PART II

GENERAL LEGISLATION

Chapter 60

ALARM SYSTEMS

§ 60-1. Definitions.
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[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 11-18-74 as Ord. No. 403. Amendments noted where applicable.]

GENERAL REFERENCES

Police Department — See Ch. 40.
Fire prevention — See Ch. 98.

§ 60-1. Definitions.

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

ALARM DEVICE — Any alarm system which shall transmit a signal to borough police headquarters.

ALARM SYSTEM — A device or series of devices or local alarms whose purpose is the giving of visual or audible

warning, or both, of an emergency such as a burglary, intrusion, fire, smoke, flood or like peril.

DIAL ALARM — A precoded alarm device which uses the public telephone facility to transmit a message to borough police headquarters.

FALSE ALARM — A signal, message or warning activated by causes other than those for which an alarm system is designed or intended to respond.

LOCAL ALARM — Any alarm system mechanism which does not transmit a signal to borough police headquarters.

§ 60-2. Registration required; fee.

A. No person shall install, operate or maintain any alarm system unless it has been registered with the Borough Clerk. The Borough Clerk shall provide forms for registration of alarm systems, which shall contain the following information:

(1) The name of the applicant and the name of the owner of the premises if other than the applicant.

(2) The location of the system.

(3) A description of the system.

(4) A statement consenting to inspection, at reasonable hours, of the premises on which the alarm system is to be or is installed, by the Chief of Police or his designated representative.

B. Upon registration, the Borough Clerk shall forward one (1) copy of the registration form to the Chief of Police, who shall maintain an accurate record of all registered alarm systems.

C. No further or renewed registration shall be required unless and until there has occurred any material change in the information previously submitted with respect to any alarm system. It shall be the duty of the occupant of a building or premises served by an alarm system, within ten (10) days after a change in information previously submitted to the

Borough Clerk shall have occurred, to file a supplemental or revised registration containing accurate, current information with respect to the data required by the registration form.

D. A charge of five dollars ($5.) shall be made for the filing of any registration or any amended, revised or supplemental registration.

§ 60-3. Dial alarms.

The only alarm device which shall be operated in the borough shall be a dial alarm. Dial alarms maintained and operated in the borough shall conform to the following specifications:

A. Dial alarms shall be coded to dial the borough police telephone number and shall also be coded to notify a relative, neighbor or other third party.

B. All dial alarms shall be capable of being disconnected by the owner to permit a call to the police switchboard in the event that a false alarm occurs.

C. The contents of any recorded message from a dial alarm shall be intelligible and in a format approved by the Chief of Police. No such message shall be transmitted more than three (3) times as a result of a single stimulus of the mechanism. Messages shall not exceed fifteen (15) seconds, and the time gap between delivery shall be approximately ten (10) seconds.

D. All components of dial alarms shall be maintained by the owner in good repair. When evidence exists that there has been failure to comply with the operational requirements of this chapter, the Chief of Police, pursuant to the appellant procedure as outlined in § 60-6, shall be authorized to demand that such device shall be disconnected until such time as compliance with such requirements is reestablished.

§ 60-4. Local alarms.

Local alarms which emit an audible signal upon activation shall have a time delay device. Such time delay device will ensure that

the audible alarm signal shall cease upon operation for a period of forty-five (45) minutes after activation.

§ 60-5. False alarms.

A. The sensory mechanism of alarm systems shall be adjusted so as to suppress false indications and not to be actuated by impulse due to pressure changes in water pipes, short flashes of light, wind, noises, rattling, vibration of doors or windows, temperature or other forces unrelated to actual alarms.

B. In the event of a false alarm, the Chief of Police shall cause an investigation to be made and keep a record of said false alarm on file. For the first and second false alarm in any given calendar year, a warning shall be issued by the Chief of Police. For the third false alarm in the same calendar year, a fine of ten dollars ($10.) shall be paid to the borough, and for the fourth false alarm in a calendar year, a fine of twenty dollars ($20.) shall be paid to the borough. Fines shall be payable through the Municipal Court.

C. If the investigation of the Police Department discloses continued abuse of the privilege of operation of an alarm system, the Chief of Police, pursuant to the appeal procedure outlined in § 60-6, shall have the right to require the disconnection of the alarm system for a limited or permanent period of time.

§ 60-6. Appeals.

Whenever under the provisions of this chapter the Chief of Police or any authorized representative he or she may have designated is empowered to make a decision with respect to the installation, operation and continued maintenance of an alarm system, any person aggrieved by said decision may, within ten (10) days following said decision, file a written appeal therefrom with the Borough Clerk and with the Chief of Police, whereupon the Borough Council shall promptly conduct a hearing and affirm, modify or reverse the decision appealed from.

§ 60-7. Promulgation of rules and regulations.

The Chief of Police may, from time to time, promulgate rules and regulations supplementing this chapter in order to provide for recordkeeping and efficient management of the system provided herein. However, said rules and regulations or any revisions thereof shall not take effect until first approved by resolution of the governing body of the borough.

§ 60-8. Continuance of existing systems restricted.

If there shall be an alarm system in existence at the time of the passage of this chapter which does not conform to the terms outlined herein, the owner, operator or maintainer of the system shall have sixty (60) days in which to reprogram the equipment.

§ 60-9. Violations and penalties. [Amended 7-15-1991 by Ord. No. 703]

Any person, firm or corporation found guilty in a court of competent jurisdiction of violation of the terms of this chapter shall be subject to a fine not to exceed one thousand dollars ($1,000.) or to imprisonment in the county jail for not more than ninety (90) days or to a period of community service not exceeding ninety (90) days, or all of the above, in the discretion of the Judge imposing the same. Each violation of any section, provision or part of any provision may be considered a separate offense for purposes of this section.

Chapter 62

ALCOHOLIC BEVERAGES

ARTICLE I
Licensing and Regulation

§ 62-1. Number of licenses limited.

§ 62-2. License fees.

§ 62-3. Hours of sale, service and consumption restricted.

§ 62-4. Issuance and transfer of plenary retail licenses restricted; applicability.

§ 62-5. Violations and penalties.

ARTICLE II
Purchase, Possession or Transportation by Minors

§ 62-6. Purchase prohibited.

§ 62-7. Misrepresentation of age prohibited.

§ 62-8. Possession prohibited.

§ 62-9. Causing minors to commit prohibited acts.

§ 62-10. Violations and penalties.

ARTICLE III
Public Consumption

§ 62-11. Consumption in public places prohibited.

§ 62-12. Discarding containers on public property prohibited.

§ 62-13. Exceptions.

§ 62-14. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest: Art. I, 2-23-1955 as Ord. No. 211; Art. II, 9-25-1957 as Ord. No. 242; Art. III, 6-18-1979 as Ord. No. 480. Sections 62-2 and 62-5 and Art. II amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Parks and playgrounds — See Ch. 130.

ARTICLE I
Licensing and Regulation
[Adopted 2-23-1955 as Ord. No. 211]

§ 62-1. Number of licenses limited.

The number of licenses shall be limited as follows:

A. Not more than one (1) plenary retail consumption license shall be issued and outstanding at any time in the Borough of Demarest.

B. Not more than one (1) plenary retail distribution license shall be issued and outstanding at any time in the Borough of Demarest.

C. Not more than one (1) club license shall be issued and outstanding at any time in the Borough of Demarest.

D. Not more than one (1) limited retail distribution license shall be issued and outstanding at any time in the Borough of Demarest.

E. No seasonal retail consumption license shall be issued in the Borough of Demarest.

§ 62-2. License fees. [Amended 4-16-1973 by Ord. No. 367; 9-17-1973 by Ord. No. 375; 8-20-1979 by Ord. No. 482; 3-21-1983 by Ord. No. 556; 4-18-1983 by Ord. No. 562; 3-19-1984 by Ord. No. 575]

The annual license fees shall be as follows:

A. Plenary retail consumption license: $2,000. **[Amended 5-20-1985 by Ord. No. 597; 4-20-1987 by Ord. No. 635; 4-17-1989 by Ord. No. 666; 3-15-1993 by Ord. No. 729; 3-21-1994 by Ord. No. 746]**

B. Plenary retail distribution license: $800. **[Amended 5-20-1985 by Ord. No. 597; 4-20-1987 by Ord. No. 635; 3-21-1988 by Ord. No. 646; 4-17-1989 by Ord. No. 666; 3-15-1993 by Ord. No. 729; 3-21-1994 by Ord. No. 746]**

C. Club license: $135

D. Limited retail distribution license: $55.

§ 62-3. Hours of sale, service and consumption restricted.

No plenary retail consumption licensee or club licensee shall sell, serve, deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverages or permit the consumption of any alcoholic beverage upon the licensed premises on New Year's Day, when it is a weekday, between the hours of 5:00 a.m. and 8:00 a.m.; on New Year's Day, when it is a Sunday, between the hours of 5:00 a.m. and 12:00 noon; on other weekdays, between the hours of 2:00 a.m. and 8:00 a.m.; and on other Sundays, between the hours of 2:00 a.m. and 12:00 noon.

§ 62-4. Issuance and transfer of plenary retail licenses restricted; applicability.

No plenary retail consumption license or plenary retail distribution license shall be issued or transferred to a location within 1,000 feet of any premises having an alcoholic beverage license of either type within the Borough of Demarest; however, this provision relating to the issuance or transfer of plenary retail consumption licenses and plenary retail distribution licenses shall not apply nor in any manner be construed to apply to the renewal or the transfer from person to person of such licenses.

§ 62-5. Violations and penalties. [Amended 4-18-1983 by Ord. No. 5-62; 7-15-1991 by Ord. No. 703]

Any violation of this Article shall be punishable, upon conviction, by a fine not to exceed $1,000 or by imprisonment in the county jail for not more than 90 days or by a period of community service not exceeding 90 days, or all of the above, in the discretion of the Judge imposing the same.

ARTICLE II
Purchase, Possession or Transportation by Minors [Adopted 9-25-1957 by Ord. No. 242; amended in its entirety 7-21-2003 by Ord. No. 873]

§ 62-6. Purchase prohibited.

It shall be unlawful for any person under the age of 21 years to purchase or attempt to purchase or request any other person to purchase alcoholic beverages for him or her.

§ 62-7. Misrepresentation of age prohibited.

It shall be unlawful for any person under the age of 21 years to misrepresent his or her age for the purpose of inducing the sale of alcoholic beverages to him or her.

§ 62-8. Possession prohibited.

It shall be unlawful for any person under the age of 21 years to have any alcoholic beverages in his or her possession, which possession shall include having such beverages in a motor vehicle.

§ 62-9. Causing minors to commit prohibited acts.

It shall be unlawful for any person to have or cause any person under the age of 21 years to purchase, transport or have any alcoholic beverages in his or her possession, which shall include having such beverages in a motor vehicle.

§ 62-10. Violations and penalties.

A. Any person under the legal age to purchase alcoholic beverages who knowingly possesses or consumes any alcoholic beverage in or on any school property, public conveyance, public place or place of public assembly or on private property shall be in violation of this article. Upon conviction, such underage person shall be subject to a fine of $250 for the first offense and $350 for any subsequent offense; perform community service for a period not to exceed 180 days; at the discretion of the court, have a New Jersey driving privilege suspended or postponed for six months; and, if considered necessary by the court, be referred to an alcohol treatment program at the defendant's expense.

B. This article shall not apply to persons under the legal age to purchase alcoholic beverages who possess or

consume alcoholic beverages in the presence of and with the permission of the parent or legal guardian of said person, provided that said guardian is of the legal age to purchase alcoholic beverages, or if alcoholic beverage is being consumed in any religious observance, ceremony or rite. This article shall not apply to possession of an alcoholic beverage by an underage person employed by an alcoholic beverage licensee in the course of performing employment duties.

ARTICLE III
Public Consumption
[Adopted 6-18-1979 by Ord. No. 480]

§ 62-11. Consumption in public places prohibited.

No person shall consume any alcoholic beverage within the limits of the Borough of Demarest or have in his possession any open alcoholic beverage container with unconsumed alcoholic beverage:

A. In or on a public street, lane, roadway, avenue, sidewalk, public parking place, park, playground, recreation area, school buildings or grounds or any other public or quasi-public place or in any public conveyance.

B. In a private motor vehicle while same is in motion or parked in any public street, lane or parking area, parking lot or any other public or quasi-public place.

C. Upon any private property not his own without the permission of the owner or other person having authority to grant such permission.

§ 62-12. Discarding containers on public property prohibited.

No person shall discard any alcoholic beverage container upon any public street, lane, sidewalk, public parking lot or upon any private property not his own without permission of the owner.

§ 62-13. Exceptions.

Notwithstanding the provisions of §§ 62-11 and 62-12 of this Article, the Mayor and Council of the Borough of Demarest may, by resolution, permit the possession or consumption of alcoholic beverages in a designated place at a designated time or times in connection with a specific event, series of events or observances which have been authorized by the governing body.

§ 62-14. Violations and penalties. [Amended 7-15-1991 by Ord. No. 703]

Any person who shall violate the provisions of this Article shall, upon conviction, be subject to a fine not to exceed $1,000 or to imprisonment in the county jail for not more than 90 days or to a period of community service not exceeding 90 days, or all of the above, in the discretion of the Judge imposing the same.

Chapter 65

ARCHITECTURAL CONTOURS

§ 65-1. Findings; statement of purpose.

§ 65-2. Limitation on issuance of building permits; distance between similar houses.

§ 65-3. Characteristics determining house uniformity.

§ 65-4. Minimum number of basic house designs.

§ 65-5. Engineering survey or architectural drawing required prior to issuance of permit; contents.

§ 65-6. Submission of affidavit or performance guaranty.

§ 65-7. Appeals for relief from provisions.

§ 65-8. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 5-22-1957 as Ord. No. 236. Section 65-8 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 153.

§ 65-1. Findings; statement of purpose.

The Council hereby finds that uniformity in the exterior design and appearance of dwellings erected in the same residential neighborhood tends to affect adversely the desirability of the immediate and neighboring areas for

residential purposes and impairs existing residential property in such area; tends to impair the value of both improved and unimproved real property in such areas with attendant deterioration of conditions affecting the health, safety and morals of the inhabitants thereof and the community at large; and tends to deprive the city of tax revenue and to destroy a proper balance between the taxable value of real property in such areas and the cost of municipal services provided therefor. It is the purpose of this chapter to prevent these and other harmful effects of uniformity in the design and appearance of dwellings erected in any housing development in the same residential neighborhood and thus to promote and protect the health, safety, morals and general welfare of the community.

§ 65-2. Limitation on issuance of building permits; distance between similar houses.

Except as provided in this chapter, not more than one (1) building permit shall hereafter be issued for any dwelling to be erected in a housing development consisting of two (2) or more houses if it is substantially alike in exterior design and appearance with any neighboring dwelling situated on the same or opposite side of the street when one of its property lines is within three hundred (300) feet of the property line of a dwelling then in existence or for which a building permit has been issued or is pending. The distance herein specified shall be construed to mean the distance between the street property lines of the respective properties and shall not include the width of the street.

§ 65-3. Characteristics determining house uniformity.

Houses within such specified distance from each other shall be considered uniform in exterior design and appearance if they have any one of the following characteristics:

A. The same basic dimensions and floor plans are used without substantial differentiation between the exterior elevations.

B. The same basic dimensions and floor plans are used without substantial change in orientation of the houses on the lots.

C. The height and design of the roofs are without substantial change in design and appearance.

D. The size, type and location of windows and doors in the front elevation are without substantial differentiation.

§ 65-4. Minimum number of basic house designs.

In addition to the requirements specified in § 65-3, there shall be not less than four (4) separate basic house designs in every housing development consisting of eight (8) or more houses.

§ 65-5. Engineering survey or architectural drawing required prior to issuance of permit; contents.

No building permit shall be issued for more than one (1) dwelling in any housing development, except as provided in § 65-6, until an engineer's survey or architect's drawing of the entire tract or part to be developed has been submitted to the Building Inspector, showing thereon or on a schedule attached thereto the model number, type and design of each house, with the proper street and lot numbers for each house. The survey or drawing shall show the dimensions of each house, its exact location on the lot with setbacks and width or depth of all yard spaces. In the event of a subsequent desired change in basic design, size or location of a house in such tract, a revised plan and application therefor shall be filed and approved before such work is started.

§ 65-6. Submission of affidavit or performance guaranty.

In respect to new subdivisions for the purpose of a housing development, the Planning Board may, at its discretion, require an affidavit or a performance guaranty, approved as to form by the Borough Attorney, that the subdivision will be developed as a whole so that the intent and purpose of this chapter is satisfied. The Building Inspector is also hereby authorized to require a similar affidavit or performance bond before issuance of more than one (1) building permit in any housing development or part thereof for any subdivision heretofore approved by the Planning Board prior to the date of the adoption of this chapter or to any land area not required to be subdivided.

§ 65-7. Appeals for relief from provisions.

Appeals for relief from the provisions of this chapter may be taken to the Council. Relief may be granted by the Council when, in its opinion, such relief is not detrimental to the public interest.

§ 65-8. Violations and penalties. [Amended 4-18-1983 by Ord. No. 562; 7-15-1991 by Ord. No. 703]

Any person who shall violate or who shall permit, take part or assist in any violation of this chapter shall, upon conviction thereof, for each and every violation thereof and for each and every day that such violation thereof continues, be subject to a fine not to exceed one thousand dollars ($1,000.) or to imprisonment in the county jail for not more than ninety (90) days or to a period of community service not exceeding ninety (90) days, or all of the above, in the discretion of the Judge imposing the same.

Chapter 69

BACKFILLING

§ 69-1. Burying of organic matter prohibited; backfilling foundations.

§ 69-2. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 3-15-1967 as Ord. No. 324. Section 69-2 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Soil removal — See Ch. 147.
Subdivision of land — See Ch. 153.

§ 69-1. Burying of organic matter prohibited; backfilling foundations.

It shall be unlawful for any person, firm or corporation to bury any rubbish, garbage, debris, building material, parts of trees or organic matter or to backfill any foundation of a structure with such substance upon any premises in the Borough of Demarest.

§ 69-2. Violations and penalties. [Amended 4-18-1983 by Ord. No. 562; 7-15-1991 by Ord. No. 703]

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be subject to a penalty of a fine not to exceed one thousand dollars ($1,000.) or imprisonment in the county jail for not more than ninety (90)

days or a period of community service not exceeding ninety (90) days, or all of the above, in the discretion of the Judge imposing the same.

Chapter 72

BICYCLES

§ 72-1. License and registration tag required.

§ 72-2. Application forms, registration cards and plates; fastening registration plate.

§ 72-3. Qualifications for license.

§ 72-4. Conditions warranting impoundment and revocation of registration.

§ 72-5. Restrictions on parking or leaving bicycles unattended.

§ 72-6. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 8-18-80 as Ord. No. 506. Section 72-2 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Police Department — See Ch. 40.
Parks and playgrounds — See Ch. 130.
Vehicles and traffic — See Ch. 166.

§ 72-1. License and registration tag required.

No person residing within the Borough of Demarest shall use a bicycle within the borough limits without first having obtained a license therefor and affixed thereto the registration tag as provided for in this chapter.

§ 72-2. Application forms, registration cards and plates; fastening registration plate.[1]

The Borough Clerk shall provide the Police Department with application forms, registration cards and registration plates. Registration plates must be fastened to the frame of the bicycle in a conspicuous place at all times.

§ 72-3. Qualifications for license.

The applicant shall demonstrate to the licensing authority that the bicycle is in a safe mechanical condition and that the applicant is capable of operating the same and is familiar with the traffic laws of the State of New Jersey relative to the operation and equipment of the bicycle, as well as such rules and regulations as the Police Department may promulgate, with the approval of the Mayor and Council, concerning operation, equipment and maintenance of bicycles and the enforcement of this chapter.

§ 72-4. Conditions warranting impoundment and revocation of registration.

A bicycle being used without a registration card and tag or in such condition as to be unfit for safe operation or operated recklessly may be impounded and the registration therefor revoked by the Police Department until such time as the owner meets with the requirements of this chapter.

§ 72-5. Restrictions on parking or leaving bicycles unattended.

No person shall park or leave standing or unattended a bicycle on any sidewalk, in front of any commercial business or public building or obstructing any driveway except in bicycle racks or in specifically designated bicycle parking areas.

[1] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 72-6. Violations and penalties.

A bicycle found in violation of § 72-5 of this chapter may be impounded by the Police Department and held until such time as the owner pays a storage fee of ten dollars ($10.) and otherwise meets the requirements of this chapter.

Chapter 78

BUILDINGS, NUMBERING OF

§ 78-1. Street numbers to be designated.

§ 78-2. Time limit for placement of street numbers on existing buildings.

§ 78-3. Time limit for placement of street numbers on new construction.

§ 78-4. Assignment of street numbers upon dedication and acceptance of new streets.

§ 78-5. Authority to correct and change street numbers.

§ 78-6. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 4-28-1954 as Ord. No. 202. Section 78-6 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

§ 78-1. Street numbers to be designated.

Street numbers shall be designated to lands fronting upon the public streets, avenues and highways within the Borough of Demarest as shown and indicated on the Official Assessment Map of the Borough of Demarest.

§ 78-2. Time limit for placement of street numbers on existing buildings.

The owner or owners of each and every dwelling house or store which now fronts upon the public streets, avenues and

highways in the borough shall cause, within ninety (90) days after the passage of this chapter, the proper street number to be placed in figures in a conspicuous manner on the front of such dwelling house or store so as to be plainly visible from the street.

§ 78-3. Time limit for placement of street numbers on new construction.

