification to it and to eligible households in the order and manner as it sees fit where low and moderate-income units become available for sale;
 - (2) procedures to assure that the low and moderate income units are sold only to persons eligible therefore in light of applicable eligibility, preference, and priority standards, that households entitled to a preference or priority are given a reasonable opportunity to utilize same, and that the Board is notified of the persons to whom the units are sold; and
 - (3) such other procedures and policies pertaining to sales which it deems necessary to fulfill the purposes of this Article.
- b. Persons who reside or have resided or are employed in the Township and live in substandard or overcrowded housing shall be given a preference over other persons for the low and moderate-income units available for sale. The Mine Hill Township Housing Board may establish priorities among persons afforded a preference and such other priorities as it deems appropriate, and not to exceed 15% of the low and moderate-income units within the project.
- c. In no event shall an owner be required to offer a low and moderate-income unit for sale through the Mine Hill Township Housing Board for more than 60 days from the date it becomes available for purchase. If during such time period an eligible household does not make an offer to purchase meeting the terms upon which the offer to sell was made, the owners may sell the unit to any household meeting the eligibility standards established by the Board, and the sales controls established herein shall continue to apply.

8. **Right of first refusal of the Mine Hill Township Housing Board.** The Mine Hill Township Housing Fund shall have an assignable right of first refusal to purchase any low or

moderate-income unit being offered for resale, exercisable within 60 days after the unit is first offered for sale.

9. **Restrictions on use.** Every purchaser of a low or moderate-income unit shall use it for his/her own primary residence and shall certify on a form prescribed by the Mine Hill Township Housing Board that he/she is acquiring the unit as his/her or his/her family's primary place of residence.

10. **Duration of sale and rent controls; termination of controls by owner buy-out.**

- a. Durational controls on sales for each low or moderate-income unit shall be established by the Mine Hill Township Housing Board and shall be of the longest possible duration consistent with regulatory, financing, and other relevant requirements.
- e. The owner of a low or moderate-income unit subject to resale or rental controls may terminate such controls by transferring to the Mine Hill Township Housing Board an amount established by the Board in light of the difference in the fair market value of the unit with and without the controls and other relevant factors. The Board in its discretion may refuse to accept the amount offered and to terminate the controls if it determines that another low or moderate income unit cannot be secured for the amount offered, or less.

11. **Foreclosure regulations.** Notwithstanding the foregoing provisions, the Mine Hill Township Housing Board is authorized to establish written regulations dealing with foreclosure proceedings, subject to approval by the Governing Body.

12. **Other Functions of the Mine Hill Township Housing Board.** In addition to exercising the powers set forth hereinabove, the Mine Hill Township Housing Board:

- a. May adopt regulations governing provision of financial assistance and design and other technical assistance to small lot program applicants and provide such assistance;
- b. May adopt regulations governing provision of financial assistance, including down payment to purchasers of the low and moderate-income units and provide such assistance;
- c. May provide financial and technical assistance to nonprofit organizations organized to provide low and moderate-income housing in the Township; may solicit and receive loans, grants, and contributions from all sources to further the purposes of this article;
- d. May recommend to Township Council and the Planning Board modifications of this chapter to increase the workability of this article.

- e. Shall report annually to Township Council and the Planning Board on the operation of the affordable housing program established by this article;
- f. Shall monitor applicants' activities for compliance with the agreements submitted as part of final approval and with this division and regulations issued hereunder;
- g. Shall take such other steps as will maximize the production of lower and moderate-income housing pursuant to this article.
- h. The Board may contract for services from and delegate functions to the Mine Hill Township Housing Board, except that it may not delegate its power to adopt regulations pursuant to this article.

13. **Mandatory Program Revaluation.** If after the effective date of the adoption of this article, there is legislation or judicial decisions which revise the requirement for municipalities to provide for affordable housing, including the phasing of same, then the provisions of this article shall be forthwith reviewed by the Mine Hill Township Planning Board and Township Council to ensure that the provisions of this article comply with the then current legal requirements with regard to affordable housing.

14. **Executive Regulations.** The Mine Hill Township Housing Board shall, from time to time, issue such written regulations as may be necessary to implement and administer the provisions of this Article.

15. **Severability.** Every section or provision of this article shall be deemed to separate provision to the extent that if any portion shall be declared invalid, such determination shall not affect the remaining parts of this article, which shall remain in full force and effect to the extent severable.

APPENDIX IV

Schedule of Area, Yard and Building Requirements (Principal Building)										
	Minimum Size of Lot			Minimum Required Setback in Feet				Maximum		
	Zone	Area in Square Feet	Width in Feet	Front Yard	Any One Side Yard	Two Side Yards	Rear Yard	Percent Lot Coverage	Height in Stories	In Feet
SF	(1)	40,000	150	50	20	40	35	20	2.50	35
	(2)	30,000	100	50	15	30	35	25	2.50	35
	(3)	25,000	100	50	15	30	35	25	2.50	35
	(4)	20,000	100	40	15	30	25	25	2.50	35
TH	(5)	10 Acres	300	75(7)		80	60	60	2.50	35
TH-1	(5)	10 Acres	300	75(7)	40	80	60	60	2.50	35
C	Commercial	10,000	100	25	40	25	20	65	2.50	35
O/I	Industrial	40,000	100	40	10	30(8)	50	80	2.50	35
RAH	Affordable Townhouses (9)	10 Acres	300	75(7)	5	80	60	60	2.50	35
RAH	Affordable Townhouses (6,9)		300	75(7)	40	80	60	60	2.50	35

- (1) On-Site Water and Sewer
- (2) Public Water and on-site sewer
- (3) On-site Water and Off-site Sewer
- (4) Public Water and Off-site Sewer
- (5) See also subsection 25-10.15.2.4 50' between buildings
- (6) See also subsection 25-10.8d.5
- (7) Requirement for minimum front yard from Private Street is 20'
- (8) Requirement of a minimum of 30' between buildings on adjacent lots
- (9) See Section 25-10.8d.6

[Editor's Note: Corner lots require a minimum width twenty-five (25%) percent greater than interior lots.]