The owner or owners of every dwelling house or store erected within the Borough of Demarest after the passage of this chapter shall cause the proper street number to be placed thereon within thirty (30) days of the completion of the dwelling house or store in the manner provided hereinabove.

§ 78-4. Assignment of street numbers upon dedication and acceptance of new streets.

Upon the dedication and acceptance of new streets within the borough, street numbers shall be assigned and allotted to the lands fronting on the new streets by the Borough Engineer and shall be placed upon the revised Assessment Map of the borough.

§ 78-5. Authority to correct and change street numbers.

The Borough Engineer shall have the power and duty of correcting any street numbers that may be erroneously assigned or allotted and shall, upon written request, certify the street number to the owner or owners of the lands within the borough. The Borough Engineer shall also have the power and duty of changing any street numbers upon authorization by the Mayor and Council of this borough.

§ 78-6. Violations and penalties. [Amended 4-18-1993 by Ord No. 562; 7-15-1991 by Ord. No. 703]

Any owner of lands within the Borough of Demarest violating any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine not to exceed one thousand dollars ($1,000.) or to imprisonment in the county jail for not more than ninety (90) days or to a period of community service not exceeding ninety (90) days, or all of the above, in the discretion of the Judge imposing the same. Every day during which such violation continues shall constitute a separate offense.

Chapter 84

CONSTRUCTION CODES, UNIFORM

§ 84-1. Enforcing agency established; subcode officials designated.

§ 84-2. Construction Board of Appeals.

§ 84-3. Fees.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 4-18-77 as Ord. No. 434. Amendments noted where applicable.]

GENERAL REFERENCES

Land use procedures — See Ch. 27.
Housing standards — See Ch. 107.
Sewers — See Ch. 141.
Site plan review — See Ch. 144.
Subdivision of land — See Ch. 153.
Zoning — See Ch. 175.

§ 84-1. Enforcing agency established; subcode officials designated.

A. There is hereby established in the Borough of Demarest a State Uniform Construction Code enforcing agency to be known as the "Borough of Demarest State Uniform Construction Code Agency," consisting of a Construction Official, Building Subcode Official, Plumbing Subcode Official, Electrical Subcode Official, Fire Protection Subcode Official and such other subcode officials for such additional subcodes as the Commissioner of the Department of Community Affairs, State of New Jersey, shall hereafter adopt as part of the State Uniform Construction Code. The Construction Official shall be the chief administrator of the enforcing agency.

B. Each official position created in Subsection A hereof shall be filled by a person qualified for such position pursuant to P.L. 1975, c. 217, as amended,[1] and N.J.A.C. 5:23, provided that in lieu of any particular subcode official, an on-site inspection agency may be retained by contract pursuant to N.J.A.C. 5:23. More than one (1) such official position may be held by the same person, provided that such person is qualified pursuant to P.L. 1975, c. 217, and N.J.A.C. 5:23 to hold each such position.

C. The public shall have the right to do business with the enforcing agency at one (1) office location, except for emergencies and unforeseen or unavoidable circumstances.

§ 84-2. Construction Board of Appeals.

A. Establishment; qualifications of members. There is hereby established a Construction Board of Appeals to hear appeals from decisions by the enforcing agency. Such Board shall consist of five (5) members. At least one (1) Board member shall be a registered architect or licensed professional engineer of building construction experience, and at least one (1) Board member shall be as qualified as a Plumbing Subcode Official and one (1) as qualified as an Electrical Subcode Official. No more than two (2) Board members shall be selected from the same business or profession. Each Board member shall have had at least three (3) years' experience in construction, design or supervision as a licensed engineer or registered architect or, in the alternative, five (5) years' experience in construction, design or supervision as an architect or engineer with a bachelor's degree in architecture or engineering, respectively, from an accredited institution of higher education or, as a further alternative, ten (10) years' experience in construction, design or supervision as a journeyman in a construction trade or as a construction contractor, subcontractor or inspector.

[1] Editor's Note: See N.J.S.A. 52:27D-119 et seq.

B. Appointment and terms of members.

(1) The Mayor of the Borough of Demarest shall nominate, subject to confirmation by the Council, the Board members and any alternate members. For the members first appointed, the Mayor and Council of the Borough of Demarest shall designate the appointees' terms so that one (1) shall be appointed for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years and two (2) for a term of four (4) years. At the expiration of such terms and thereafter, appointments shall be made for terms of four (4) years. Vacancies shall be filled for the unexpired term.

(2) The Mayor of the Borough of Demarest shall nominate, subject to confirmation by the Council, such number of alternates as may be appropriate for terms not to exceed four (4) years or may, in the alternative, appoint alternates on a case-by-case basis.

(3) No regular or alternate Board member may be a member of the enforcing agency, the decisions of which are subject to the review of the Board.

C. Compensation. The members of the Board shall not be compensated but may be reimbursed for expenses incurred, on vouchers submitted to and approved by the Mayor and Council of the Borough of Demarest.

§ 84-3. Fees. [Amended 5-17-1982 by Ord. No. 535; 5-20-1985 by Ord. No. 594; 12-18-1989 by Ord. No. 676]

A. **[Amended 12-16-1991 by Ord. No. 709; 4-20-1992 by Ord. No. 717; 12-19-1994 by Ord. No. 760]** The fee for a construction permit shall

be paid before the permit is issued. The minimum fee shall be forty dollars ($40.).

(1) The building subcode fees shall be as follows:

(a) For new construction and additions: two and five-tenths cents ($0.025) per cubic foot of building or structure volume.

(b) For renovations, alterations, siding, roofing, decks and repairs: twelve dollars ($12.) per one thousand dollars ($1.000.) of estimated cost of the work.

(c) For combinations of renovations and additions: the sum of the fees computed separately as renovations and additions.

(d) Underground storage tanks, abandonment/removal: forty-five dollars ($45.).

(2) The plumbing subcode fees shall be as follows:

(a) Fifteen dollars ($15.) per plumbing fixture, device and plumbing stack to be installed.

(b) Thirty-five dollars ($35.) per special device for grease traps, oil separators and water-cooled air-conditioning units.

(c) Fifty-five dollars ($55.) per sanitary sewer connection.

(3) The electrical subcode fees shall be as follows. The minimum fee shall be forty dollars ($40.).

(a) Receptacles.

[1] From one (1) to twenty-five (25) receptacles or fixtures: forty dollars ($40.).

[2] For each additional twenty-five (25) receptacles: fifteen dollars ($15.).

[3] Receptacles include but are not limited to lighting outlets, wall switches, fluorescent

fixtures and motors of less than one (1) horsepower or devices of less than one (1) kilowatt.

(b) For each motor or electrical device greater than one (1) horsepower and less than or equal to ten (10) horsepower: twenty dollars ($20.).

(c) For transformers and generators greater than one (1) kilowatt and less than or equal to ten (10) kilowatts: twenty dollars ($20.).

(d) For each motor or electrical device greater than ten (10) horsepower and less than or equal to fifty (50) horsepower: thirty-five dollars ($35.).

(e) For each service panel, service entrance or subpanel less than or equal to two hundred (200) amperes: fifty dollars ($50.).

(f) For all transformers and generators greater than ten (10) kilowatts and less than or equal to forty-five (45) kilowatts: forty dollars ($40.).

(g) For each motor or electrical device greater than fifty (50) horsepower and less than or equal to one hundred (100) horsepower: forty-five dollars ($45.).

(h) For each service panel, service entrance or subpanel greater than two hundred (200) amperes and less than or equal to one thousand (1,000) amperes: fifty-five dollars ($55.).

(i) For transformers and generators greater than forty-five (45) kilowatts and less than or equal to one hundred twelve and five-tenths (112.5) kilowatts: forty-five dollars ($45.).

(j) Pool/vault fee: seventy-five dollars ($75.).

(k) Spa/hot tub fee: fifty dollars ($50.).

(l) Temporary service: fifty dollars ($50.).

(m) Whirlpool fee: twenty-five dollars ($25.).

(n) Air-conditioning units, one (1) ton through five (5) tons: fifty dollars ($50.).

(4) The fire protection subcode fees shall be as follows:

(a) For gas or oil heating system installation: thirty-five dollars ($35.).

(b) For installation of a fuel storage tank for a residential building: forty-five dollars ($45.).

(c) For installation of fuel, oil or gasoline storage tanks in connection with a commercial or business building, the fee shall be:

[1] For each tank up to one thousand (1,000) gallons' capacity: one hundred dollars ($100.).

[2] For each tank one thousand one (1,001) to three thousand (3,000) gallons' capacity: one hundred dollars ($100.).

[3] For each tank in excess of three thousand (3,000) gallons' capacity: one hundred twenty-five dollars ($125.).

(d) For a solid-fuel heating appliance, fireplace or woodstove: forty dollars ($40.).

(e) For installation of sprinkler systems, the fees shall be as follows:

[1] For one (1) to twenty-five (25) heads: seventy-five dollars ($75.).

[2] For twenty-six (26) to seventy-five (75) heads: one hundred dollars ($100.).

[3] For seventy-six (76) to one hundred (100) heads: one hundred twenty-five dollars ($125.).

Chapter 89

DOGS AND OTHER ANIMALS

§ 89-1. Running at large; seizure.

§ 89-2. (Reserved)

§ 89-3. Defecation on public or private property; removal.

§ 89-4. Registration and licensing; enforcement.

§ 89-5. Rabies control.

§ 89-6. Violations and penalties.

§ 89-7. Vicious or potentially dangerous dogs.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 6-18-1979 as Ord. No. 479. Amendments noted where applicable.]

GENERAL REFERENCES

Police Department — See Ch. 40.
Noise — See Ch. 122.
Parks and playgrounds — See Ch. 130.
Animal control — See Ch. 180.

§ 89-1. Running at large; seizure.

A. No person owning, harboring, keeping, walking or protecting any dog, whether licensed or unlicensed, shall permit said dog to run at large or unleashed off the premises owned, leased, rented or occupied by such person within the territorial limits of the borough.

B. No person owning, harboring, keeping, walking or protecting any dog shall permit such dog to be taken upon any municipally owned park, playground or athletic field.

C. Any dog found running at large in violation of this chapter shall be subject to seizure, and if not redeemed within a period of seven days as provided by N.J.S.A. 4:19-15.16, the Chief of Police or the Dog Warden may, in his discretion, place each such unclaimed dog in a legitimate home or have it destroyed.[1]

§ 89-2. (Reserved)[2]

§ 89-3. Defecation on public or private property; removal.

No owner, keeper or walker of any dog shall permit his or her dog to discharge its feces upon any public or private property within the borough, other than property on which the owner or keeper of such dog lives, if such owner, keeper or walker does not immediately thereafter remove and dispose of in a sanitary manner such feces from the public or private property.[3]

§ 89-4. Registration and licensing; enforcement.

A. Terms defined. As used in this section, the following terms shall have the meanings indicated:

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

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1 Editor's Note: Original Section 1.4, which provided penalties for persons who permit dogs under their control to run at large and which immediately followed this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

2 Editor's Note: Former § 89-2, Sick and dangerous dogs, was repealed 5-18-1998 by Ord. No. 796.

3 Editor's Note: Original Section 3.2, which provided penalties for persons who permit dogs under their control to defecate on public or private property and which immediately followed this section, was deleted 4-18-1983 by Ord. No. 562.

F. Any person who shall own, keep or harbor any dog of licensing age shall, in the month of January of each year, apply for and procure a license and official registration tag for each such dog so owned, kept or harbored and shall place upon each such dog a collar or harness with the registration tag securely fastened thereto.

G. Any person who owns, keeps or harbors a newly acquired dog of licensing age or any dog attaining licensing age or who moves into the Borough of Demarest while owning, keeping or harboring a dog of licensing age shall make application to the Borough Clerk for a license and registration tag for such dog within 30 days after such acquisition, age attainment or move into the borough.

H. In the event that the registration tag shall become lost or misplaced, a new registration tag shall be issued for a fee of $2. **[Amended 10-17-1994 by Ord. No. 756]**[4]

§ 89-5. Rabies control.

A. All provisions of N.J.S.A. 26:4-78 through 26:4-95 are hereby adopted in their entirety and recognized as the controlling regulations and procedures governing rabies control.

B. When any person is bitten or attacked by a dog or other animal subject to rabies or other like contagious or dangerous disease, such person, his parents or guardian if he is a minor, the owner of the animal or the person having possession or control thereof, the physician who treats the bite or wound and any veterinarian or lay person having knowledge of such bite or wound must

4 Editor's Note: Original Section 4.9 which provided penalties for persons who neglect or refuse to license dogs under their control and which immediately followed this section, was deleted 4-18-1983 by Ord. No. 562.

B. All provisions of N.J.S.A. 4:19-15.1 through 4:19-15.29, as amended, are hereby adopted in their entirety and are recognized as the controlling regulations and procedures governing the registration, licensing and control of dogs in the borough, and all borough officials and employees shall comply with the requirements of the foregoing statutory provisions.

C. The Borough Clerk of the Borough of Demarest of such other official as may from time to time be designated by resolution of the Board of Health of the borough shall register and issue licenses for dogs pursuant to N.J.S.A. 4:19-15.1 et seq. and this chapter.

D. The Chief of Police and Dog Warden of the Borough of Demarest or such other official as may from time to time be designated by resolution of the Mayor and Council of the borough shall be empowered to enforce all the provisions of this chapter, including but not limited to the provisions of N.J.S.A. 4:19-15.16 and 4:19-15.17, which are incorporated herein.

E. Fees. **[Amended 8-18-1980 by Ord. No. 505; 11-16-1981 by Ord. No. 525; 9-20-1982 by Ord. No. 541; 8-1-1983 by Ord. No. 569; 10-17-1994 by Ord. No. 756]**

(1) The annual license and registration fee for a single dog shall be $8.20. Moreover, pursuant to the Animal Population Control Program, there will be an additional three-dollar annual surcharge on all licenses issued for nonspayed and nonneutered dogs. **[Amended 5-18-1998 by Ord. No. 796]**

(2) Any person failing to pay, by March 1 of each year, the annual fees for a dog license renewal as required under this chapter or for a cat license renewal as required under Chapter 189 of the General Code shall be required to pay, in addition to the annual fees, a late charge of $10.

immediately notify the Police Department. The person owning or having possession or control of the offending animal must immediately provide for the examination and observation of such animal by a licensed veterinarian of the State of New Jersey. Said veterinarian shall immediately report his findings to the Board of Health by telephone and shall confirm such report, in writing, within 24 hours. After such preliminary examination, the animal may be returned to the custody of the person from whom it was received or be confined in a veterinary hospital or other place approved by the Board for such period of observation as the Board may direct. An animal must be returned after preliminary examination for reexamination after 10 days to the veterinarian who made the preliminary examination, and said veterinarian shall report his findings to the Board immediately by telephone and in writing within 24 hours. The animal shall then be released to the person from whom it was received unless the animal is rabid or suspected of being rabid.

§ 89-6. Violations and penalties. [Added 4-18-1983 by Ord. No. 562; amended 7-15-1991 by Ord. No. 703; 5-18-1998 by Ord. No. 796]

Any person who violates any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine not to exceed $1,000 or to imprisonment in the county jail for not more than 90 days or to a period of community service not exceeding 90 days, or all of the above, at the discretion of the Judge imposing the same, excepting where a different penalty is provided by state law (e.g., N.J.S.A. 4:19-15-19; N.J.S.A. 26:4-94).

§ 89-7. Vicious or potentially dangerous dogs. [Added 5-18-1998 by Ord. No. 796]

A. All provisions of N.J.S.A. 4:19-17 et seq. (P.L. 1989, c. 307 as amended) are hereby adopted in their entirety and are recognized as the controlling regulations and procedures governing the treatment of vicious or potentially dangerous dogs.

B. Pursuant to N.J.S.A. 4:19-31, the sum to be paid annually for a potentially dangerous dog license and each renewal thereof shall be $700.

Chapter 95[1]

(RESERVED)

[1] Editor's Note: Former Ch. 95, Fences, adopted 11-20-1978 as Ord. No. 471, as amended, was repealed 4-15-1996 by Ord. No. 774.

Chapter 96

FILMING, MOTION-PICTURE AND TELEVISION

§ 96-1. Definitions.
§ 96-2. Permit requirements.
§ 96-3. Rules and regulations.
§ 96-4. Fees.
§ 96-5. Violations and penalties.
§ 96-6. Exceptions.

[HISTORY Adopted by the Mayor and Council of the Borough of Demarest 4-16-1984 by Ord. No. 577. Amendments noted where applicable.]

§ 96-1. Definitions.

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

FILMING — The taking of still or motion pictures, either on film, videotape or similar recording equipment, for commercial or educational purposes, intended for viewing on television or in theaters or for institutional use or for advertising purposes. Filming includes any and all staging, setup and activities leading to or related to the taking of still or motion pictures. **[Amended 10-15-2001 by Ord. No. 849]**

PUBLIC LANDS — Any and every public street, highway, sidewalk or square, public park or playground or other public place within the borough which is within the jurisdiction and control of the borough.

§ 96-2. Permit requirements.

A. No person, firm or corporation shall film or permit filming within the Borough of Demarest without first obtaining a permit therefor, which permit shall set forth the location of such filming arid the date or dates when filming shall take place.

B. Permits shall be obtained in the office of the Borough Clerk during normal business hours. Applications for such permits shall be in a form approved by the Borough Clerk and shall be accompanied by a permit fee as set forth in § 96-4. Incidental use of a public sidewalk or street which does not result in the closing of the street or sidewalk to public use shall not be considered filming on public land.

C. Where filming takes place on private property, permission of the owner must be obtained in writing.

D. One permit shall be required for each location.

§ 96-3. Rules and regulations.

A. No permit shall be issued for filming at a particular location in a residential zone within the Borough of Demarest which would permit filming at said location on more than four days during any one calendar year.

B. No permit shall be issued for filming upon public lands within the Borough of Demarest unless the applicant for such permit:

(1) Provides proof of insurance coverage as follows: for bodily injury for any one person in the amount of $500,000 and for any aggregate occurrence in the amount of $1,000,000.

(2) Agrees in writing to indemnify and save harmless the Borough of Demarest from any and all liability or damages from the use of such public lands.

C. The holder of a permit shall take all reasonable steps to minimize interference with the free passage of pedestrians and traffic over public lands and shall comply with all lawful directives issued by the Demarest Police Department with respect thereto.

D. The holder of a permit shall conduct filming in such a manner as to minimize the inconvenience or discomfort to adjourning property owners attributable to such filming and shall, to the extent practicable, abate noise and park vehicles associated with such filming off the public streets. The holder shall avoid any interference with previously scheduled activities upon public lands and limit to the extent possible any interference with normal public activity on such public lands.

E. The holder of a permit shall take all reasonable steps to minimize the creation and spread of debris and rubbish during filming and shall be responsible for removing all equipment, debris and other rubbish from the filming location upon the completion of filming or the expiration of the permit, whichever comes first.

F. Filming shall be permitted only Monday through Friday between the hours of 8:00 a.m. and 7:00 p.m. or sundown, whichever is earlier, in residential zones.

G. The Borough Clerk may refuse to issue a permit whenever she determines, on the basis of objective facts and after a review of the application and a report thereon by the Police Department and by other borough agencies involved with the proposed filming site, that filming at the location and/or the time set forth in the application would violate any law or ordinance or would unreasonably interfere with the public's use of public lands, unreasonably interfere with the use and enjoyment of adjourning properties, unreasonably impede the free flow of vehicular or pedestrian traffic or otherwise endanger the public's health, safety or welfare.

H. Any person aggrieved by a decision of the Borough Clerk denying or revoking a permit or a person requesting relief pursuant to Subsection I may appeal to the Mayor and Council. A written notice of appeal setting forth the reasons for the appeal shall be filed with the Borough Clerk. An appeal from the decision of the Borough Clerk shall be filed within 10 days of the Borough Clerk's decision. The Mayor and Council shall set the matter down for a hearing within 30 days of the day on which the notice of appeal was filed. The decision of the Mayor and Council shall be in the form of a resolution. A resolution supporting the decision of the Borough Clerk or granting relief pursuant to Subsection I shall be approved by the Mayor and Council at the first regularly scheduled public meeting of the Mayor and Council after the hearing on the appeal unless the appellant agrees in writing to a later date for the decision. If such a resolution is not adopted in the time required, the decision of the Borough Clerk shall be deemed to be reversed and a permit shall be issued in conformity with the application or the relief pursuant to Subsection I shall be deemed denied.

I. The Mayor and Council may authorize a waiver of any of the requirements or limitations of this chapter and may authorize filming other than during the hours herein described or may extend the duration of a permit beyond 10 days or may permit filming at a particular location in a residential zone on more than four days during any one calendar year or may waive any other limitation or requirement of this chapter whenever it determines that strict compliance with such limitations will pose an unreasonable burden upon the applicant and that such a permit may be issued without endangering the public's health, safety or welfare.

J. The applicant shall notify the Fire Marshal 24 hours before filming takes place and permit the Fire Marshal to inspect the site and the equipment to be used. The

applicant shall comply with all fire safety instructions issued by the Fire Marshal.

§ 96-4. Fees. [Amended 10-15-2001 by Ord. No. 849]

Permit fees shall be as follows:

A. Filming permit on privately-owned property: $500 per day for each day or part thereof.

B. Filming permit for filming on public land: $1,000 per day for each day or part thereof.

C. Filming permit for non-profit applicants, filming for educational purposes, including filming on public land: $25 per day for each day or part thereof.

§ 96-5. Violations and penalties. [Amended 7-15-1991 by Ord. No. 703]

Any person violating this chapter or rules and regulations contained herein shall be subject to a fine not to exceed $1,000 or to imprisonment in the county jail for not more than 90 days or to a period of community service not exceeding 90 days, or all of the above, in the discretion of the Judge imposing the same.

§ 96-6. Exceptions.

The provisions of this chapter shall not apply to the filming of news stories within the Borough of Demarest.

Chapter 98

FIRE PREVENTION

ARTICLE I
Miscellaneous Provisions

§ 98-1. Adoption of standards by reference.

§ 98-2. Enforcement; duties of Fire Chief.

§ 98-3. Definitions.

§ 98-4. Power to make modifications.

§ 98-5. Appeals.

§ 98-6. New processes, materials and occupancies requiring permits.

§ 98-7. Fire escapes.

§ 98-7.1. Registration of fire alarm system.

§ 98-7.2. Violations and penalties for false fire alarms.

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ARTICLE II
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§ 98-9. Local enforcement.

§ 98-10. Enforcement agency designated.

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§ 98-12. Inspections of life hazard uses.

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§ 98-14. Membership; term; removal.

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§ 98-16. Additional required inspections.

§ 98-17. Permit fees.

§ 98-18. Violations and penalties.

§ 98-19. Authority at fires and other emergencies.

§ 98-20. Interference with Fire Department operations.

§ 98-21. Compliance with orders.

§ 98-22. Vehicles crossing fire hose.

§ 98-23. Restriction of emergency vehicles.

§ 98-24. Unlawful boarding or tampering with equipment.

§ 98-25. Damage or injury to equipment and personnel.

§ 98-26. Emergency vehicle operation.

§ 98-27. Blocking hydrants and connections.

§ 98-28. Hydrant use approval.

§ 98-29. Recommendations regarding hydrants.

§ 98-30. Systems for educational, institutional and other uses.

§ 98-31. Maintenance of equipment.

§ 98-32. Sale of defective fire extinguishers.

§ 98-33. Street obstructions.

§ 98-34. Smoke detectors.

§ 98-35. Fire zones and lanes.

§ 98-36. Appeals.

ARTICLE III
Hazardous Waste

§ 98-37. Definitions and word usage.

§ 98-38. Hazardous substances discharge prohibition.

§ 98-39. Parties responsible for reimbursement.

§ 98-40. Reimbursement for services of recovery company, towing company or technical assistance.

§ 98-41. Period for payment.

§ 98-42. Enforcement.

Schedule A Fire Zone Listing

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Fire Department — See Ch. 20.
Alarm systems — See Ch. 60.
Uniform construction codes — See Ch. 84.
Housing standard — See Ch. 107.
Parks and playgrounds — See Ch. 130.
Subdivision and site plan review — See Ch. 153.

ARTICLE I
Miscellaneous Provisions
[Adopted 11-21-1977 by Ord. No. 447]

§ 98-1. Adoption of standards by reference. [Amended 7-19-1982 by Ord. No. 539]

A. There is hereby adopted by the Mayor and Council of the Borough of Demarest for the purpose of prescribing

regulations governing conditions hazardous to life and property from fire or explosion, the following codes:

(1) That certain code known as the "Fire Prevention Code," recommended by the American Insurance Association successor to the Fire Underwriters, being particularly the 1976 Edition thereof, as well as any future revised editions and/or supplements thereto, save and except such portions as are hereafter deleted, modified or amended by § 98-4 of this chapter.

(2) That certain code known as the "National Fire Code," recommended by the National Fire Protection Association, being particularly the 1982 Edition thereof, as well as any future revised editions and/or supplements thereto, save and except such portions as are hereafter deleted, modified or amended by § 98-4 of this chapter.

B. In the event of any inconsistency, conflict or contradiction between any provisions of either the Fire Prevention Code or the National Fire Code, such provisions shall be interpreted in such a way as to promote the greatest fire protection provided.

C. Three copies of the Fire Prevention Code and the National Fire Code have been and now are filed in the office of the Clerk of the Borough of Demarest and also in the police station of the Borough of Demarest, and the same are hereby adopted and incorporated as fully as if set out at length herein; and, from the date on which this chapter shall take effect, the provisions thereof shall be controlling within the limits of the Borough of Demarest.

§ 98-2. Enforcement; duties of Fire Chief.

A. The Fire Prevention Code and the National Fire Code shall be enforced by the Chief of the Fire Department. **[Amended 7-19-1982 by Ord. No. 539]**

B. The Chief of the Fire Department shall be elected by the Volunteer Fire Association of the Borough of Demarest for a period of not more than one year.

C. The Chief of the Fire Department may detail such members of the Fire Department as inspectors as shall from time to time be necessary. The Chief of the Fire Department shall recommend to the Mayor and Council of the Borough the employment of technical inspectors, who, when such authorization is made, shall be selected through an examination to determine their fitness for the position. The examination shall be open to members and nonmembers of the Fire Department, and appointments made after examination shall be for a period of one year.

§ 98-3. Definitions. [Amended 7-19-1982 by Ord. No. 539]

As used in this chapter and in the Fire Prevention Code or the National Fire Code adopted hereby, the following terms shall have the meanings indicated:

CHIEF OF THE BUREAU OF FIRE PREVENTION — The Chief of the Fire Department.

MUNICIPALITY — The Borough of Demarest.

§ 98-4. Power to make modifications. [Amended 7-19-1982 by Ord. No. 539]

The Chief of the Fire Department shall have power to modify any of the provisions of the Fire Prevention Code or National Fire Code, upon application, in writing, by the owner

or lessee or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the Fire Prevention Code or National Fire Code, provided that the spirit of the Fire Prevention Code or National Fire Code shall be observed, public safety secured and substantial justice done, and provided that such changes are approved by a resolution duly adopted by the Mayor and Council of the Borough of Demarest.

§ 98-5. Appeals. [Amended 7-19-1982 by Ord. No. 539]

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

§ 98-6. New processes, materials and occupancies requiring permits. [Amended 7-19-1982 by Ord. No. 539]

The Chief of the Fire Department, with the approval of the Mayor and Council of the Borough of Demarest, shall determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies which shall require permits, in addition to those now enumerated in either the Fire Prevention Code or National Fire Code. The Chief of the Bureau of Fire Prevention shall post such list in a conspicuous place in the Borough Hall and distribute copies thereof to interested persons.

§ 98-7. Fire escapes.

Fire escapes, as required by the rules and standards of the New Jersey Tenement House Department, shall be constructed in any building wherein a family unit dwells entirely on or above the third floor from the ground level, provided that the Chief of the Fire Department and the Mayor and Council determine that fire escapes are reasonably necessary for the protection of the health or life of its occupants.

§ 98-7.1. Registration of fire alarm system. [Added 3-21-2005 by Ord. No. 903]

Notwithstanding the requirements of any other ordinances of the Borough of Demarest, all types of fire alarm systems shall be registered with the Bureau of Fire Prevention.

§ 98-7.2. Violations and penalties for false fire alarms. [Added 3-21-2005 by Ord. No. 903]

A. A false fire alarm is any signal or message received by the Fire Department to which the Fire Department responds, which signal or message was directly or indirectly brought about or produced by an alarm device of any type and the assistance of the Fire Department was not required.

B. In the case of any false fire alarm, any person having knowledge of such false fire alarm shall immediately notify the Fire Department. In addition, the Fire Official or his designee shall cause an investigation to be made and shall keep a record of said alarms on file.

C. For such false alarms, the Mayor and Council prescribes the following penalties in that if the number of false alarms indicated occur within any twelve-month period, the corresponding penalty shall apply:

Number of False Alarms	Penalty
Second	Written warning to be issued
Third	$50
Fourth	$100
Fifth	$200
Sixth	$400
Seventh and each alarm thereafter	$500

§ 98-7.3. Payment.

All payments assessed under § 98-7.2 shall be payable to the Borough of Demarest.

§ 98-8. Violations and penalties. [Amended 7-19-1982 by Ord. No. 539; 4-18-1983 by Ord. No. 562]

A. Any person who shall violate any of the provisions of either the Fire Prevention Code, the National Fire Code or the provisions of this chapter or fail to comply with any order made thereunder or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder and from which no appeal has been taken or who shall fail to comply with such an order as affirmed or modified by the Mayor and Council of the Borough or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor, punishable by a fine not to exceed $1,000 or by imprisonment in the county jail for not more than 90 days or by a period of community service not exceeding 90 days, or all of the above, in the

discretion of the Judge imposing the same. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and, when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense. **[Amended 7-15-1991 by Ord. No. 703]**

B. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

ARTICLE II
Uniform Fire Code
[Adopted 7-15-1985 by Ord. No. 601]

§ 98-9. Local enforcement. [Amended 10-21-1985 by Ord. No. 609]

Pursuant to Section 11 of the Uniform Fire Safety Act (P.L. 1983, c. 383)[1] the New Jersey Uniform Fire Code shall be locally enforced in the Borough of Demarest.

§ 98-10. Enforcement agency designated.

The local enforcing agency shall be the Bureau of Fire Prevention, which is hereby created in the Fire Department of the Borough of Demarest.

§ 98-11. Duties of enforcement agency.

The local enforcement agency shall enforce the Uniform Fire Safety Act and the codes and regulations adopted under it in all buildings, structures and premises within the established boundaries of the Borough of Demarest, other than owner-

[1] Editor's Note: See N.J.S.A. 52:27D-192 et seq.

occupied one- and two-family dwellings, and shall faithfully comply with the requirements of the Uniform Fire Safety Act and the Uniform Fire Code.

§ 98-12. Inspections of life hazard uses.

The local enforcing agency established by § 98-10 of this chapter shall carry out the periodic inspections of life hazard uses required by the Uniform Fire Code on behalf of the Commissioner of Community Affairs.

§ 98-13. Organization of agency. [Amended 10-21-1985 by Ord. No. 609]

The local enforcing agency established by § 98-10 of this chapter is and shall be a part of the Fire Department and shall be under the direct supervision and control of the fire official, who shall report to the Fire Department.

§ 98-14. Membership; term; removal. [Amended 10-21-1985 by Ord. No. 609]

A. Appointment of fire official. The local enforcing agency shall be under the direct supervision of the fire official, who shall be appointed by the Mayor, with the consent of the Council. upon the recommendation of the Fire Department of the Borough of Demarest. The fire official shall be the fire prevention officer. Preference shall be given to Demarest Volunteer Fire Department members.

B. Term of office. The fire official shall serve for a term of two years. Any vacancy shall be filled for the unexpired term.

(Cont'd on page 9807)

C. Inspectors and employees. Such inspectors and other employees as may be necessary in the local enforcing agency shall be appointed by the Mayor, with the consent of Council upon the recommendation of the fire official and the Fire Chief.

D. Removal from office. The fire official, inspectors and other employees of the enforcing agency shall be subject to removal by the Mayor and Council for inefficiency or misconduct. Each fire official, inspector or employee to be so removed shall be afforded an opportunity to be heard by the appointing authority or a designated hearing officer.

§ 98-15. Appeals. [Amended 10-21-85 by Ord. No. 609]

Pursuant to Sections 15 and 17 of the Uniform Fire Safety Act,[2] any person aggrieved by any order of the local enforcement agency shall have the right to appeal to the Construction Board of Appeals of the Borough of Demarest.

§ 98-16. Additional required inspections. [Amended 10-21-85 by Ord. No. 609]

A. In addition to the inspection and fees required pursuant to the Act[3] and the regulations of the Department of Community Affairs, there shall be additional inspections as required in the Code of the Borough of Demarest, except where said provisions are less stringent than the Act and rules and regulations of the Department of Community Affairs.

B. Inspection fees shall be as follows:

(1) Mercantile and retail use, twelve thousand (12,000) square feet and less: fifteen dollars ($15.).

(2) Any other use-group classification, except life hazard groups, under BOCA Code Article 3, Section 301, that requires enforcement under § 98-11 of this Article: thirty dollars ($30.).

[2] Editor's Note: See N.J.S.A. 52:27D-206 and 52:27D-208.
[3] Editor's Note: See N.J.S.A. 52:27D-192 et seq.

§ 98-17. Permit fees.

The permit fees established by the Uniform Fire Code shall be changed as follows:

A. Type 1 [Type 1 permit includes those permits set forth in N.J.A.C. 5:18-2.7(b)2]: twenty-five dollars ($25.).

B. Type 2 [Type 2 permit includes those permits set forth in N.J.A.C. 5:18-2.7(b)3]: one hundred dollars ($100.).

C. Type 3 [Type 3 permit includes those permits set forth in N.J.A.C. 5:18-2.7(b)4]: two hundred dollars ($200.).

D. Type 4 [Type 4 permit includes those permits set forth in N.J.A.C. 5:18-2.7(b)5]: three hundred dollars ($300.).

§ 98-18. Violations and penalties. [Amended 10-21-85 by Ord. No. 609]

Any violation of any section of this Article not covered by the New Jersey Fire Safety Act shall be punishable, upon a finding of guilty in the Demarest Municipal Court, by a fine of not less than five dollars ($5.) nor more than one hundred dollars ($100.).

§ 98-19. Authority at fires and other emergencies. [Added 10-21-85 by Ord. No. 609]

The Fire Chief or duly authorized representative as may be in charge at the scene of a fire or other emergency involving the protection of life and/or property is empowered to direct such operations as may be necessary to extinguish or control any suspected or reported fires, gas leaks or other hazardous conditions or situations or of taking any other action necessary in the reasonable performance of his duty. The Fire Chief may prohibit any person, vehicle or object from approaching the scene and may remove or cause to be removed from the scene any person, vehicle or object which may impede or interfere with the operations of the Fire Department. The Fire Chief may remove or cause to be removed any person, vehicle or object from hazardous areas.

All persons ordered to leave a hazardous area shall do so immediately and shall not reenter the area until authorized to do so by the fire official.

§ 98-20. Interference with Fire Department operations. [Added 10-21-85 by Ord. No. 609]

It shall be unlawful to interfere with, attempt to interfere with, conspire to interfere with, obstruct or restrict the mobility of or block the path of travel of any Fire Department emergency vehicle in any way or to interfere with, attempt to interfere with, conspire to interfere with, obstruct or hamper any Fire Department operation.

§ 98-21. Compliance with orders. [Added 10-21-85 by Ord. No. 609]

A person shall not willfully fail or refuse to comply with any lawful order or direction of the fire official or Fire Chief or interfere with the compliance attempts to another individual.

§ 98-22. Vehicles crossing fire hose. [Added 10-21-85 by Ord. No. 609]

A vehicle shall not be driven or propelled over any unprotected fire hose of the Fire Department when laid down on any street, alleyway, private drive or any other vehicular roadway without the consent of the fire official in command of said operation.

§ 98-23. Restriction of emergency vehicles. [Added 10-21-85 by Ord. No. 609]

Authorized emergency vehicles shall be restricted to those which are defined and authorized under the laws of the State of New Jersey.

§ 98-24. Unlawful boarding or tampering with equipment. [Added 10-21-85 by Ord. No. 609]

A person shall not, without proper authorization from the fire official in charge of said Fire Department emergency equipment, cling to, attach himself to, climb upon or into, board or swing upon any Fire Department emergency vehicle, whether the same is in motion or at rest, or sound the siren, horn, bell or other sound-producing device thereon or manipulate or tamper with or attempt to manipulate or tamper with any levers, valves, switches, starting devices, brakes, pumps or any equipment or protective clothing on or a part of any Fire Department emergency vehicle.

§ 98-25. Damage or injury to equipment and personnel. [Added 10-21-85 by Ord. No. 609]

It shall be unlawful for any person to damage or deface or attempt or conspire to damage or deface any Fire Department emergency vehicle at any time or to injure or attempt to injure or conspire to injure Fire Department personnel while performing departmental duties.

§ 98-26. Emergency vehicle operation. [Added 10-21-85 by Ord. No. 609]

A. The driver of any emergency vehicle, as defined in § 98-23, shall not sound the siren thereon or have the front red lights on or disobey any existing traffic regulation, except when said vehicle is responding to an emergency call or when responding to a fire. Tactical strategies, such as but not restricted to move ups, do not constitute an emergency call. The driver of an emergency vehicle may:

(1) Park or stand irrespective of the provisions of existing traffic regulations.

(2) Proceed past a red or stop signal or other sign, but only after slowing down as may be necessary for safe operation.

(3) Exceed the prima facie speed limit so long as the action does not endanger life or property.

(4) Disregard regulations governing direction of movement or turning in specified directions.

B. The exemptions herein granted to an emergency vehicle shall apply only when the driver of any such vehicle, while in motion, sounds audible signal by bell, siren or exhaust whistle, as may be reasonably necessary, and when the vehicle is equipped with at least one (1) sighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle.

§ 98-27. Blocking hydrants and connections. [Added 10-21-85 by Ord. No. 609]

It shall be unlawful to obscure from view, damage, deface, obstruct or restrict the access to any fire hydrant or any Fire Department connection for the pressurization of fire suppression systems, including fire hydrants and Fire Department connections that are located on public or private streets and access lanes or on private property. If, upon the expiration of the time mentioned in a notice of violation, obstructions or encroachments are not removed, the fire official in charge shall proceed to remove the same. Cost incurred in the performance of necessary work shall be paid from the municipal treasury on certification of the Fire Chief and with the approval of the chief administrative official, and the legal authority of the municipality shall institute appropriate action for the recovery of such costs.

§ 98-28. Hydrant use approval. [Added 10-21-85 by Ord. No. 609]

A person shall not use or operate any fire hydrant intended for use of the Fire Department for fire suppression purposes, unless such person first secures a permit for such use from the Fire Chief and the water company having jurisdiction. This section

shall not apply to the use of such hydrants by a person employed by and authorized to make such use by the water company having jurisdiction.

§ 98-29. Recommendations regarding hydrants. [Added 10-21-85 by Ord. No. 609]

The Fire Chief shall recommend to the chief administrative official of the municipality the location or relocation of new or existing fire hydrants and the placement or replacement of inadequate water mains located upon public property and deemed necessary to provide an adequate fire flow and distribution pattern. A fire hydrant shall not be placed into or removed from service until approved by the Fire Chief.

§ 98-30. Systems for educational, institutional and other uses. [Added 10-21-85 by Ord. No. 609]

All new and existing educational or institutional complexes and similar occupancies and uses involving high fire or life hazards and which are located more than one hundred fifty (150) feet from a public street or which require quantities of water beyond the capabilities of the public water distribution system shall be provided with properly placed fire hydrants. Such fire hydrants shall be capable of supplying fire flows as required by the fire official and shall be connected to a water system in accordance with accepted engineering practices. The Fire Chief shall designate and approve the number and location of fire hydrants. The Fire Chief may require the installation of sufficient fire hose and equipment housed in accordance with approved rules and may require the establishment of a trained fire brigade when the hazard involved requires such measures. Private hydrants shall not be placed into or removed from service until approved by the Fire Chief.

§ 98-31. Maintenance of equipment. [Added 10-21-1985 by Ord. No. 609]

A person shall not obstruct, remove, tamper with or otherwise disturb any fire hydrant or fire appliance required to be installed or maintained under the provisions of the Fire Prevention Code, except for the purpose of extinguishing fire, training or testing purposes, recharging or making necessary repairs or when permitted by the Fire Chief. Whenever a fire appliance is removed as herein permitted, it shall be replaced or reinstalled as soon as the purpose for which it was removed has been accomplished. Defective and nonapproved fire appliances or equipment shall be replaced or repaired as directed by the Fire Chief.

§ 98-32. Sale of defective fire extinguishers. [Added 10-21-1985 by Ord. No. 609]

A person shall not sell, trade, loan or give away any form, type or kind of fire extinguisher which is not approved by the fire official or which is not in proper working order or the contents of which do not meet the requirements of the fire official. The requirements of this section shall not apply to the sale, trade or exchange of obsolete or damaged equipment for junk when said units are permanently disfigured or marked with a permanent sign identifying the unit as junk.

§ 98-33. Street obstructions. [Added 10-21-1985 by Ord. No. 609]

A person or persons shall not erect, construct, place or maintain any bumps, fences, gates, chains, bars, pipes, wood or metal horses or any other type of obstruction in or on any street, except with the approval of the Fire Chief or Chief of Police, within the boundaries of the municipality. The word "street," as used in this chapter, shall mean any roadway accessible to the public for vehicular traffic, including but not limited to private streets or access lanes, as well as all public

streets and highways within the boundaries of the municipality.

§ 98-34. Smoke detectors. [Added 10-21-1985 by Ord. No. 609]

In all buildings of Use Group R1 and R2, as those use groups are defined by the New Jersey Uniform Construction Code, single station smoke detectors shall be installed in the immediate vicinity of sleeping areas. When actuated, the detector shall provide an alarm suitable to warn the occupants within the individual unit. An additional smoke detector shall be installed in basements that are accessible from within a dwelling unit and are used solely by the occupants of that unit. In dwelling units with split levels, a smoke detector installed on the upper level shall suffice for the adjacent lower level, provided that the lower level is less than one full story below the upper level. If there is an intervening door between the adjacent levels, a smoke detector shall be installed in accordance with NFiPA74. Where more than one detector is required by this provision, the detector shall be wired in such a manner that the actuation of one alarm will actuate all the alarms in the individual unit.

§ 98-35. Fire zones and lanes. [Added 6-17-1991 by Ord. No. 702; amended 2-23-2004 by Ord. No. 883]

A. Designation. The Fire Official may require and designate public or private fire lanes and zones as deemed necessary for the efficient and effective use of fire apparatus. He may also require the owner or owners to provide, erect and maintain metal signs at such locations. The signs so designating fire zones or lanes are to be of design and quality approved by the Demarest Fire Prevention Bureau.