APPENDIX V

I. There is hereby established a Mining Review Board for the location, documentation and review of mining monuments which have been placed on various tracts throughout the Township. The Mining Review Board will also maintain a data base regarding the aforementioned information collected, and generate correspondence to keep said data base current and provide said information to the Township Council, and the Township Planning Board.

a. Definitions:

As used in this section, the following terms shall mean and include:

1. "The Board" - The Mining Review Board.
2. "The Council" - The Township Council of the Township of Mine Hill.

b. Membership; qualifications; terms.

1. The Board shall consist of three (3) qualified persons appointed by the Mayor with the advice and consent of the Council.
2. The individuals may be members of the Planning Board or the Board. Board membership may also include other persons who have demonstrated special interest, knowledge or experience in mining monuments or a related discipline.
3. The term of office shall be five (5) years, however, so that the expiration of appointments will be distributed evenly over a five (5) year period of time, the appointments should be made in the following manner: of the original members, one (1) member shall be appointed for a term of three (3) years; one (1) member shall be appointed for a term of four (4) years and one member shall be appointed for a term of five (5) years. The term of each member shall expire on December 31 of the last year of each member's term, and upon the appointment and qualification of such member's successor. The terms of appointment of succeeding Board members shall be for five (5) years each, to expire December 31 of the last year of the term, and upon the appointment and qualification of such member's successor. Members shall be exempt from any provisions of any other ordinances of the Town limiting the number of terms that a member of the Board may hold. A member of the Board may serve for as many succeeding terms as such member may be appointed to by the Mayor with the approval of the Mayor and Council.

c. Salary, Staff; Financial Support; Volunteers.

1. Members of the Board shall serve without pay.
2. The Board shall have such staff as shall from time to time be assigned to the Board by the Mayor and Council as they deem necessary. Expenditures shall not exceed, exclusive of gifts or grants, the amount appropriated by the Council for the Board's use.
3. The Mayor and Township Council shall annually allocate funds within budget limitations for the operation of the Board. The Board shall endeavor to avail itself of financial assistance from federal, state or private sources.
4. The Board shall use volunteers to the maximum extent possible, to obtain information, to disseminate information, to locate and research mine monuments, and to perform all of the functions of the Board in the most effective way possible.

d. Officers.

The Board shall elect from among its members a chairman, a vice-chairman and a secretary. These officers shall serve for such term of office as shall be designated by the Board. No officer's term of office shall be shortened during that officer's term of office. The chairman shall preside at meetings, and the vice-chairman shall preside in the absence of the chairman.

e. Removal and vacancies; records; meetings; quorum.

1. Any member, after a public hearing, if requested by the member, may be removed from the Board by the Township Council for cause.
2. A vacancy occurring otherwise than by expiration of term shall be filled by an individual appointed by the Mayor and with the advice and consent of the Council and shall serve for the unexpired term only.
3. The Board 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 record. All meetings shall comply with the Open Public Meetings Act. No Board member shall vote or participate in any meeting concerning any matter in which he has a direct or indirect personal interest, monetary or otherwise.

4. A quorum for the transaction of business shall consist of two (2) of the Board's members, including the chairman, or in his absence, the Vice-Chairman.

f. Powers and Duties.

The Mining Review Board shall perform all of the functions assigned by Federal law, State law or Town Ordinances to the Board.

g. Documentation and review of mining monuments.

1. The Board shall survey the entire township to locate and identify mining monuments, and prepare records of same to ensure compliance with the provisions of Ordinance 25-10.15.7.2.3. Any noncompliance should be recorded and the Governing Body should be notified of same as well as the Township Planning and Boards.

2. The Board should update the Mining data base upon receipt of any new information.

h. Custodial care of records.

1. The Board shall maintain current lists of all documented mining monuments.

2. The Board shall also act as custodian of the mining activity data base as contained in the Abandoned Iron Mines of Mine Hill prepared by memo agreement #14-09-0050-3507 with the Department of Mines.

i. Interaction with Township Boards and Commissions.

The Board shall work in close association with a Mining Consultant, the Municipal Governing Body, the Planning and Boards to facilitate measures to rehabilitate mines. The Board shall also act as an advisor to these and other Municipal Boards and Commissions.

j. Annual update.

The Board must report at least twice annually to the Mayor and Township Council on the state of mining monuments in the Township and the measures the Board has taken to abide by the duties assigned to it by this Ordinance.

k. Fees shall be imposed upon the applicant for development pursuant to Section 25-11.1 et. seq. of the Land Use Regulations of the Township. Accessory uses permitted in the C/I-1 Commercial Industrial zones are as follows: Land Use Regulations of the Township of Mine Hill.