B. Obstructions. Designated fire lanes or zones shall be maintained free of obstructions and marked in a manner prescribed by the Fire Official. Any vehicles parked within 10 feet of a multiple dwelling, townhouse or cooperative shall be considered in the fire zone. Parking on grass within 10 feet of a building, blocking the egress of the occupants or the access of fire department equipment shall be considered a fire zone.

C. Fire Zone Listing. The attached Schedule A shall be deemed the Fire Zone Listing for the Borough of Demarest.[2]

§ 98-36. Appeals. [Added 5-18-1992 by Ord. No. 720; amended 3-17-1997 by Ord. No. 787]

All persons seeking to appeal any enforcement action undertaken pursuant to N.J.A.C. 5:18-3.2(a), Article 3, Subsection F-311.0, or pursuant to Chapter 98, § 98-35, of the Code of the Borough of Demarest shall pay to the Construction Board of Appeals the sum of $40 at the time of filing such appeal.

ARTICLE III
Hazardous Waste
[Adopted 11-28-2005 by Ord. No. 920]

§ 98-37. Definitions and word usage.

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

[2] Editor's Note: Schedule A is included at the end of this chapter.

plural number. The word "shall" is always mandatory and not merely directory.

DISCHARGE — Any intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous substances into any waters which flow within the jurisdiction of this Borough, any land within the jurisdiction of this Borough or into the air within the jurisdiction of this Borough.

EXPENDABLE ITEM — Any items used to extinguish or prevent any fire, or stop or contain any leak release or spill involving any hazardous material, which cannot be reused or cannot be replenished without cost after that particular incident. These expendable items include, but are not limited to, fire-fighting foam, chemical extinguishing agents, absorbent materials, sand, recovery drums, and any protective equipment and clothing to include, but not restricted to chemical protective suits, chemical protective gloves, goggles, and any other item owned or controlled by the Borough of Demarest or its employees, agents, officers and/or officials.

HAZARDOUS MATERIALS — Any material, solid, liquid or gas, listed as such under the N.F.P.A. Guide of Hazardous Materials, the Department of Transportation Guide Book, the list of hazardous substances adopted by the Federal Environmental Protection Agency (EPA), pursuant to Section 311 of the Federal Water Pollution Control Act Amendment of 1972, as amended by the Clean Water Act of 1977 (33 U.S.A. 1251, et seq.) and the list of toxic pollutants designated by Congress or the EPA, pursuant to Section 307 of the Federal Water Pollution Control Act.

VEHICLE — Any motorized equipment, registered or unregistered, including, but not limited to, a passenger car, motorcycle, truck, tractor trailer, construction

equipment, farm machinery, watercraft, aircraft and trains.

VESSEL — Any container, drum, box, cylinder or tank used to hold or contain or carry or store any hazardous materials, whether or not said container was manufactured for the containment of a hazardous material.

§ 98-38. Hazardous substances discharge prohibition.

A. The discharge of hazardous substances is prohibited. This section shall not apply to the discharge of hazardous substances pursuant to and in compliance with the conditions of a federal or state permit.

B. Any person who may be subject to liability for a discharge or becomes aware of a discharge which occurred after the effective date of this section, shall immediately notify the Borough of Demarest Fire Department and the Bergen County Emergency Management Office.

C. Whenever any hazardous materials are discharged, the Borough may, in its discretion, act to remove or arrange for the removal of such discharge.

D. Any person who has discharged a hazardous material or is in any way responsible for any hazardous material which has been or shall be removed by the Borough, shall be strictly liable, jointly and severally, without regard to fault for all cleanup and removal costs.

§ 98-39. Parties responsible for reimbursement.

A. Reimbursement to the Borough of expendable items used shall be made by the owner or operator of the vehicle responsible for the fire, leak or spill of hazardous material; the owner or person responsible for

the vessel containing the hazardous material involved in such fire, leak or spill on public or private property, whether stationary or in transit and whether accidental or through negligence; the owner or person responsible for any property from which any leak or spill of hazardous material emanates, whether accidental or through negligence and the person responsible for the fire, leak or spill of hazardous material on public or private property, whether accidental or through negligence.

B. If the responsible party is not the owner of real property involving the hazardous material or if the Borough chooses not to place a lien on the property, then the Borough shall have the option to request the Borough Attorney to commence legal actions to collect the reimbursement for these expenses.

§ 98-40. Reimbursement for services of recovery company, towing company or technical assistance.

Any person responsible for any fire, leak, spill or release involving a hazardous material must provide reimbursement for services rendered by any recovery company, towing company or any other technical assistance called for by the Borough to handle such incident. In the event of a vehicle having been responsible for an incident, such vehicle shall be impounded until such time as it has been deemed safe to proceed by the on-scene supervisor of the Bergen County Hazardous Materials Unit and until such time as arrangements have been made to reimburse the county and the towing company for their expenditures under the terms of this section.

§ 98-41. Period for payment.

The person or entity responsible for any fire, leak or spill of hazardous material shall reimburse the Borough the full price of expendable items used to extinguish such fire or to stop or contain such leak or to control such spill, within 45 days after receipt of a bill therefor.

§ 98-42. Enforcement.

A. The responsible party shall reimburse the Borough as provided. Should the responsible party be the owner of real property on which the hazardous material involved was located, from or to which the hazardous material was being transported or from which it emanated, failure to reimburse as required shall entitle the Borough to asses the costs due as reimbursement in accordance with this article, as taxes against said real property. Said taxes shall be due and payable with the next installment of real property taxes; the costs so levied as real property tax shall, if not paid as required, become a tax lien as provided by statute and these ordinances.

B. The Borough shall have the option to enforce the collection of these costs through a civil action. This action may occur when a lien on the property is not available as a means for the collection or when in the opinion of the Mayor and Council such lien will not be an effective method to collect these costs.

C. Upon request by the organization of the Borough of Demarest responding to the emergency caused by the discharge of a hazardous substance, the Mayor and Council may request the Borough Attorney to bring a civil action in a court of competent jurisdiction for recovery of costs pursuant to this act against persons responsible for causing or allowing the unauthorized discharge. Upon receiving such a request, not less than 45 days before bringing a civil action for recovery of those costs, the Borough Attorney shall mail written

notice to the responsible persons informing them that unless the total certified costs are paid within 45 days after the date of the mailing of the notice, the Borough Attorney shall bring a civil action for that amount.

D. The Borough Attorney is authorized, upon consultation and agreement by the organization responding to the emergency caused by the discharge of the hazardous material, to compromise and settle any claim for costs permitted pursuant to this act in such amount at the discretion of the organization as may appear appropriate and equitable under all of the circumstances.

E. Any recovery of costs shall be credited to the appropriate funds of each organization from which the monies were expended in responding to the emergency caused by the discharge of hazardous materials.

FIRE PREVENTION

98 Attachment 1

Borough of Demarest

Schedule A
Fire Zone Listing

Demarest Middle School	560 Piermont Rd.
Baptist Church	563 Piermont Rd.
Demarest Cultural Ctr.	561 Piermont Rd.
St. Joes School	567 Piermont Rd.
St. Joes Church	280 Old County Rd.
County Road School	130 County Rd.
Luther Lee School	17 Columbus Rd.
NVRHS	150 Knickerbocker Rd.
NVRHS-Admin	162 Knickerbocker Rd.
Academy of Holy Angels	315 Hillside Ave.
Alpine CC	80 Anderson Ave.
Demarest Fire Dept	25 Park St.
Demarest Boro Hall	118 Serpentine Rd.
Methodist Church	109 Hardenburgh Ave.
126-132 Hardenburgh	Post Office, Liquor Store, Pizza Xpress, Dunkin Donuts, Apts.
134-140	Demarest Service Ctr, Adams Plumbing
Fleet Bank	135 Hardenburgh Ave.
27-37 Park St.	Stores, Apts in rear and Driveway
Ambulance Bldg.	Wakelee Dr.
DPW	Wakelee Dr.
Swim Club	Wakelee Rd.
Wakelee Field Area	Wakelee Dr.
Demarest Library	90 Hardenburgh Ave.
RR Station	Park St.
Pine Terr.	Dead End

Chapter 100

FLOOD HAZARD CONTROL

§ 100-1. Findings of fact.
§ 100-2. Purpose.
§ 100-3. Methods of reducing flood losses.
§ 100-4. Definitions.
§ 100-5. Applicability.
§ 100-6. Basis for establishing areas of special flood hazard.
§ 100-7. Compliance required; violations and penalties.
§ 100-8. Abrogation and greater restrictions.
§ 100-9. Interpretation.
§ 100-10. Limitation on effect; disclaimer of liability.
§ 100-11. Development permit; information required.
§ 100-12. Enforcement officer designated.
§ 100-13. Duties and responsibilities of enforcement officer.
§ 100-14. Appeals Board.
§ 100-15. Conditions for variances.
§ 100-16. General standards.
§ 100-17. Specific standards.
§ 100-18. Floodways.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 6-15-1981 as Ord. No. 518. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision and site plan review — See Ch. 153.
Zoning — See Ch. 175.

§ 100-1. Findings of fact.

The flood hazard areas of the Borough of Demarest are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard, which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

§ 100-2. Purpose.

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

A. Protect human life and health;

B. Minimize expenditure of public money for costly flood control projects;

C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. Minimize prolonged business interruptions;

E. Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and

H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 100-3. Methods of reducing flood losses.

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

A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;

B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;

D. Controlling filling, grading, dredging and other development which may increase flood damage; and

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

§ 100-4. Definitions.

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

B. As used in this chapter, the following words shall have the meanings indicated:

APPEAL — A request for review of the Chief Construction Official's interpretation of any provisions of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING — A designated AO Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and the velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year.

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

BASEMENT — Any area of the building having its floor subgrade (below ground level) on all sides. **[Added 5-19-1986 by Ord. No. 619]**

BREAKAWAY WALL — A wall that is not part of the structural support of the building and is intended, through its design and construction, to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system. **[Added 7-20-1987 by Ord. No. 637]**

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

dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard. **[Amended 9-18-1995 by Ord. No. 769]**

ELEVATED BUILDING — A nonbasement building which is built, in the case of a building in an area of special flood hazard, to have the top of the elevated floor or, in the case of a building in a coastal high-hazard area, to have the bottom of the lowest horizontal structural member of the elevated floor elevated above the ground level by means of piling, columns (posts and piers) or shear walls paralleled to the flow of water, and which is adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In an area of special flood hazard, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In areas of coastal high hazard, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls. **[Added 7-20-1987 by Ord. No. 637]**

FLOOD or FLOODING — A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or the unusual and rapid accumulation or runoff of surface waters from any source.

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

FLOOD INSURANCE STUDY — The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Boundary –

Floodway Map and the water surface elevation of the base flood.

FLOODPLAIN MANAGEMENT REGULATIONS — Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction. **[Added 9-18-1995 by Ord. No. 769]**

FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than two-tenths (0.2) foot.[1]

HISTORIC STRUCTURE **[Added 9-18-1995 by Ord. No. 769]** — Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district;

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1 Editor's Note: The definition of "habitable floor," which immediately followed this definition, was repealed 5-19-1986 by Ord. No. 619.

(3) Individually listed on a State Inventory of Historic Places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in the states without approved programs.

LOWEST FLOOR — The lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's "lowest floor," provided that such enclosure is not built so as to render the structure in violation of other applicable nonelevation design requirements. **[Added 5-19-1986 by Ord. No. 619; amended 7-20-1987 by Ord. No. 637]**

MANUFACTURED HOME — A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle." **[Added 9-18-1995 by Ord. No. 769]**

MANUFACTURED HOME PARK or MANUFACTURED HOME SUBDIVISION – A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale. **[Added 9-18-1995 by Ord. No. 769]**

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the

effective date of this chapter and includes any subsequent improvements to such structures. **[Added 7-20-1987 by Ord. No. 637; amended 9-18-1995 by Ord. No. 769]**

NEW MANUFACTURED HOME PARK OR SUBDIVISION — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this chapter. **[Added 9-18-1995 by Ord. No. 769]**

RECREATIONAL VEHICLE — A vehicle which is built on a single chassis, four hundred (400) square feet or less when measured at the longest horizontal projections, designed to be self-propelled or permanently towable by a light-duty truck and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. **[Added 9-18-1995 by Ord. No. 769]**

START OF CONSTRUCTION — For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348), includes substantial improvements and means the date the building permit was issued, provided that the actual "start of construction," repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty (180) days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as

clearing, grading and filling nor does it include the installation of streets and/or walkways nor does it include excavation for a basement, footings or piers or foundations or the erection of temporary forms nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration effects the external dimensions of the building. **[Added 5-19-1986 by Ord. No. 619; amended 7-20-1987 by Ord. No. 637; 9-18-1995 by Ord. No. 769]**

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

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. **[Added 9-18-1995 by Ord. No. 769]**

SUBSTANTIAL IMPROVEMENT **[Amended 9-18-1995 by Ord. No. 769]** — Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement

officer and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

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

§ 100-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Borough of Demarest, County of Bergen and State of New Jersey.

§ 100-6. Basis for establishing areas of special flood hazard. [Amended 9-18-1995 by Ord. No. 769; 7-25-2005 by Ord. No. 917]

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled the "Flood Insurance Study of Bergen County, New Jersey," with accompanying Flood Insurance Rate Map Panels 203, 204 and 210 of 332, to be dated September 30, 2005, is hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at the office of the Municipal Clerk at Borough Hall, 118 Serpentine Road, Demarest, New Jersey.

§ 100-7. Compliance required; violations and penalties. [Amended 7-15-1991 by Ord. No. 703]

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations.

Violation of the provisions of this chapter by failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with conditions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be subject to a fine not to exceed one thousand dollars ($1,000.) or to imprisonment in the county jail for not more than ninety (90) days or to a period of community service not exceeding ninety (90) days, or all of the above in the discretion of the Judge imposing the same and, in addition, shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Borough of Demarest from taking such other lawful action as is necessary to prevent or remedy any violation.

§ 100-8. Abrogation and greater restrictions.

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

(Cont'd on page 10007)

§ 100-9. Interpretation.

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

A. Considered as minimum requirements;

B. Liberally construed in favor of the governing body; and

C. Deemed neither to limit nor repeal any other powers granted under state statutes.

§ 100-10. Limitation on effect; disclaimer of liability.

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

§ 100-11. Development permit; information required.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in § 100-6. Application for a development permit shall be made on forms furnished by the Chief Construction Official and may include but not be limited to plans in duplicate, drawn to scale, showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

A. Elevation, in relation to mean sea level, of the lowest floor, including basement, of all structures;

B. Elevation, in relation to mean sea level, to which any structure has been floodproofed;

C. Certification by a registered professional engineer or architect that the floodproofing method for any nonresidential structure meet the floodproofing criteria in § 100-17B; and

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

§ 100-12. Enforcement officer designated.

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

§ 100-13. Duties and responsibilities of enforcement officer.

Duties of the Chief Construction Official shall include, but not be limited to:

A. Reviewing all development permits to determine that the permit requirements of this chapter have been satisfied.

B. Reviewing all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

C. Reviewing all development permits to determine if the proposed development is located in the floodway; if located in the floodway, assure that the encroachment provisions of § 100-18A are met.

D. Use of other flood data. When base flood elevation data has not been provided in accordance with § 100-6, obtaining, reviewing and reasonably utilizing any base flood elevation data available from a federal, state or other source, in order to administer § 100-17A, Residential construction, and § 100-17B, Nonresidential construction.

E. Information to be obtained and maintained. **[Amended 5-19-86 by Ord. No. 619]**

(1) Obtaining and recording the actual elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved structures and whether or not the structure contains a basement.

(2) For all new or substantially improved floodproof structures:

(a) Verifying and recording the actual elevation in relation to mean sea level; and

(b) Maintaining the floodproofing certifications required in § 100-11C.

(3) Maintaining for public inspection all records pertaining to the provisions of this chapter.

F. Alteration of watercourses.

(1) Notifying adjacent communities and the state coordinating agency prior to any alteration of a watercourse and submitting evidence of such notification to the Federal Insurance Administration.

(2) Requiring that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

G. Interpretation of FIRM boundaries. Making interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards, for example, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in §§ 100-14 and 100-15.

§ 100-14. Appeals Board.

A. The Planning Board, as established by the Borough of Demarest, shall hear and decide appeals and requests for variances from the requirements of this chapter.

B. The Planning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Chief Construction Official in the enforcement or administration of this chapter.

C. Those aggrieved by the decision of the Chief Construction Official, or any taxpayer, may appeal such decisions to the Borough Planning Board as provided in §§ 100-14 and 100-15.

D. In passing upon such applications, the Planning Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and the following:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location, where applicable;

(6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(Cont'd on page 10011)

(10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems and streets and bridges.

E. Upon consideration of the factors of § 100-14D and the purposes of this chapter, the Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

F. The Planning Board shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

§ 100-15. Conditions for variances.

A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in § 100-14D(1) through (11) have been fully considered. As the lot size increases beyond one-half (1/2) acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve

the historic character and design of the structure. **[Amended 9-18-1995 by Ord. No. 769]**

C. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

E. Variances shall only be issued upon:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in § 100-14D or conflict with existing laws or ordinances.

F. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. The proposed lowest floor elevation and the lowest opening must be at least one and zero-tenths (1.0) feet above the base flood elevation which must be established for each given location.

§ 100-16. General standards.

A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

B. Construction materials and methods.

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(Cont'd on page 10013)

C. Utilities. **[Amended 7-20-87 by Ord. No. 637]**

(1) All new and replacement water supply systems shall be designed to minimize or eliminate the infiltration of floodwaters into the system.

(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate the infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

(3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. Subdivision proposals.

(1) All subdivision proposals shall be consistent with the need to minimize flood damage;

(2) All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres, whichever is less.

E. Enclosure openings. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be either

certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. **[Added 7-20-87 by Ord. No. 637]**

§ 100-17. Specific standards.

In all areas of special flood hazard where base flood elevation data have been provided as set forth in § 100-6, Basis for establishing the areas of special flood hazard, or in § 100-13D, Use of other flood data, the following standards are required:

A. Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least one (1) foot above base flood elevation.

B. Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to at least one (1) foot above the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:

(1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection.

Such certification shall be provided to the official as set forth in § 100-13E(2). **[Amended 7-20-87 by Ord. No. 637]**

§ 100-18. Floodways.

Located within areas of special flood hazard established in § 100-6 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

A. Encroachments, including fill, new construction, substantial improvements and other development shall be prohibited, unless a technical evaluation demonstrates that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

B. If Subsection A is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of § 100-17.

C. The placement of any mobile homes, except in an existing mobile home park or existing mobile home subdivision, shall be prohibited.

Chapter 101

FOOD VENDING, MOBILE

§ 101-1. Purpose.
§ 101-2. Authority.
§ 101-3. Definitions.
§ 101-4. Food vendors, mobile, prohibited.
§ 101-5. Streets prohibited.
§ 101-6. Hours of operation.
§ 101-7. Board of Health license.
§ 101-8. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 11-19-2001 by Ord. No. 851. Amendments noted where applicable.]

GENERAL REFERENCES

Board of health — See Ch. 23.
Peddling and soliciting — See Ch. 132.

§ 101-1. Purpose.

The purpose of this chapter is to establish regulations to which persons selling food and drink products from street to street must adhere.

§ 101-2. Authority.

This chapter is enacted in accordance with N.J.S.A. 40:48-1 and/or N.J.S.A. 40:48-2 authorizing municipalities to adopt ordinances to prescribe and regulate the place of

vending or exposing for sale merchandise from vehicles and to enact ordinances deemed necessary and proper for protection of persons and property and preservation of the public health.

§ 101-3. Definitions.

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

FOOD VENDOR, MOBILE — Any person traveling in a vehicle from street to street in the Borough of Demarest selling or exposing for sale food and drink products (i.e., huckster).

ICE CREAM VENDOR — Any person traveling in a vehicle from street to street in the Borough of Demarest selling ice cream products, frozen dessert products, water ices, beverages and frozen confectionary products which, prior to service, require only limited preparation or are prepackaged, all for the purpose of selling or attempting to sell them to customers from such vehicle.

§ 101-4. Food vendors, mobile, prohibited.

No food vendor, mobile, excepting ice cream vendors, shall be permitted to sell or expose for sale any merchandise in the Borough of Demarest.

§ 101-5. Streets prohibited.

No ice cream vendors shall sell or expose for sale any merchandise on the following streets in the Borough of Demarest:

A. Anderson Avenue, County Road, Hardenburgh Avenue, Knickerbocker Avenue and Piermont Road.

§ 101-6. Hours of operation.

No ice cream vendor shall sell or expose for sale merchandise within the Borough of Demarest excepting between the hours of 11:30 a.m. and sunset on each and every day starting May 1 and ending October 31 of each and every year.

§ 101-7. Board of Health license.

Nothing in this chapter shall be deemed to affect or restrict any license required of any food vendor, mobile, including an ice cream vendor, by the Borough of Demarest Board of Health.

§ 101-8. Violations and penalties.

Any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine not to exceed $1,000 or imprisonment in the County Jail for not more than 90 days, or for a period of community service not exceeding 90 days, or all of the above at the discretion of the Judge imposing the same.

Chapter 104

HANDICAPPED PARKING

§ 104-1. Purpose.
§ 104-2. Authority.
§ 104-3. Definitions.
§ 104-4. Use of areas restricted.
§ 104-5. Borough to provide areas.
§ 104-6. Marking of area.
§ 104-7. Posting of designation.
§ 104-8. Damaging of area signs prohibited.
§ 104-9. Number of spaces provided.
§ 104-10. State identification card required.
§ 104-11. Special identification card.
§ 104-12. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 9-20-82 by Ord. No. 542. Amendments noted where applicable.]

§ 104-1. Purpose.

The purpose of this chapter is to establish certain areas of municipal and private property that are open to the public or to which the public is invited, while prohibiting parking in areas designated as "handicapped parking spaces."

§ 104-2. Authority.

This chapter is enacted in accordance with N.J.S.A. 40:48-2.46, which does confer upon the Borough of Demarest the right to

establish handicapped parking spaces in order to preserve and safeguard the public health, safety, morals and welfare.

§ 104-3. Definitions.

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

PHYSICAL HANDICAP — A physical impairment which confines a person to a wheelchair, causes a person to work with difficulty or insecurity, affects the sight or hearing to the extent that a person functioning in public areas is insecure or exposed to danger, causes faulty coordination or reduces mobility, flexibility, coordination and perception to the extent that facilities are needed to provide for the safety of that person.

PUBLIC BUILDING — Any building, structure, facility or complex used by the general public or to which the general public is invited, including but not limited to theaters, concert halls, auditoriums, museums, schools, libraries, recreation facilities, public transportation terminals and stations, factories, office buildings, businesses, shopping centers, hotels or motels and public eating places, whether privately or publicly owned, except that this term shall not include private family residences, warehouse storage areas and all buildings conducting hazardous occupancies that involve highly combustible, highly flammable or explosive material.

§ 104-4. Use of areas restricted.

No person shall stand, park or cause to be parked any vehicle which is not operated by a handicapped individual in an area or parking place which has been specifically designated as a parking area or parking place for vehicles of handicapped persons.

§ 104-5. Borough to provide areas.

The Borough of Demarest shall have the authority to provide parking spaces for handicapped persons in all parking lots or areas maintained by it pursuant to the applicable standards set forth herein.

§ 104-6. Marking of area.

Such notice shall consist of a sign not less than eighteen by twenty-four (18 x 24) inches, upon which there shall be written the words "Parking for Handicapped Persons Only" and/or such words painted on the ground.

§ 104-7. Posting of designation.

Notice in the form described shall be posted at the parking area or parking places so designated for the parking of handicapped persons by the owner or occupant, lessee or licensee, and, upon posting, provisions of this chapter shall apply thereto.

§ 104-8. Damaging of area signs prohibited.

The damaging or defacing of such a sign is hereby prohibited.

§ 104-9. Number of spaces provided.

A. One (1) specifically designated parking space for handicapped persons shall be provided for every fifteen (15) parking spaces in any parking area which is open to the public and to which the public is invited.

B. The parking spaces set forth in Subsection A hereof shall be in front of or adjacent to the entrance to the public facility which the parking area serves. Each space shall be twelve (12) feet wide to allow room for persons in wheelchairs or on braces or crutches to get in and out of either side of an automobile onto a level, paved surface suitable for wheelchairs and walking.

§ 104-10. State identification card required.

No person shall park a vehicle in any parking space designated and marked as being set aside for the physically handicapped in any parking facility unless the operator of the vehicle is the holder of an identification card issued pursuant to N.J.S.A. 39:4-205 or § 104-11 hereof, and said operator's vehicle shall have affixed thereto an identification certificate or marker issued either by the New Jersey Director of the Division of Motor Vehicles or a local certificate issued by the Borough of Demarest. Parking in a handicapped space without the aforesaid vehicle identification shall create a rebuttable presumption that use of the space was not for the physically handicapped.

§ 104-11. Special identification card.

The Borough Clerk, subject to review and approval by the Mayor and Council, shall issue free of charge a borough special vehicle identification card to any physically disabled person, resident or nonresident, who may not qualify for such identification under N.J.S.A. 39:4-204 but who does qualify under the definition of "physical handicap" in § 104-3 of this chapter. A physician's certification shall be necessary to establish the qualifying status of each applicant.

§ 104-12. Violations and penalties.

Unless another penalty is expressly provided by New Jersey statute, every person convicted of a violation of a provision of this chapter and any supplement thereto shall be liable to a penalty of not more than fifty dollars ($50.).

Chapter 107

HOUSING STANDARDS

§ 107-1. Designation of enforcement officer; compensation.

§ 107-2. Adoption of standards by reference.

§ 107-3. Inspections.

§ 107-4. Notice of violation; hearing; determination by Mayor and Council.

§ 107-5. Conformance with standards required prior to occupancy or rental.

§ 107-6. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 10-19-1966 as Ord. No. 318. Section 107-6 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Rent subsidies — See Ch. 47.
Uniform construction codes — See Ch. 84.
Fire prevention — See Ch. 98.
Subdivision of land — See Ch. 153.
Zoning — See Ch. 175.
Public health nuisances — See Ch. 186.

§ 107-1. Designation of enforcement officer; compensation.

The Building Inspector of the Borough of Demarest is hereby designated as the officer to exercise the powers prescribed by this chapter, and he shall serve in such capacity without any additional salary.

§ 107-2. Adoption of standards by reference.

Pursuant to the provisions of P.L. 1946, c. 21 (N.J.S.A. 40:49-5.1), the New Jersey State Housing Code, as approved by the Departments of Health and Conservation and Economic Development and filed in the Secretary of State's office, is hereby accepted, adopted and established as a standard to be used as a guide in determining whether dwellings in this municipality are safe, sanitary and fit for human habitation and rental. A copy of the New Jersey Housing Code is annexed to this chapter, and three (3) copies of the same have been placed on file in the office of the Borough Clerk and are available to all persons desiring to use and examine the same.

§ 107-3. Inspections.

The Building Inspector is hereby authorized and directed to make inspections to determine the condition of dwellings, dwelling units, rooming units and premises located within the Borough of Demarest in order that he may perform his duty of safeguarding the health and safety of the occupants of dwellings and of the general public. For the purpose of making such inspections, the Building Inspector is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit and rooming unit or the person in charge thereof shall give the Building Inspector free access to such dwelling, dwelling unit or rooming unit and its premises at all reasonable times for the purpose of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof or his agent or employee access to any part of such dwelling or dwelling unit or its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this chapter.

§ 107-4. Notice of violation; hearing; determination by Mayor and Council.

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

B. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this chapter or of any rule or regulation adopted pursuant thereto may request and shall be granted a hearing on the matter before the Mayor and Council, provided that such person shall file in the office of the Borough Clerk a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten (10) days after the day the notice was served. Upon receipt of such petition, the Borough Clerk shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and to show

why such notice should be modified or withdrawn. The hearing shall be commenced not later than ten (10) days after the day on which the petition was filed, provided that, upon application of the petitioner, the Mayor and Council may postpone the date of the hearing for a reasonable time beyond such ten-day period if, in its judgment, the petitioner has submitted a good and sufficient reason for such postponement. After such hearing, the Mayor and Council shall sustain, modify or withdraw the notice, depending upon its findings as to whether the provisions of this chapter and of the rules and regulations adopted pursuant thereto have been complied with. If the Mayor and Council sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to this chapter shall automatically become an order if a written petition for a hearing is not filed in the office of the Borough Clerk within the Borough of Demarest.

§ 107-5. Conformance with standards required prior to occupancy or rental.

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

§ 107-6. Violations and penalties. [Amended 4-18-1983 by Ord. No. 562; 7-15-1991 by Ord. No. 703]

Any person, firm or corporation who shall violate any of the provisions of this chapter shall, upon conviction, be subject to a fine not to exceed one thousand dollars ($1,000.) or to imprisonment in the county jail for not more than ninety (90) days or to a period of community service not exceeding

ninety (90) days, or all of the above, in the discretion of the Judge imposing the same, and each violation of any of the provisions of this chapter and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

Chapter 109

HUNTING

§ 109-1. Hunting and discharge of firearms prohibited; possession of loaded gun restricted.

§ 109-2. Nonapplicability.

§ 109-3. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest during codification; see Ch. 1, General Provisions, Art. II. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and playgrounds — See Ch. 130.

§ 109-1. Hunting and discharge of firearms prohibited; possession of loaded gun restricted.

No person shall, within the territorial limits of the Borough of Demarest, hunt, attempt to hunt or discharge firearms of any type, including rifles, shotguns, pistols, air guns and BB guns, at any time, nor shall any person have in his possession a loaded gun while within three hundred (300) feet of any occupied dwelling, except the owner or lessee of such dwelling or a person specifically authorized in writing by such owner or lessee, or within four hundred (400) feet of a school playground.

§ 109-2. Nonapplicability.

Nothing in this chapter shall prohibit the use of firearms for the protection of life, person or property. The provisions of this chapter shall not apply to any pistol, shotgun or rifle range equipped with proper safeguards for the protection of life and property or

operated by any club under the control and supervision of the duly constituted officers of such club. However, all of the aforementioned ranges shall have been inspected by the Police Chief, and the use of such ranges shall have been recommended by him and approved by the Borough Council.

§ 109-3. Violations and penalties.

Any person convicted of violating the provisions of this chapter shall be subject to a fine of not more than five hundred dollars ($500.) or to imprisonment in the county jail for a period not exceeding ninety (90) days, or both.

Chapter 110

INSURANCE CLAIMS ELIGIBILITY

§ 110-1. Payment of claims restricted.

§ 110-2. Agreements with owners of fire-damaged property.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 11-18-1996 by Ord. No. 781. Amendments noted where applicable.]

§ 110-1. Payment of claims restricted.

No insurance company shall make payment to any claimant of any claim in excess of $2,500 for fire damages on any real property located within the Borough of Demarest pursuant to any fire insurance policy issued or renewed after the effective date of this chapter until such time as either:

A. Anticipated demolition costs and all taxes and assessments and all other municipal liens or charges due and payable appearing on the official certificate of search shall have been paid either by the owner of such real property or by the insurance company pursuant to N.J.S.A. 17:36-10; or

B. The borough submits to the insurance company a copy of a resolution adopted pursuant to N.J.S.A. 17:36-11.

§ 110-2. Agreements with owners of fire-damaged property.

The Borough of Demarest may enter into agreements with owners of fire-damaged property in accordance with N.J.S.A. 17:36-11.

Chapter 113

LIGHTING

§ 113-1. Approval of certain outdoor lighting required.

§ 113-2. Application for approval; conditions.

§ 113-3. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 9-15-1965 as Ord. No. 309. Section 113-3 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Site plan review — See Ch. 153.
Zoning — See Ch. 175.

§ 113-1. Approval of certain outdoor lighting required.

No person, firm or corporation having charge, care, control or ownership of lands in the Borough of Demarest shall erect, install or maintain illumination of the outdoors of the premises by artificial lights which aggregate in excess of five thousand (5,000) watts without first obtaining approval therefor from the Mayor and Council of the Borough of Demarest.

§ 113-2. Application for approval; conditions.

The approval of such artificial lights shall be granted by the Mayor and Council only after the submission of a written application setting forth in detail the plans and specifications

for such lighting on a sketch of the property and the purpose thereof, and only after the governing body is satisfied that such lights and any activities in connection with such lights shall not cause any nuisance, annoyance or disturbing glare to the owners of adjacent land or to motorists using the public streets. All wiring shall be approved by the Board of Underwriters.

§ 113-3. Violations and penalties. [Amended 4-18-1983 by Ord. No. 562; 7-15-1991 by Ord. No. 703]

Any person, partnership, association or corporation or any member thereof or officer of the same who violates this chapter or any part hereof shall, upon conviction, forfeit and be subject to a fine not to exceed one thousand dollars ($1,000.) or to imprisonment in the county jail for not more than ninety (90) days or to a period of community service not exceeding ninety (90) days, or all of the above, in the discretion of the Judge imposing the same, and each and every day that such violation continues without abatement of the violation complained of shall be deemed to be a separate offense.

Chapter 116

LOITERING

§ 116-1. Definitions.

§ 116-2. Certain types of loitering prohibited.

§ 116-3. Discretion of police officer; refusal to comply.

§ 116-4. Loitering by minors.

§ 116-5. Notice of violation.

§ 116-6. Presumptive evidence.

§ 116-7. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 12-15-1975 as Ord. No. 415. Section 116-7 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Police Department — See Ch. 40.
Parks and playgrounds — See Ch. 130.

§ 116-1. Definitions.

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

> LOITERING — Remaining idle in essentially one (1) location, and includes the concepts of spending time idly, loafing or walking about aimlessly, and also includes the colloquial expression "hanging around."

PARENT or GUARDIAN — Includes any adult person having care or custody of a minor, whether by reason of blood relationship, the order of any court or otherwise.

PUBLIC PLACE — Any place to which the public has access, and includes any street, highway, road, alley or sidewalk. It shall also include the front or the neighborhood of any store, shop, restaurant, tavern or any other place of business and public grounds, areas and parks, as well as parking lots or other vacant private property not owned by or under the control of the person charged with violating this chapter or, in the case of a minor, not owned by or under the control of his parent or guardian.

§ 116-2. Certain types of loitering prohibited.

No person shall loiter in a public place in such a manner as to:

A. Create or cause to be created a danger of a breach of the peace.

B. Create or cause to be created any disturbance or annoyance to the comfort and repose of any person.

C. Obstruct the free passage of pedestrians or vehicles.

D. Obstruct, molest or interfere with any person lawfully in any public place as defined in § 116-1. This subsection shall include the making of unsolicited remarks of an offensive, disgusting or insulting nature or which are calculated to annoy or disturb the person to whom or in whose hearing they are made.

§ 116-3. Discretion of police officer; refusal to comply.

Whenever any police officer shall, in the exercise of reasonable judgment, decide that the presence of any person in any public place is causing or is likely to cause any of the conditions enumerated in § 116-2, he may, if he deems it necessary for the preservation of the public peace and safety, order that person to leave that place. Any person who shall refuse to leave after being ordered to do so by a police officer shall be deemed to have committed a violation of this chapter.

§ 116-4. Loitering by minors.

No parent or guardian of a minor under the age of eighteen (18) years shall knowingly permit that minor to loiter in violation of this chapter.

§ 116-5. Notice of violation.

Whenever any minor under the age of eighteen (18) years is charged with a violation of this chapter, his parent or guardian shall be notified of this fact by the Chief of Police or any other person designated by him to give such notice.

§ 116-6. Presumptive evidence.

If at any time within thirty (30) days following the giving of notice as provided in § 116-5 the minor to whom such notice relates again violates this chapter, it shall be presumed in the absence of evidence to the contrary that the minor did so with the knowledge and permission of his parent or guardian.

§ 116-7. Violations and penalties. [Amended 4-18-1983 by Ord. No. 562; 7-15-1991 by Ord. No. 703]

Any person violating any of the provisions of this chapter shall, upon conviction, be subject to a fine not to exceed one thousand dollars ($1,000.) or to imprisonment in the county jail for not more than ninety (90) days or to a period of community service not exceeding ninety (90) days, or all of the above, in the discretion of the Judge imposing the same.

Chapter 118

MAP, OFFICIAL

§ 118-1. Establishment of map; copies on file.

§ 118-2. Map deemed conclusive; purpose for establishment.

§ 118-3. Changes and additions; approval by Planning Board.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 10-24-1951 as Ord. No. 179. Amendments noted where applicable.]

§ 118-1. Establishment of map; copies on file. [Amended 12-21-1992 by Ord. No. 726]

Pursuant to the provisions of N.J.S.A. 40:55D-32, the Borough of Demarest hereby adopts the Official Map of the Borough of Demarest, Bergen County, New Jersey, dated December 1990, revised to October 7, 1992, prepared by Azzolina and Feury Engineering Company, James A. Feury, P.E., License No. 21918, as the Official Map of the Borough of Demarest and hereby makes such map a part of this chapter by reference thereto, an official copy thereof being filed for reference with the Borough Clerk and the Borough Engineer.

§ 118-2. Map deemed conclusive; purpose for establishment. [Amended 12-21-1992 by Ord. No. 726]

Said Official Map, and every part thereof and any changes subsequently made in proper form, is to be deemed official and conclusive with respect to the location and width of

streets and public drainage areas and the location and extent of flood control basins in public areas, whether or not such streets, ways, basins or other areas are improved or unimproved or are in actual physical existence, and further shall be conclusive as to the location and extent of public parks and playgrounds shown thereon, and such Official Map is hereby declared to be established to conserve and promote the public health, safety, morals and general welfare.

§ 118-3. Changes and additions; approval by Planning Board.

The governing body of the borough may, by ordinance, whenever and as often as it may deem it for the public interest, change or add to such Official Map of the municipality, subject to such approval of the Planning Board as may be required according to law.

Chapter 122

NOISE

§ 122-1. Disturbing and unnecessary noises prohibited.

§ 122-2. Enumeration of prohibited noises.

§ 122-3. Use of sound trucks, loudspeakers, sound amplifiers and other instruments restricted.

§ 122-4. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 8-10-1949 as Ord. No. 167. Section 122-4 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Dogs and other animals — See Ch. 89.
Peddling and soliciting — See Ch. 132.
Public health nuisances — See Ch. 186.

§ 122-1. Disturbing and unnecessary noises prohibited.

The creation of any unreasonably loud, disturbing and unnecessary noise in the Borough of Demarest is prohibited.

§ 122-2. Enumeration of prohibited noises.

The following acts, among others, are declared to be disturbing and unnecessary noises in violation of this chapter, but this enumeration shall not be deemed to be exclusive:

A. The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle except as a danger signal or other warning signal.

B. The playing of any radio, phonograph or any musical instrument or the use of any amplifier system in such a manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel, apartment house or other type of residence.

C. The keeping of any animal or bird which, by frequent or long-continued noise, shall disturb the quiet, comfort or repose of any person in the vicinity.

D. The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling or other noise.

E. The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger.

F. The discharge into the open air of the exhaust of any automobile, motorcycle, steam or other engine except through a muffler or other device which effectively prevents loud or explosive noises therefrom.

G. The creation of any excessive noise on any street adjacent to any school, institution of learning or place of public worship or court while the same are in session or adjacent to any hospital which unreasonably interferes with the workings of such institution, provided that conspicuous signs are displayed indicating that the same is a school, hospital or court street.

H. The erection (including excavation), demolition, alteration or repair, except by the occupant thereof, of any building in a residential district other than between the hours of 7:00 a.m. and sunset on weekdays, except in case of urgent necessity in the interest of the public

safety and then only with a permit from the Building Inspector, which permit may be renewed for a period of three (3) days or less while the emergency continues.

I. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

J. For any persons, firms or corporations, for advertising purposes or for the purpose of attracting the attention of the passing public, to play, use, operate or permit to be played, used or operated any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound on the streets or public places of the Borough of Demarest or in any place where the sound therefrom is cast directly upon the streets or public places or which is so placed and operated that the sound therefrom can be heard to the annoyance or inconvenience of travelers upon any street or public place or of persons in neighboring premises.

§ 122-3. Use of sound trucks, loudspeakers, sound amplifiers and other instruments restricted.

No person, firm or corporation, either principal, agent or employee, shall play, use or operate for advertising purposes or for any other purpose whatsoever on or upon the public streets, alleys or thoroughfares in the Borough of Demarest any device known as a "sound truck," "loudspeaker" or "sound amplifier," or radio or phonograph with a loudspeaker or sound amplifier, or any other instrument known as a "calliope" or any instrument of any kind or character which emits therefrom loud and raucous noises and is attached to and upon any vehicle operating or standing upon said streets or public places aforementioned, except that this provision shall not apply to radios and similar devices intended for and operated at a level of sound appropriate to the occupants of any vehicles in which such devices are contained.

§ 122-4. Violations and penalties. [Amended 4-18-1983 by Ord. No. 562; 7-15-1991 by Ord. No. 703]

Any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine not to exceed one thousand dollars ($1,000.) or to imprisonment in the county jail for not more than ninety (90) days or to a period of community service not exceeding ninety (90) days, or all of the above, in the discretion of the Judge imposing the same.

Chapter 125

OBSTRUCTIONS AT INTERSECTIONS

§ 125-1. Approval required to plant trees within street lines.

§ 125-2. (Reserved)

§ 125-3. Notice to cut brush and plant life near roadways and intersections.

§ 125-4. Appeals.

§ 125-5. Noncompliance by owner; cutting by borough.

§ 125-6. Costs as lien.

§ 125-7. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 2-15-1967 as Ord. No. 322. Section 125-7 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Shade Tree Commission — See Ch. 53.
Property maintenance — See Ch. 135.
Streets and sidewalks — See Ch. 150.
Trees — See Ch. 163.
Weed control — See Ch. 192.

§ 125-1. Approval required to plant trees within street lines.

No person shall plant or cause to be planted any trees within the street lines in the Borough of Demarest without

first obtaining the permission and approval of the Shade Tree Commission of said borough.[1]

§ 125-2. (Reserved)[2]

§ 125-3. Notice to cut brush and plant life near roadways and intersections.

In the event that the Commissioner of Public Safety of the Borough of Demarest determines that it is necessary and expedient for the preservation of the public safety to keep cut to a height of not more than two and one-half (2 1/2) feet any brush, shrub or plant life growing within ten (10) feet of any roadway and within twenty-five (25) feet of the intersection of two (2) roadways in the Borough of Demarest, he shall send, by registered mail, notice thereof, with his reasons, to the last known address of the owner or the tenant of the lands, who shall thereby be obligated to perform the required cutting within fifteen (15) days of the date of mailing of the notice.

§ 125-4. Appeals.

The owner or tenant in possession who receives a notice from the Commissioner of Public Safety to cut brush, hedges or plant life may appeal to the Mayor and Council of the Borough of Demarest by filing a notice of appeal with the

(Cont'd on page 12503)

1 Editor's Note: See Ch. 53, Shade Tree Commission.

2 Editor's Note: Former § 125-2, Approval required to erect fences near roadways and intersections, was repealed 4-15-1996 by Ord. No. 774.

Commissioner of Public Safety and the Clerk of the Borough of Demarest within said fifteen (15) days from the date of mailing of the written notice by the Commissioner of Public Safety, which appeal shall stay any act of cutting until a decision is rendered by the Mayor and Council.

§ 125-5. Noncompliance by owner; cutting by borough.

If the owner or tenant in possession shall have refused or neglected to cut the brush, hedges or other plant life within the time or times hereinabove provided for, it shall be lawful for the Superintendent of Public Works to cause or arrange for the cutting of the same under his direction, and the cost thereof shall be certified to the Mayor and Council.

§ 125-6. Costs as lien.

The Mayor and Council, upon receipt of such certified costs, shall examine the same and, if found correct, shall cause the costs to be charged against said lands or, if the Mayor and Council deem such costs to be excessive, shall cause the reasonable cost thereof to be charged against said lands. The amount so charged shall forthwith become a lien upon such lands, shall be added to and become and form part of the taxes next to be assessed and levied upon such lands, shall bear interest at the same rate as other taxes and shall be collected and enforced by the Tax Collector in the same manner as taxes.

§ 125-7. Violations and penalties. [Amended 4-18-1983 by Ord. No. 562; 7-15-1991 by Ord. No. 703]

Any person violating any of the provisions of this chapter shall, upon conviction, be subject to a fine not to exceed one thousand dollars ($1,000.) or to imprisonment in the county

jail for not more than ninety (90) days or to a period of community service not exceeding ninety (90) days, or all of the above, in the discretion of the Judge imposing the same.

Amended w/ Ord # 894

Chapter 129

PARKING LOTS, MUNICIPAL

ARTICLE I
North Borough Parking Lot

§ 129-1. Establishment of lot; use.
§ 129-2. Designation of spaces.
§ 129-3. Permit parking.
§ 129-4. Revocation of permit.
§ 129-5. Renewal of permit.
§ 129-6. Hourly parking.
§ 129-7. Enforcement.
§ 129-8. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest: Art. I, 5-6-1991 as Ord. No. 701. Amendments noted where applicable.]

GENERAL REFERENCES

Handicapped parking — See Ch. 104.
Vehicles and traffic — See Ch. 166.

ARTICLE I
North Borough Parking Lot
[Adopted 5-6-1991 as Ord. No. 701]

§ 129-1. Establishment of lot; use.

The parking lot located between Park Street and Wakelee Drive approximately one hundred sixty-five (165) feet north of Hardenburgh Avenue is hereby established as the North Borough Parking Lot. Its use shall be restricted as set forth in this Article.

§ 129-2. Designation of spaces.

A. There shall be thirty-three (33) permanent parking spaces designated for use as follows:

Use	Number of Spaces	Space Numbers
Ambulance Corporation	3	6, 7 and 8
Handicap space	1	33
2-hour parking	9	18 through 26
Permit parking	20	1 through 5, 9 through 17 and 27 through 32

B. Each space shall be designated with a number [one (1) through thirty-three (33)] by the Department of Public Works under the direction of the Mayor and Council.

§ 129-3. Permit parking.

A. Vehicles permitted. Only motor vehicles, as that term is defined in N.J.S.A. 39:1-1, shall be permitted to park in the North Borough Parking Lot. In addition, said motor vehicles shall not exceed four (4) wheels, two (2) axles, ninety-six (96) inches in width, twenty (20) feet in length, a height of seven (7) feet and a weight of seven thousand (7,000) pounds.

B. Order of consideration. Applications for a parking permit shall be considered in the order in which they are filed with the Borough Clerk. The twenty (20) qualified applicants shall receive permits for the twenty (20) available permit parking spaces. All other applicants shall be placed on a chronological list in the order of filing, which shall be kept and maintained by the Borough Clerk. In the event that a permittee abandons his parking permit, has the permit revoked or fails to renew his permit annually as required by this Article, then the Clerk shall notify the next eligible applicant from the aforesaid list who shall be considered for the available space.

C. Application requirements. All applicants for a parking permit must provide the following:

(1) The name and address of the applicant.

(2) The make, model, year and description of the motor vehicle for which permit is sought.

(3) The license plate number of the motor vehicle for which permit is sought.

(4) The VIN number for the motor vehicle for which permit is sought.

(5) The driver's license number.

(6) Proof of current inspection and insurance covering the motor vehicle for which permit is sought.

(7) (Reserved)[1]

(8) Signing of an indemnification on a form prepared by the Borough Clerk indemnifying and holding the Borough of Demarest harmless for any damage caused to person or property by the parking of the permittee's vehicle in the North Borough Parking Lot, except where due to the willful misconduct or the gross negligence of the borough, its agents, employees or representatives.

[1] Editor's Note: Former Subsection C(7), which required certification that no other person in the applicant's household or at the same place of business had been issued a current year's permit, was repealed 8-5-1991 by Ord. No. 706.

D. Restriction on permits. **[Amended 8-5-1991 by Ord. No. 706]**

(1) On June 1 of each and every year, the Borough Clerk shall issue permits from the chronological list kept and maintained in the Clerk's office. Once each qualified applicant has received a permit and if there are spaces available, the Clerk may then issue to qualified applicants seeking a second space, a permit for said second space. If after issuing permits for applicants seeking a second space there are still spaces available in the North Borough Parking Lot, then the Clerk may issue permits to qualified applicants requesting a third space. The Clerk will continue in this manner to issue permits for additional spaces (4, 5, 6, etc.) until permits have been issued for all twenty (20) spaces.

(2) On the renewal date, each qualified applicant who had space(s) in the preceding year and who has made application for space(s) in the new year shall be issued a permit for a single space for the new permit year [i.e., shall be entitled as of the right to only one (1) space]. The Clerk will then proceed to issue permits from the Clerk's chronological list and shall only issue a permit for a second, third, etc., additional space(s) to any applicant in accordance with the procedures described in Subsection D(1) above.

(3) It is intended by this section that in each year as many persons as desire a permit for which spaces are available shall be issued a permit for a space before any applicant receives a permit for a second space.

(4) For purposes of this Article, a permit will be deemed to have been issued to a person if a person in his household has been issued a permit. A "household" is defined as one (1) or more individuals occupying a dwelling unit with common access to and common use of all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit.

(5) Furthermore, for purposes of this Article, a person shall be deemed to have been issued a permit if the person is conducting business with a person who has been issued a permit. A "person conducting business" is defined as a corporation, company, association, society, firm, partnership or joint-stock company, as well as an individual engaged or employed in activity for profit at a fixed place located in the Borough of Demarest for which there are real estate taxes assessed.

(6) No person who is not a resident of the Borough of Demarest or is not a person conducting business in the Borough of Demarest as defined herein shall make application for a parking permit, nor shall such person be issued a parking permit.

E. Term of permit. Any permit which is issued shall be valid from the date of issuance until the time for renewal. All permits shall be renewable on June 1 of each and every calendar year.

F. Permit fee. Every permittee shall pay a fee upon issuance of the permit and an annual fee upon renewal on June 1 of each and every calendar year which fee will be as follows:

(1) Noncommercial vehicle: fifty dollars ($50.) per annum.

(2) Commercial vehicle: one hundred dollars ($100.) per annum.

§ 129-4. Revocation of permit.

A permit issued pursuant to this Article may be revoked for the following reasons:

A. Submission of false information in connection with the application for the permit.

B. (Reserved)[2]

C. Upon failure to keep current the registration for the vehicle permitted.

D. Failure to keep liability insurance in effect for the vehicle permitted.

E. Failure to pay the annual permit fee.

F. Failure to maintain the area in and around the space, including keeping said area free from automotive parts and tires.

§ 129-5. Renewal of permit.

A permit shall be automatically renewed on June 1 of each and every calendar year upon the payment of the annual payment fee by no later than June 1 of said year and upon proof that the vehicle for which the permit is to be renewed has a current registration and inspection and that liability insurance on said vehicle is in full force and effect. The Borough Clerk shall notify all permittees by May 15 of each year of the renewal requirements; failure by the Borough Clerk to send the notice or failure by the permittee to receive the notice shall not constitute valid reason for the permittee not to comply with the renewal provisions of this Article.

§ 129-6. Hourly parking. [Amended 8-5-1991 by Ord. No. 706]

Nine (9) spaces shall be designated in the North Borough Parking Lot as set forth in § 129-2. No person shall park in the spaces designated for two-hour parking in excess of two (2) hours between the hours of 8:00 a.m. and 6:00 p.m. of each and every day, except Sundays.

[2] Editor's Note: Former Subsection B, which provided for the revocation of permits upon finding that more than one (1) current year's permit had been issued to a member or members of the same household or the same business location, was repealed 8-5-1991 by Ord. No. 706.

§ 129-7. Enforcement.

This Article shall be enforced by the Demarest Police Department.

§ 129-8. Violations and penalties.

Any person violating any of the provisions of this Article shall, upon conviction, pay a fine not exceeding one thousand dollars ($1,000.) or be imprisoned for a period not exceeding ninety (90) days, or both, in the discretion of the Demarest Municipal Court Judge.

Chapter 130

PARKS AND PLAYGROUNDS

ARTICLE I
Protection, Regulation and Control

§ 130-1. Definitions.

§ 130-2. Permission required to remain in parks or playgrounds after closing.

§ 130-3. Behavior in parks and playgrounds.

§ 130-4. Permit required for use of athletic facilities.

§ 130-5. Application for permits; standards for issuance; waiver.

§ 130-6. Operation of motor or horse-drawn vehicles restricted.

§ 130-7. Parental responsibility for behavior of minors.

§ 130-8. Promulgation of rules and regulations.

§ 130-9. Use of tennis courts.

§ 130-10. Enforcement.

§ 130-11. Violations and penalties.

ARTICLE II
Use

§ 130-12. Adoption of rules and regulations.

§ 130-13. Prohibited use of park property.

§ 130-14. Personal conduct.

§ 130-15. Hours of operation.

§ 130-16. Enforcement.

§ 130-17. Parking regulations.

§ 130-18. Violations and penalties.

ARTICLE III
Recreation Fees

§ 130-19. Summer recreation program.

§ 130-20. Tennis lessons.

§ 130-21. Tennis permits.

§ 130-22. Collection of fees; deposit in borough account.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest: Art. I, 5-16-77 as Ord. No. 435; Art. II, 12-19-77as Ord. No. 450; Art. III, 9-6-88 as Ord. No. 658. Sections 130-11 and 130-18 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

ARTICLE I
Protection, Regulation and Control
[Adopted 5-16-77 as Ord. No. 435]

§ 130-1. Definitions.

Whenever used in this Article or in any Borough of Demarest Recreation Commission rule or regulation, the following terms, unless otherwise expressly defined, shall mean and include each of the meanings herein respectively set forth:

COMMISSION — The Borough of Demarest Recreation Commission.

GOVERNING BODY — The Mayor and Council of the Borough of Demarest.

GROUP or ORGANIZATION — Any corporation or association for a common purpose in excess of ten (10) persons.

PARKS, PARKLAND, PARKWAYS, PARK AREAS or PLAYGROUNDS — All the real property situated in the Borough of Demarest under the jurisdiction and care of the Borough of Demarest Recreation Commission, including but not limited to Wakelee Field, or which may hereafter be acquired by the Borough of Demarest or come under the jurisdiction of the Borough of Demarest Recreation Commission.

PERMIT — Any written license issued by or under the authority of the governing body or the Commission permitting the performance of a specified act or acts.

PERSON — Any natural person, corporation, company, association, joint-stock association, firm or partnership.

RULES AND REGULATIONS — Any rule or regulation duly adopted by the Borough of Demarest Recreation Commission and approved by the Mayor and Council.

§ 130-2. Permission required to remain in parks or playgrounds after closing.

It shall be unlawful for any person to remain, stay, loiter or be in or upon the grounds of any park or playground between the hours of 10:00 p.m. and sunrise without written permission of the Commission or the governing body.

§ 130-3. Behavior in parks and playgrounds.

It shall be unlawful in any park or playground for any person to:

A. Consume, use, sell, deliver, possess, carry or hold any alcoholic beverages unless a permit from the governing body or its designate is obtained prior thereto.

B. Use, possess or carry any glass containers or bottles.

C. Play baseball, football or conduct any other sports activities except in areas expressly set aside for such activities.

D. Hit, putt or drive any golf balls.

E. Sell, offer, expose for sale, solicit or give away any merchandise unless a permit from the governing body or its designate is obtained prior thereto.

F. Allow any domestic animal, including but not limited to dogs, to be led or to run at large on or within any park or playground.

G. Use abusive, obscene, profane or indecent language or any disorderly conduct disturbing or annoying to others.

H. Make or kindle any fire except in a picnic grill.

I. Give, produce or direct any entertainment or exhibition unless a permit from the Commission is obtained prior thereto.

J. Climb, scale or jump over any fences, backstops, trees or other structures not intended for such use.

K. Cut, deface, injure, remove or disturb any tree, shrub, building, fence, bench or other structure, apparatus or property, or pick, cut or remove any shrub, bush or flower, or make or write upon any building, fence, bench or other structure.

§ 130-4. Permit required for use of athletic facilities.

No group or organization shall use any athletic facilities in any park or playground unless a permit for such use is obtained from the Commission prior thereto, and no other group, organization, person or persons shall use such athletic facilities during the time covered by such permit, except with permission of the Commission. In the event of a conflict, organized Demarest Athletic Association activities shall be given priority.

§ 130-5. Application for permits; standards for issuance; waiver.

A. Application.

(1) A person, group or organization seeking issuance of a permit hereunder shall file an application thirty (30) days in advance of the required date with the following:

(a) The Borough Clerk for permits required by § 130-3A and E.

(b) The Commission for all other permits required by this chapter or any rule or regulation.

(2) The application shall state the following:

(a) Name and address of the applicant.

(b) The name and address of the person, persons, group or organization sponsoring the activity.

(c) The day and hours for which the permit is required.

(d) The park or playground or portion thereof for which such permit is desired.

(e) An estimate of the anticipated attendance.

(f) Any other information which the Commission or the governing body shall feel reasonably necessary to a fair determination as to whether a permit shall be issued.

B. Standards. A permit shall issue if the following conditions are met:

(1) The proposed activity is for a public purpose or in the interests of the community.

(2) The proposed activity or use of the park or playground will not create undue traffic problems or unreasonably interfere with or detract from the general public engagement of the park or playground.

(3) The proposed activity or use will not be detrimental to the public health, welfare and recreation.

(4) The proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct.

(5) The proposed activity will not entail unusual, extraordinary or burdensome public expense or police operation of the borough.

(6) The facilities desired have not been previously reserved for other use on the day and hour requested in the application.

C. Waiver. The Commission or the governing body may waive any or all of the within rules and regulations upon request for special activities.

§ 130-6. Operation of motor or horse-drawn vehicles restricted.

Except for authorized borough employees, it shall be unlawful in any park or playground for any person to drive a motor or horse-drawn vehicle, including but not limited to automobiles, snowmobiles, motorbikes or mopeds, within or upon a safety zone, walk, bridle path or any part of the parkway not designated or customarily used for such purpose, except on paved roadways.

§ 130-7. Parental responsibility for behavior of minors.

It shall be unlawful for a parent, guardian or custodian of any person under the age of eighteen (18) years to permit or allow such person to do any act prohibited by this Article or any rules and regulations adopted pursuant thereto.

§ 130-8. Promulgation of rules and regulations.

The Commission shall have the power to promulgate, publish and post any rules and regulations for the conduct in and use of parks and playgrounds which are not inconsistent with this Article, provided that same are approved by the governing body.

§ 130-9. Use of tennis courts.

The tennis courts located at Wakelee Field are to be used exclusively for the playing of tennis. No spectators shall be allowed on the tennis courts at any time.

§ 130-10. Enforcement.

The Commissioner of Recreation and recreation attendants, police officers, playground guards, park guards, public works employees and other borough employees or officials shall diligently enforce the provisions of this Article in connection with their duties imposed by law.

§ 130-11. Violations and penalties. [Amended 4-18-1983 by Ord No. 562]

A. Any person violating any of the provisions of this Article or any rules or regulations or by the doing of an unlawful act pursuant to N.J.S.A. 40:12-6 shall, upon conviction therefor, be subject to a fine not to exceed one thousand dollars ($1,000.) or to imprisonment in the county jail for not more than ninety (90) days or to a period of community service not exceeding ninety (90) days, or all of the above, in the discretion of the Judge imposing the same. **[Amended 7-15-1991 by Ord. No. 703]**

B. In addition to any fine imposed pursuant to Subsection A hereof, any person causing damage to any property within any park or playground shall be liable for the cost of repair or replacement necessitated by such damage.

ARTICLE II
Use
[Adopted 12-19-1977 as Ord. No. 450]

§ 130-12. Adoption of rules and regulations.

The following rules and regulations are hereby adopted governing the use of parklands in the Borough of Demarest, hereinafter referred to as "park."

§ 130-13. Prohibited use of park property.

A. While on or about the park, no person shall:

(1) Willfully mark, deface, disfigure, injure, tamper with or displace or remove any buildings, bridges, tables, benches, fireplaces; ties or parts or appurtenances thereof; signs, notices or placards, whether temporary or permanent; monuments, stakes, posts or other boundary markers; or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

(2) Dig, remove or destroy any soil, rock, sand, stones, trees, shrubs or plants or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.

(3) Construct or erect any building or structure of whatever kind, whether permanent or temporary, or run or string any public service utility into, upon or across such lands, except with special written permission of the governing body.

(4) Damage, cut, carve, transplant or remove any tree or plant, or injure the bark or pick flowers or seed of any tree or plant, or dig in or otherwise disturb grass areas or in any other way injure the natural beauty or usefulness of any area.

(5) Hunt, molest, harm, frighten, kill, trap, pursue, chase, tease, shoot or throw missiles at any animal, wildlife, reptile or bird, nor remove or have in his possession the young of any wild animal or the eggs or nest or young of any reptile or bird. Excepted from the foregoing are snakes or reptiles known to be poisonous, which may be killed on sight.

(6) Throw, discharge or otherwise place or cause to be placed in the water of any fountain, pond, lake,

stream or other body of water in or adjacent to any park, or any tributary stream, storm sewer or drain flowing into such water, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.

(7) Bring or have brought in or dump, deposit or leave any bottles, broken glass, ashes, papers, boxes, cans, dirt, rubbish, waste, garbage or refuse or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park or left anywhere on the grounds thereof but shall be placed in proper receptacles where provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

(8) Drive any motorized vehicle on any area except the paved park roads or parking areas or such areas as may on occasion be specifically designated as parking areas, in accordance with posted directions thereat and with the instruction of any attendant who may be present.

(9) Leave a motorized vehicle standing or parked at night in established parking areas or elsewhere in the park areas.

(10) Ride a bicycle without reasonable regard to the safety of others.

(11) Swim, bathe or wade in any waters or waterways in or adjacent to any park except in such waters and at such places as are provided therefor and in compliance with such regulations as are provided therefor.

(12) Carry or possess firearms of any description, or air rifles, spring guns, bows and arrows, slings or any other forms of weapons potentially inimical to wildlife and dangerous to human safety or any

instruments that can be loaded with and fire blank cartridges or any kind of trapping device. Shooting into park areas from beyond park boundaries is forbidden.

(13) Set up tents, shacks or any other temporary shelter for the purpose of overnight camping, nor leave in a park after closing hours any movable structure or special vehicle to be used or that could be used for such purposes, such as a house trailer, camp trailer, camp wagon or the like, except in those areas designated by the Environmental Commission for those purposes.

(14) Take part in or abet the playing of any games involving thrown or otherwise propelled objects, such as balls, stones, arrows, javelins, horseshoes, quoits or model airplanes, except in those areas set apart for such forms of recreation. The playing of rough or comparatively dangerous games, such as football, baseball and lacrosse, is prohibited except on the fields and courts or areas provided therefor. Roller skating shall be confined to those areas specifically designed for such pastime.

B. All nonlicensed motorized vehicles and all horses are excluded from all parklands at all times.

§ 130-14. Personal conduct.

While in a public park or recreation area, all persons shall conduct themselves in a proper and orderly manner, and in particular no person shall:

A. Bring alcoholic beverages into a park, drink the same at any time or be under the influence of intoxicating liquor.

B. Have in his possession or set or otherwise cause to explode or discharge or burn any firecrackers, torpedo rockets or other fireworks, firecrackers or explosives or

discharge them or throw them into any such areas from lands or highways adjacent thereto.

C. Permit the entry of a dog or other domestic animal into areas clearly marked by authority of the governing body by signs bearing the words "Domestic Animals Prohibited in This Area." All dogs in those areas where such animals are permitted shall be restrained at all times on adequate leashes not greater than six (6) feet in length. Nothing herein shall be construed as permitting the running of dogs at large.

D. Build or attempt to build a fire except in such area and under such regulation as may be designated by the Environmental Commission. No person shall drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other flammable material within any park or on any highways, roads or streets abutting or contiguous thereto.

E. Participate in any disorderly conduct or behavior tending to breach the public peace.

F. Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatsoever, nor erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park.

§ 130-15. Hours of operation.

Except for unusual and unforeseen emergencies, parks shall be open to the public every day of the year during the designated hours. The opening and closing hours for each individual park shall be posted therein for public information and shall be determined from time to time by resolution of the Mayor and Council.

§ 130-16. Enforcement.

These rules and regulations shall be enforced by the Demarest Police Department.

§ 130-17. Parking regulations.

No owner or driver shall cause or permit his vehicle to stand outside of designated parking spaces, except for a reasonable time to take up or discharge passengers or equipment. No motor vehicle shall be parked in said park areas from one-half (1/2) hour after sunset until sunrise, except as otherwise permitted.

§ 130-18. Violations and penalties. [Amended 4-18-1983 by Ord. No. 562; 7-15-1991 by Ord. No. 703]

Any person violating any of the provisions of this Article or any rule or regulation promulgated pursuant hereto shall, upon conviction, be subject to the replacement, repair or restoration of any damaged park property and shall be subject to a fine not to exceed one thousand dollars ($1,000.) or to imprisonment in the county jail for not more than ninety (90) days or to a period of community service not exceeding ninety (90) days, or all of the above, in the discretion of the Judge imposing the same.

ARTICLE III
Recreation Fees
[Adopted 9-6-1988 as Ord. No. 658]

§ 130-19. Summer recreation program.

The fee for the summer recreation program shall be thirty dollars ($30.) per child for a six-week period.

§ 130-20. Tennis lessons.

The fee for tennis lessons shall be thirty dollars ($30.) per eight (8) sessions.

§ 130-21. Tennis permits.

A. No person shall use the tennis courts in the Borough of Demarest unless he has a permit duly issued by the Recreation Commission.

B. Tennis permits shall be valid only for the calendar year in which the permit is issued.

C. The fee for tennis permits shall be as follows:

(1) Five dollars ($5.) for an individual.

(2) Ten dollars ($10.) for a family, which entitles each and every member of the family to use the tennis courts.

§ 130-22. Collection of fees; deposit in borough account. [Amended 10-17-1988 by Ord. No. 660]

The Recreation Commission shall collect the fees established by this Article and turn all collected moneys over to the Borough Treasurer to be deposited in the borough account.

Chapter 132

PEDDLING AND SOLICITING

§ 132-1. Definitions.
§ 132-2. License required.
§ 132-3. Exemptions.
§ 132-4. Filing of application.
§ 132-5. Approval or rejection of license; transfer; separate licenses.
§ 132-6. Form of license and contents; identification button.
§ 132-7. Exhibition and display of license.
§ 132-8. Hours of operation restricted.
§ 132-9. License fees.
§ 132-10. Suspension and/or revocation of license.
§ 132-11. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 12-16-64 as Ord. No. 304. Sections 132-8 and 132-11 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Police Department — See Ch. 40.
Noise — See Ch. 122.
Parks and playgrounds — See Ch. 130.

§ 132-1. Definitions.

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

NON-PROFIT-MAKING VENDOR — A person who sells goods, the proceeds of which are devoted exclusively to the purposes of a philanthropic, charitable or religious society on whose behalf he acts as an agent without pay.

PEDDLER — A person, commonly referred to either as a peddler or hawker, who goes from place to place by traveling on the streets or from house to house and carries his goods, wares and merchandise for the purpose of selling and delivering them to consumers. A "peddler" shall also be construed as a person who goes from place to place by traveling on the streets or from house to house for the purpose of purchasing goods in said places or houses, including a purchase of junk or any household goods.

PERSON — An individual, firm, partnership, corporation, voluntary association, incorporated association and principal or agent thereof.

SOLICITOR — A person selling goods by sample or taking orders for future delivery, with or without accepting an advance payment for the goods.

§ 132-2. License required.

It shall be unlawful for any hawker, peddler, solicitor or non-profit-making vendor to sell or dispose of or offer to sell or dispose of any goods, wares or merchandise within the Borough of Demarest without first obtaining a license and having paid the license fee hereinafter prescribed. It shall be unlawful for any peddler, as defined above, to purchase or offer to purchase any junk or any other goods, wares or merchandise within the Borough of Demarest without first obtaining a license and paying the license fee hereinafter prescribed.

§ 132-3. Exemptions.

A. The requirement to pay a license fee under this chapter shall be held not to include the following persons, who are expressly exempt from the payment of the license fee:

(1) Any person who conducts a sale pursuant to statute or court order.

(2) Any person exempt from paying fees by statute.

(3) Any person who is a non-profit-making vendor.

B. The requirement to obtain a license and pay a license fee under this chapter shall be held not to include any person who is requested specifically by a resident of the borough to deliver or remove goods to or from the house of such resident.

C. Nothing stated in this section shall be construed to exempt any person from any provision of this chapter except as stated above.

§ 132-4. Filing of application.

Any person desiring a license shall file with the Chief of Police an application blank. The blanks shall contain the following information:

A. Name of applicant.

B. Permanent home residence.

C. Name and address of firm represented.

D. Three (3) business references.

E. The place or places or residence of the applicant for the preceding three (3) years.

F. The length of time for which the license is desired.

G. A description of the wares to be offered for sale.

H. The number either of arrests or convictions for misdemeanors or crimes and the nature of the offenses for which arrested or convicted.

I. To the application must be appended a letter from the firm for which he purports to work, authorizing the applicant to act as its representative.

§ 132-5. Approval or rejection of license; transfer; separate licenses.

Following the filing of the application, the Chief of Police shall verify the information respecting the moral character of the applicant and shall signify his approval or rejection on the reverse side of the form. He shall also cause all applicants to be fingerprinted. Upon verification of the application and payment of the prescribed fee, the license therewith shall be issued by the Chief of Police. In the event of the refusal of the issuance of such license, the Mayor and Council, on written request of the applicant, shall conduct a hearing to determine whether the license should be granted under this chapter. For all licenses, the license issued shall not authorize any person except the designated person named in said license to engage in business thereunder. Said license shall not be transferable from the person to whom issued to any other person without the consent of the Mayor and Council. A separate license shall be obtained by a licensed peddler for every agent or employee working for him.

§ 132-6. Form of license and contents; identification button.

All licenses shall be issued on forms drawn in accordance with this chapter. They shall be printed in book form, with corresponding stubs, and shall be consecutively numbered. The license shall contain suitable blank space for writing in the name, address the location of the business and the amount of fee paid. The licensee shall also be required to wear an identification button of a type designated by the Mayor and Council.

§ 132-7. Exhibition and display of license.

Every person holding a license under this chapter shall be required to carry the license with him or at his business premises while engaged in the business licensed. He must produce the license at the request of any official of the Borough of Demarest.

§ 132-8. Hours of operation restricted. [Amended 4-18-1983 by Ord. No. 562; 2-20-1990 by Ord. No. 677]

Every person holding a license shall have the privilege of selling his goods or delivering wares and merchandise in the Borough of Demarest only during the hours from 10:00 a.m. to 9:00 p.m. Eastern time, except holidays, and unless specifically requested otherwise by a resident of the Borough of Demarest.

§ 132-9. License fees.

The license fee under the terms of this chapter shall be fifty dollars ($50.) per year or a fractional part thereof, which license shall expire and terminate on December 31 of the year in which issued. No person licensed under this chapter shall be entitled to use more than one (1) automobile, car, wagon or other vehicle for the business to which said license relates without paying an additional license fee of fifty dollars ($50.) for each additional vehicle so used.

§ 132-10. Suspension and/or revocation of license.

A license may be revoked by the Chief of Police by reason of the violation of the terms of the license, the violation of any municipal ordinance, state or federal statute or falsification in applying for a license. The licensed person must be granted a hearing by the Mayor and Council upon his request. A license may be suspended for not more than thirty (30) days by the issuing officer without a hearing.

§ 132-11. Violations and penalties. [Amended 4-18-1983 by Ord. No. 562; 7-15-1991 by Ord. No. 703]

Any person required by this chapter to procure a license who violates its terms shall be subject to a fine not to exceed

one thousand dollars ($1,000.) or to imprisonment in the county jail for not more than ninety (90) days or to a period of community service not exceeding ninety (90) days, or all of the above, in the discretion of the Judge imposing the same.

Chapter 135

PROPERTY MAINTENANCE

§ 135-1. Title; purpose.
§ 135-2. Definitions; word usage.
§ 135-3. Compliance required.
§ 135-4. Applicability.
§ 135-5. Responsibilities of owners, operators and occupants.
§ 135-6. Maintenance of grounds.
§ 135-7. Exterior maintenance.
§ 135-8. Sanitation and safety requirements.
§ 135-9. Application of Building Code.
§ 135-10. Application of Zoning Ordinance.
§ 135-11. Effect of existing remedies.
§ 135-12. Designation of enforcement officer.
§ 135-13. Notice of violation.
§ 135-14. Service of notice.
§ 135-15. Effect of notice.
§ 135-16. Contents of notice.
§ 135-17. Violations and penalties.
§ 135-18. Emergency situations.
§ 135-19. Abatement by borough; recovery of costs.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 7-16-84 as Ord. No. 581. Amendments noted where applicable.]

§ 135-1. Title; purpose.

A. Title. This chapter shall be known as the "Property Maintenance Code of the Borough of Demarest" and may be referred to in this chapter in the short form as the "Property Maintenance Code" or "this code."

B. Purpose. The purpose of this code is to protect the public health, safety and welfare by establishing minimum standards governing the maintenance, appearance, condition and occupancy of residential and nonresidential premises; to establish minimum standards governing facilities and other physical components and conditions essential to make the aforesaid facilities fit for human habitation, occupancy and use; to fix certain responsibilities and duties upon owners, operators and occupants; and to fix penalties for the violation of this code. This code is hereby declared to be remedial and essential for the public interest and it is intended that this code be liberally construed to effectuate the purposes stated herein.

§ 135-2. Definitions; word usage.

A. The following terms wherever used herein or referred to in this code shall have the respective meanings assigned to them, unless a different meaning clearly appears from the context:

BUILDING — Any building, structure or part thereof, whether used for human habitation or otherwise, including any out buildings and appurtenances belonging thereto or usually enjoyed therewith.

DETERIORATION — The condition or appearance of a building or part thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay or neglect, lack of maintenance or excessive use.

EXPOSED TO PUBLIC VIEW — Any premises or any part of any premises which may be lawfully viewed by the public or any member thereof.

EXTERIOR OF THE PREMISES — Those portions of a building which are exposed to public view and the open space of any premises outside of any building erected thereon.

EXTERMINATION — The control and elimination of insects, rodents and vermin.

FIREWOOD — Any type of wood, cut or uncut, to be used as fuel.

FRONT YARD — That space on the same lot with a principal building situated between the front street line or lines and the front line of the building projected to the side property lines. The depth of the front yard shall be measured along a line perpendicular to the front street line from the furthest point of the foundation of the structure or building furthest from such street line.

GARBAGE — The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food; wastes from the handling storage and sale of produce.

HABITABLE SPACE — Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas are not considered "habitable space."

INFESTATION — The presence of insects, rodents, vermin or other pests on the premises which constitute a health hazard.

JUNK VEHICLE — Any vehicle or trailer which is with a currently valid license plate or plates and/or is in a rusted, wrecked, discharged, dismantled, partly dismantled, inoperative or abandoned condition. A "junked vehicle" shall be classified as to its condition in one (1) of the two (2) categories:

(1) RESTORABLE — A "junk vehicle" that is in a condition whereby repairs to the same could be made to place it in operating condition without exceeding the estimated value when repaired.

(2) WRECK — A "junk vehicle" in such condition that it is economically unsound to restore same to operating condition considering the repairs to be made, age of vehicle, market value of the vehicle if it were restored; or in such condition that the public officer, in his opinion, determines that it warrants such classification.

The code official shall make the final determination as to the classification to be assigned to any one (1) particular vehicle.

MIXED OCCUPANCY — Any building or structure, such as an apartment or multifamily dwelling, containing one (1) or more dwelling units and also a portion thereof devoted to nonresidential use.

NUISANCE:

(1) Any public nuisance known at common law or in equity jurisprudence or as provided by the statutes of the State of New Jersey or the ordinances of the Borough of Demarest.

(2) Any attractive nuisance which may prove detrimental to the health or safety of children, whether in a building, on the premises of a building or upon an unoccupied lot. This includes, but is not limited to abandoned refrigerators, abandoned wells, basements, debris, excavations, lumber, motor vehicle parts, shafts or trash.

(3) Physical conditions dangerous to human life or detrimental to health or persons on or near the premises where the conditions exist.

(4) Unsanitary conditions or conditions which render air, food, drink or premises detrimental to the health of human beings.

OCCUPANT — Any person living in, sleeping in or having actual possession of a dwelling unit or rooming unit.

OPERATOR — Any person, persons or entity, not the owner, who has charge, care or control of a dwelling or premises or a part thereof, whether with or without the knowledge or consent of the owner.

OWNER — Any person who, alone or jointly or severally with others, shall have legal or equitable title in any form to any premises, with or without accompanying actual possession thereof; or shall have charge, care or control of any dwelling or dwelling unit as owner or agent of the owner or as fiduciary, including, but not limited to executor, administrator, trustee, receiver or guardian of the estate or as a mortgagee in possession, regardless of how much possession was obtained. Any person who is a lessee subletting or reassigning any part or all of any dwelling unit shall be deemed to be a coowner with the lessor and shall have joint responsibility over the portion of the premises sublet or assigned by said lessee.

PARTIES IN INTEREST — All individual, associations and/or corporations who have interest of record in a building and any who are in actual possession thereof.

PREMISES — A lot, plot or parcel of land, including the buildings or structures thereon.

PUBLIC AUTHORITY — Any officer who is in charge of any department or branch of the government of the municipality, county or state relating to health, fire, building regulations or to other activities concerning buildings in the municipality.

REFUSE — All putrescible and nonputrescible solid wastes, including, but not limited to abandoned automobiles and parts thereof, abandoned machinery and parts thereof, ashes, dead animals, debris, garbage, junk, appliances, rubbish, scrap lumber, solid market and industrial wastes, street cleanings, stumps, tires and trash. (See also "garbage" and "rubbish")

RUBBISH — Nonputrescible solid waste consisting of both combustible and noncombustible wastes, such as bedding, cigarettes, leaves, paper, pieces of crockery, pieces of glass, tin cans, wood, wrappings, yard clippings and similar materials. (See also "garbage" and "refuse")

STRUCTURE — An assembly of materials forming a construction, including, but not limited to, buildings, platforms, sheds, bins, shelters, fences and display racks and signs.

B. Whenever in describing or referring to any person, party, matter or thing any word importing the singular number or masculine gender is used, the same shall be understood to include and apply to several persons or parties as well as to one (1) person and to females as well as males and to bodies corporate as well as individuals and to several matters and things as well as one (1) matter or thing. The word "shall" shall be applied retroactively as well as prospectively.

§ 135-3. Compliance required.

Every residential, nonresidential or mixed occupancy building, structure, lot and the premises or portion of the premises on which it is situated in the Borough of Demarest previously or presently used or intended to be used for dwelling, commercial, business, recreational, service, transportation, institutional, religious, charitable, quasi-public, professional or industrial occupancy purposes, and uses accessory thereto, shall comply with the provisions of this code, whether or not any such building or structure shall have been constructed, altered or repaired before or after the enactment of this code and irrespective of any permits or licenses which may have been issued for the use or occupancy of such building or for the installation or repair of equipment or facilities prior to the effective date of this code. Vacant lots, lands and premises are also required to comply with the provisions of this chapter.

§ 135-4. Applicability.

A. Higher standard to prevail in cases of conflict with other laws or ordinances. In any case where the provisions of this code impose a higher standard than set forth in any other ordinance of the Borough of Demarest under the laws or regulations of the State of New Jersey, then the standards as set forth herein shall prevail, but if the provi-

sions of this code impose a lower standard than any other ordinance of the Borough of Demarest or of the laws and regulations of the State of New Jersey, then the higher standard contained in any such ordinance or law shall prevail.

B. Enforcement of and compliance with other ordinances. No certification of compliance with this code shall constitute a defense against any violation of any other ordinance of the Borough of Demarest applicable to any structure or premises.

§ 135-5. Responsibilities of owners, operators and occupants.

A. Owners and operators. Owners and operators shall have all the duties and responsibilities as prescribed in this code, and no owner or operator shall be relieved from any such duties and responsibilities nor be entitled to defend against any charge of violation thereof by reason of the fact that the occupant is also responsible therefor and in violation thereof.

B. Occupants. Occupants shall have all the responsibilities and duties as prescribed in § 135-8 of this code, and the occupant shall not be relieved from any such duties and responsibilities nor be entitled to defend against any charge of violation thereof by reason of the fact that the owner or operator is also responsible therefor and in violation thereof.

C. Contract not to alter responsibilities. Unless expressly provided to the contrary in this code, the respective obligations and responsibilities of the owner and operator on the one hand and the occupant on the other shall not be altered or affected by any agreement or contract by and between any of the aforesaid or between them and other parties.

§ 135-6. Maintenance of grounds.

Maintenance of exterior of premises. The exterior of the premises and all structures thereon shall be kept free of any hazards

to the safety of occupants, pedestrians and other persons utilizing the premises and shall be kept free of unsightly or unsanitary conditions. It shall be the duty of the owner or operator to keep the premises free of hazards and unsightly or unsanitary conditions which include, but are not limited to, the following:

A. Refuse, rubbish and garbage, as defined herein.

B. Loose and overhanging objects, including, without limitation, dead and dying trees, accumulations of ice or other similar conditions which, by reason of their location above ground level, constitute a hazard to persons in the vicinity thereof.

C. Ground surface hazards, including, without limitation, holes, excavations, breaks, projections and obstructions which constitute a hazard to persons using the premises.

D. Inadequate foundation walls, piers and columns. Foundation walls, piers, columns or similar load-bearing components shall be kept structurally sound, free from defects and damage and capable of bearing imposed loads safely.

E. Unsafe exterior facilities, including, without limitation, exterior porches, landings, balconies, stairs and fire escapes, all of which shall be kept structurally sound and in good repair.

F. Weeds, grass or other plant growth which is noxious or detrimental to public health and safety.

G. Compost piles must be shielded from public view; must be kept free from garbage, offensive odors and rodents; and must be used from season to season.

H. Curblines, where they connect with street paving, shall be kept visible and clear of accumulated dirt and debris.

I. Firewood must be stored in areas other than the front yard.

J. Junk vehicles must not be stored in the front yard or any other area exposed to public view.

§ 135-7. Exterior maintenance.

A. Conditions of approval; exterior maintenance. All conditions of approval incorporated in resolutions or other acts of the Borough of Demarest Council or of any duly constituted board or agency of the Borough of Demarest shall be adhered to and shall be construed to be continuing conditions of approval. Any on-site improvements of every kind and nature, including, without limitation, sidewalks, curbs, catch basins, storm drains and driveways installed pursuant to the requirements of the Borough of Demarest Council or any duly constituted board or agency of the Borough of Demarest shall be maintained in good and serviceable condition at all times.

B. Exterior maintenance.

(1) Screening. All commercial areas, including nonconforming uses, for which no site plan approval has been granted by the Borough Planning Board shall be screened from adjacent noncommercial areas by means of a fence, partition, screen, structure, wall, planting or similar device. Any such fence, partition, screen, structure, wall, planting or similar device shall be constructed or planted and maintained in compliance with the ordinance or ordinances governing such structure or planting in effect for the Borough of Demarest, as may be amended from time to time.

(2) Windows. No storage of materials, stock or inventory shall be permitted in window display areas unless said areas are first screened from the public view by drapes or venetian blinds or by other permanent renderings of the windows opaque to the public view. All such screening of interiors shall be maintained in a clean and attractive manner and in a good state of repair.

(3) Storefronts. All storefronts shall be maintained in good repair, and all surfaces thereof shall be kept painted, when necessary for purposes of preservation and appearance. In the event repairs to a portion of a store-

front are made, such repairs shall be performed with materials identical or compatible with the materials used in the area not undergoing repair, to the end that the appearance of the storefront shall be uniform and attractive and shall not constitute a blighting factor depreciating adjoining properties.

(4) Awnings and marquees. Any awning or marquee and its accompanying structural members which extend over any street, sidewalk or other portion of the premises shall be maintained in good repair and shall not constitute a nuisance or a safety hazard. In the event such awnings or marquees are not properly maintained in accordance with the foregoing, they shall, together with their supporting members, be removed forthwith. In the event such awnings or marquees are made of cloth, plastic or of similar materials, said cloth or plastic, where exposed to public view, shall be maintained in good condition and shall not show evidence of excessive weathering, discoloration, ripping, tearing or other holes. Nothing herein shall be construed to authorize any encroachment on streets, sidewalks or other parts of the public domain.

(5) Signs. All signs, including the structural and supporting components thereof, and all light stanchions and poles shall be maintained in good order.

(6) Parking lines. All parking areas shall be marked with clearly visible parking lines and necessary directional arrows. Such markings shall be consistent with any requirements as to parking areas imposed by the Borough Council or any other duly constituted board or agency of the Borough of Demarest. Car stoppers shall be maintained in good condition, free of defects and breaks.

(7) Waterways, brooks, etc. All waterways, brooks drainage ditches and swales, to the extent that the same are located on or immediately adjacent to the premises, shall be maintained in good condition, free of debris, plantings or other obstructions.

C. Structural soundness and general exterior maintenance. The exterior of every structure shall be maintained in good repair and all surfaces thereof shall be kept painted or whitewashed where necessary for the purposes of preservation and appearance. All surfaces shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint or other conditions reflective of deterioration or inadequate maintainance, to the end that property itself may be preserved, safety hazards eliminated and adjoining properties and the neighborhood protected from blighting influence. All reconstruction of walls and sidings shall be of standard quality and appearance commensurate with the character of the properties in the zoning district in which the premises are located, such that the materials used will not be of a kind that, by their appearance, under prevailing appraisal practices and standards will depreciate the value of neighboring and adjoining premises as aforesaid.

§ 135-8. Sanitation and safety requirements.

All parts of the premises, including, but not limited to the following, shall be kept in a condition free of nuisance and free from health, safety and fire hazards:

A. Basements and cellars. Basements, cellars and crawl spaces are to be maintained free of moisture and dampness.

B. Freedom from infestation. All parts of the premises shall be maintained so as to prevent infestation.

C. Accumulation of garbage. No accumulation or obstruction from garbage, refuse or rubbish shall be permitted in or on common hallways, areaways, balconies, porches, basements or cellars.

D. Floors, interior walls and ceilings. Floors, interior walls and ceilings of every structure shall be structurally sound and so maintained at all times.

E. Floors, generally. Floors shall be considered to be structurally sound when capable of safely bearing imposed loads and shall be so maintained at all times.

F. Stairs and railings. Interior stairs of every structure shall be structurally sound and free from defects. Stairs shall be adequately lighted in all places with control switches operable from each story to permit safe use at night for persons ascending or descending, except where artificial lighting for hallways and common areaways is supplied in accordance with state law from a master control switch.

G. Garbage disposal. All structures shall be provided with watertight receptacles which have tight-fitting covers which are sufficient in capacity to hold all refuse, garbage and waste matter from said building or structure and which shall not be located or maintained in such a manner as to create a nuisance or a health hazard.

§ 135-9. Application of Building Code.

Any alteration to buildings, structures or appurtenances thereto or changes of uses therein which may be caused directly or indirectly by the enforcement of this code shall be done in accordance with all applicable sections of the Building Code of the municipality.[1]

§ 135-10. Application of Zoning Ordinance.

Nothing contained in this code or any requirement of compliance herewith shall be deemed to alter, impair or affect the application of the Zoning Ordinance or zoning laws of the municipality.[2]

§ 135-11. Effect of existing remedies.

Nothing in this code shall be deemed to abolish or impair existing remedies of the municipality or its officers or agencies relating to the removal or demolition of any building or structure which is deemed to be dangerous, unsafe or unsanitary.

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[1] Editor's Note: See Ch. 84, Construction Codes, Uniform.
[2] Editor's Note: See Ch. 175, Zoning.

§ 135-12. Designation of enforcement officer.

A. The Chief Construction Official of the Borough of Demarest is hereby designated as the officer in charge with the enforcement of this code and is hereinafter referred to as the "enforcement officer." All members of the Police Department and authorized inspectors of the Fire Department and health officers of the Borough of Demarest are hereby designated as assistant enforcement officers for purposes of the enforcement of this code.

B. The enforcement officer shall have the authority to use the services of any public authority to enforce the code.

§ 135-13. Notice of violation.

Except as may be otherwise provided in any other provision of this code, the enforcement officer shall notify, in writing, by registered or certified mail or personal service, as is more specifically provided in § 135-14 of this ordinance, the owner, operator or occupant of a structure, as the case may be, of the existence of a condition or conditions or other provisions which constitute the violation of any section, subsection or other provision of this code.

§ 135-14. Service of notice.

In the case of an owner or operator, the notice may be served personally upon him or by registered mail or certified mail, addressed to his last known address. If, after due diligence, the last known address cannot be ascertained, the notice may be posted on the outside front entrance of the structure. Personal service of the notice may be upon a member of the family of the owner or operator over fourteen (14) years of age, residing in the same dwelling unit with the owner or operator, as the case may be. In the case of the occupant, notice may be mailed or delivered to him at his

place of business or posted to the door of the occupant's premises.

§ 135-15. Effect of notice.

For the purpose of enforcement of this code, the service of a notice on an owner, whether or not the owner is also the operator, shall constitute notice of violations set forth therein until said violations are abated in conformity with this code and other applicable ordinances of the borough.

§ 135-16. Contents of notice.

The notice of violation shall contain the following:

A. A designation of the building, structure or premises or portion thereof in violation.

B. A statement of the violations existing in the building, structure or premises or portion thereof and the correction thereof sought by the enforcement officer.

C. Specification of a reasonable time, not less than three (3) days and not more than thirty (30) days from the date of service of that notice, in which the notice shall be complied with and the violation abated, corrected or eliminated.

§ 135-17. Violations and penalties.

A. Any person who shall violate any provision of this code shall, upon conviction, be subject to a fine not to exceed one thousand dollars ($1,000.) or to imprisonment in the county jail for not more than ninety (90) days or to a period of community service not exceeding ninety (90) days, or all of the above, in the discretion of the Judge imposing the same. Each day's failure to comply with any such provision shall

constitute a separate offense. **[Amended 7-15-1991 by Ord. No. 703]**

B. Where the defendant is other than a natural person or persons, this section shall apply to any agent, officer, member or partner who shall, alone or with others, have charge, care or control of the premises with the definition of "owner" under this code.

(Cont'd on page 13515)

§ 135-18. Emergency situations.

Where the violations or conditions existing on the premises are of such a nature as to constitute an immediate threat to life and limb unless abated without delay, the Building Inspector may either abate the violation or condition immediately or order the owner, occupant or operator to correct the violation or condition within a period of time not to exceed three (3) days. Upon failure to do so, the Building Inspector shall abate the condition immediately.

§ 135-19. Abatement by borough, recovery of costs.

Where abatement of any nuisance, as defined herein, correction of a defect in the premises or work necessary to place the premises in a proper condition so as to conform to ordinances of the borough or applicable laws of the State of New Jersey requires expending borough moneys, the Building Inspector shall present a report of work proposed to be done to accomplish the foregoing to the governing body of the borough with an estimate of the cost, along with a summary of the proceedings undertaken by the Building Inspector to secure compliance, including notices served upon the occupants, owners, operators or their agents, as the case may be. The governing body may thereupon, by resolution, authorize the abatement of the nuisance, correction of the defect or work necessary to place the premises in proper condition and in compliance with this code. The Building Inspector or the Superintendent of Public Works, depending upon the volume of the work to be performed, may thereafter proceed to have the work performed in accordance with the resolution at borough expense, not to exceed the amount specified in the resolution, and shall, upon completion thereof, submit a report of the moneys expended and costs to the governing body. After review of the report, the governing body may approve the expenses and costs, whereupon the same shall become a lien against the premises, collectible as provided by law. A copy of the resolution approving the expenses and costs, whereupon the same, shall be certified by the Borough Clerk and filed with the Tax Collector of the borough, who shall be responsible for the collection, and a copy of the report and resolution shall be sent by certified mail, return receipt requested, to the owner.

Chapter 141

SEWERS

ARTICLE I
Use and Charges

§ 141-1. Use of borough sewers: compliance with regulations.

§ 141-2. Adoption of user charge system and industrial cost recovery system.

§ 141-3. Copies of regulations on file in Clerk's office.

§ 141-4. Obtaining copies from Utilities Authority.

§ 141-5. Execution of amendment to existing service agreement.

ARTICLE II
Sewer Connections

§ 141-6. Connection required for new structures.

§ 141-7. Connection required for existing structures; effective date.

ARTICLE III
Tax-Exempt Property

§ 141-8. Regulation of use.

§ 141-9. User charge system; applicability.

§ 141-10. Multiple connections to single meter.

§ 141-11. Private wells.

§ 141-12. Compliance with other provisions.

§ 141-13. Billing procedure.

§ 141-14. Connection to other municipal system.

§ 141-15. Copies of rules and regulations to be available.

§ 141-16. Authorized signatories designated.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest: Art. I, 12-17-1979 as Ord. No. 490; Art. II, 5-15-1989 as Ord. No. 668; Art. III, 6-18-1990 as Ord. No. 687. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 150.
Subdivision of land — See Ch. 153.
Sanitary Code — See Ch. 189.

ARTICLE I
Use and Charges
[Adopted 12-17-1979 as Ord. No. 490]

§ 141-1. Use of borough sewers: compliance with regulations.

The use of all sanitary sewers of the Borough of Demarest shall be in compliance with the rules and regulations enacted by the Bergen County Utilities Authority.

§ 141-2. Adoption of user charge system and industrial cost recovery system.

The Borough of Demarest hereby adopts and enacts the user charge system and industrial cost recovery system contained in the rules and regulations of the Bergen County Utilities Authority and authorizes their immediate implementation by the appropriate municipal official, to be designated by resolution of the governing body.

§ 141-3. Copies of regulations on file in Clerk's office.

Not fewer than three (3) copies of the rules and regulations of the Bergen County Utilities Authority have been and are filed in the office of the Clerk of the Borough of Demarest and are available for public inspection during normal business hours.

§ 141-4. Obtaining copies from Utilities Authority.

Copies of the rules and regulations of the Bergen County Utilities Authority can be obtained from the Bergen County Utilities Authority for the cost of publication.

§ 141-5. Execution of amendment to existing service agreement.

The Mayor and Clerk of the Borough of Demarest are hereby authorized to act as signatories upon and to execute on behalf of the Borough of Demarest an amendment to the existing service agreement with the Bergen County Utilities Authority, which embodies the intent and purpose of this Article.

ARTICLE II
Sewer Connections
[Adopted 5-15-1989 as Ord. No. 668]

§ 141-6. Connection required for new structures.

The owner or developer of any property situated in the Borough of Demarest who shall construct, renovate or alter any house, building or other structure to be used for human occupancy, employment, recreation or other purpose shall be required, at his expense, to connect plumbing and laundry facilities directly to the public sewer system wherever said structure is required by law or regulation to have plumbing or laundry facilities. No certificate of occupancy shall be issued by the Construction Official for any such structure not connected to the public sewer system.

§ 141-7. Connection required for existing structures; effective date.

A. The owner of any house, building or structure used for human occupancy, employment, recreation or other purpose situated within the borough, existing on the date of this Article and not connected to a public sewer system but connected to a septic system, shall be required, at his expense, to connect plumbing and laundry facilities directly to the public sewer system. The Construction Official may revoke a certificate of occupancy whenever such house, building or structure is not connected to a public sewer system.

B. This section shall be effective commencing July 1, 1990.

ARTICLE III
Tax-Exempt Property
[Adopted 6-18-1990 as Ord. No. 687]

§ 141-8. Regulation of use.

The use of all sanitary sewers in the Borough of Demarest shall be in compliance with the rules and regulations of the Bergen County Utilities Authority. The adoption of this Article by the Borough of Demarest shall include the adoption of all future amendments to the aforesaid rules and regulations.

§ 141-9. User charge system; applicability.

A. The Borough of Demarest hereby adopts and enacts the user charge system contained in the rules and regulations of the Bergen County Utilities Authority, and authorizes the immediate implementation thereof. The annual user charges shall be computed on the previous calendar year's usage and the previous calendar year's flow charge rate and billed in accordance with the procedure set forth in § 141-13 hereof. **[Amended 3-18-1991 by Ord. No. 697]**

B. The user charge system shall apply only to all tax-exempt properties, except that any and all disabled veterans who are now or in the future may be subject to charges mentioned herein are hereby exempt from said charges.

§ 141-10. Multiple connections to single meter.

The following provisions shall apply to any homeowners' association, condominium, cooperative or similar entity which has single water meters to measure water usage of more than one (1) residential unit and are considered tax-exempt:

A. The homeowners' association, condominium, cooperative or similar entity shall be liable for any charges incurred pursuant to this Article.

§ 141-11. Private wells.

All privately owned water wells which are connected to water systems eventually discharging into the sanitary sewers of the Borough of Demarest which have a tax-exempt status shall be subject to the following provisions:

A. The owners of said wells existing at the date of adoption of this Article shall notify the Borough Clerk of the Borough of Demarest, in writing, of the existence and location of such wells within thirty (30) days after the date of passage of this Article.

B. The owners of wells constructed or completed after the adoption of this Article which may be deemed as tax-exempt shall notify the Borough Clerk of the Borough of Demarest, in writing, of the existence and location of such wells within thirty (30) days of the first usage of such well.

C. The Borough Engineer of the Borough of Demarest may inspect such well to determine the usage thereof. If, in the opinion of the Borough Engineer, such well's actual water production, together with the other water usage of the owner thereof, exceeds one hundred thousand (100,000) cubic feet of water per year, the Borough Engineer shall

transmit that opinion, in writing, to the Borough Council of the Borough of Demarest. After receiving such opinion, the Borough Council may require the owner of such well to install and maintain a water meter thereon, at the owner's expense, by adoption of a resolution.

D. If a water meter is required by resolution as provided in Subsection C hereof, the owner must install such meter within sixty (60) days of adoption thereof. If the owner shall fail to do so, the Borough Council of the Borough of Demarest may, by resolution, provide for the installation of such meter and add the cost thereof to the user charge levied under § 141-9 hereof.

E. If in the Engineer's opinion, the well's actual water production, together with other water usage of the owner, is one hundred thousand (100,000) cubic feet or less of water per year, the Engineer shall estimate the usage and the owner shall pay the sewer user fee in accordance with this Article based on that estimate or shall install a water meter.

§ 141-12. Compliance with other provisions.

Before any sewer shall be permitted to flow into any sanitary sewer of the Borough of Demarest, the Plumbing Subcode Official shall first determine that such sewer and associated drains function properly, in accordance with all applicable rules, regulations and ordinances of the Borough of Demarest.

§ 141-13. Billing procedure.

Billing for the user charges imposed by § 141-9 hereof shall be in accordance with the following procedures:

A. During the first quarter of each year, the Borough Coordinator/Clerk and the Tax Collector shall attend to the preparation of bills computed on the previous calendar year's usage and the previous calendar year's flow charge rate. **[Amended 3-18-1991 by Ord. No. 697]**

B. Bills shall be mailed by the Tax Collector of the Borough of Demarest to the owners of all properties incurring charges. **[Amended 3-18-1991 by Ord. No. 697]**

C. All bills shall be prepared, submitted and collected in the same manner and in accordance with the same procedures as to the collection of general property taxes, except that payment of user charges shall be billed once annually by no later than April, with payment to be received by no later than May 1. **[Amended 3-18-1991 by Ord. No. 697]**

D. All user charges which become delinquent under the provisions of Subsection C hereof shall bear interest and penalties from the date of delinquency at the same rate as all charges for general taxation, and shall be collected and enforced in the same manner as general taxation.

E. No charge levied by § 141-9 hereof shall be invalid by reason of any error or omission in stating the name of the owner or owners of the property affected by such charge, if such tax-exempt property or properties have actually incurred such charges.

F. No charge levied by § 141-9 hereof shall be invalid by reason of the failure of a tax-exempt property owner to receive a bill therefor. Every owner is put on notice to ascertain from the Borough of Demarest the amount which may be due for such charges.

§ 141-14. Connection to other municipal system.

In all instances where any tax-exempt property, as determined above, is connected to the sanitary sewer system of another municipality, the user charge under § 141-9 hereof shall be calculated in accordance with the agreements between such municipality and the Borough of Demarest.

§ 141-15. Copies of rules and regulations to be available.

Not fewer than three (3) copies of the rules and regulations of the Bergen County Utilities Authority shall be on file with the

office of the Borough Clerk of the Borough of Demarest for public inspection during borough business hours. In addition, copies of said rules and regulations are available from the Bergen County Utilities Authority for the costs of publication thereof.

§ 141-16. Authorized signatories designated.

The Mayor and Clerk of the Borough of Demarest are hereby authorized to act as signatories upon, and to execute on behalf of the Borough of Demarest, any amendment of the existing service agreement with the Bergen County Utilities Authority, which embodies the intent and purpose of this Article.

Chapter 143

SMOKING

§ 143-1. Smoking prohibited in public places.

§ 143-2. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 8-23-1999 by Ord. No. 810. Amendments noted where applicable.]

§ 143-1. Smoking prohibited in public places.

Any person who smokes or carries lighted tobacco in any public place, including but not limited to places of public accommodation, including school premises, where such smoking is prohibited by the owner, or persons responsible for operation of the public place, and where adequate notice of such prohibition has been conspicuously posted, is guilty of a violation of this chapter.

§ 143-2. Violations and penalties.

Any person violating any provisions of this chapter shall, upon conviction, be subject to a fine not to exceed $200 or by a period of community service not exceeding 90 days, or both of the above, in the discretion of the Municipal Court Judge imposing the same. Each and every violation of this chapter shall be construed as a separate and distinct violation thereof.

Chapter 144[1]

(RESERVED)

[1] Editor's Note: Former Ch. 144, Site Plan Review, adopted 12-18-72 as Ord. No. 364, was superseded 12-6-82 by Ord. No. 546. For current provisions regarding site plan review, see Ch. 153, Subdivision and Site Plan Review.

Chapter 147

SOIL REMOVAL

§ 147-1. Permit required.
§ 147-2. Application for permit.
§ 147-3. Contents of application.
§ 147-4. Time limit for review of applications; continuance.
§ 147-5. Guiding factors in considering applications.
§ 147-6. Conditions to granting approval.
§ 147-7. Supervision of operations; fee.
§ 147-8. Retention of topsoil.
§ 147-9. Filing of performance bond.
§ 147-10. Compliance with provisions.
§ 147-11. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 12-17-58 as Ord. No. 252. Section 147-11 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Land use procedures — See Ch. 27.
Backfilling — See Ch. 69.
Uniform construction codes — See Ch. 84.
Site plan review — See Ch. 144.
Streets and sidewalks — See Ch. 150.
Subdivision of land — See Ch. 153.
Zoning — See Ch. 175.

§ 147-1. Permit required.

No person shall move, relocate, remove, excavate, fill or increase the quantity of soil in excess of two hundred fifty (250)

cubic yards on his premises without first having procured permission therefor from the Mayor and Council of the Borough of Demarest as hereinafter provided.

§ 147-2. Application for permit.

Application for soil permits shall be submitted in duplicate to the Mayor and Council of the Borough of Demarest upon forms prescribed and furnished by the Borough Clerk.

§ 147-3. Contents of application.

The application shall contain the following information:

A. Name and address of the owner of the land.

B. Name and address of the party moving the soil and a full description of the vehicles moving the soil.

C. Description of the land in question.

D. Lot and block numbers of the lands as shown on the current Assessment Map of the Borough of Demarest.

E. Reason for moving the soil.

F. Type and quantity of soil to be moved.

G. Location from which and to which the soil is to be moved.

H. Dates of commencement and completion of the moving of the soil.

I. Final condition of the land from which the soil and to which the soil is moved.

J. Present and proposed slopes of the land.

K. Such other pertinent data as the Borough Council may deem necessary, including a sketch or topographical map, prepared and certified by a licensed professional engineer or land surveyor, to show the slopes and grades of the land and abutting lands and streets.

L. The proposed route to be followed in accessing the land, which route shall use municipal residential streets as little as possible and, where municipal streets must be used, follows the shortest route through said municipal residential streets. Routes should to the greatest extent possible traverse primary streets before collector streets and collector streets before minor streets as those terms are defined in § 153-13. **[Added 2-18-1992 by Ord. No. 713]**

§ 147-4. Time limit for review of applications; continuance.

The Mayor and Council shall consider and review the application within thirty (30) days after its submission in proper form and may continue the hearing to any date or dates as it deems necessary.

§ 147-5. Guiding factors in considering applications.

The Mayor and Council, in considering and reviewing the application and in determining its decision, shall grant the applicant and his witnesses an opportunity to be heard on the question and shall be guided by the general purpose of municipal planning and shall take particular consideration of the following factors:

A. Soil erosion by water and wind.

B. Surface water drainage.

C. Soil fertility.

D. Lateral support slopes and grades of abutting streets and lands.

E. Public health and safety.

F. Land values and uses.

G. Such other factors as may bear upon or relate to the coordinated, adjusted and harmonious physical development of the borough.

H. The route to be used in accessing the land. The Mayor and Council may not refuse a permit because of the route

recommended by the applicant but may, in its discretion and upon the advice of the Superintendent of Public Works or Chief of Police or their respective designees, designate a route different from the route listed in the application, which different route the applicant must follow as a condition of the permit approval. **[Added 2-18-1992 by Ord. No. 713]**

§ 147-6. Conditions to granting approval.

After the examination, hearing and review of the application, the Mayor and Council shall grant permission to move soil from or to the premises, provided that the relocation thereof will not create conditions inimical to the public health, welfare and safety and will not result in the creation of any sharp pits, soil erosion or fertility problems and will not cause depressed land values or create any drainage or sewerage problems or other conditions dangerous and detrimental to the public health, safety and general welfare.

§ 147-7. Supervision of operations; fee.

The applicant shall move the soil, in accordance with the soil permit, under the supervision of the Building Inspector and Borough Engineer and shall pay a reasonable fee for such services in the amount determined by the Mayor and Council.

§ 147-8. Retention of topsoil.

The owner of the premises or the person in charge of the relocation of the soil, when permission has been duly granted, shall not take away the top layer of soil for a depth of eight (8) inches, but such top layer of soil to a depth of eight (8) inches shall be set aside for retention on the premises and shall be respread over the premises when the rest of the soil has been moved pursuant to levels and contour lines approved by the Mayor and Council of the Borough of Demarest.

§ 147-9. Filing of performance bond.

No permission or soil permit shall be issued unless and until the applicant therefor shall have filed with the Borough of Demarest a performance bond, in form, amount and surety acceptable to the Borough of Demarest, conditioned upon full and faithful performance of the soil's being moved in accordance with the provisions of this chapter and permission of the Mayor and Council granted pursuant hereto.

§ 147-10. Compliance with provisions.

No excavation shall be made for the removal of soil as required by the provisions of this chapter unless permission therefor shall have been first obtained as provided herein, and no soil shall be removed on or off the premises except in conformity with the provisions of this chapter.

§ 147-11. Violations and penalties. [Amended 4-18-1983 by Ord. No. 562; 7-15-1991 by Ord. No. 703]

Any person, firm or corporation violating any of the provisions of this chapter shall be subject to a fine not to exceed one thousand dollars ($1,000.) or to imprisonment in the county jail for not more than ninety (90) days or to a period of community service not exceeding ninety (90) days, or all of the above, in the discretion of the Judge imposing the same. Each and every nonconformance with this chapter or each day that any provision of this chapter is violated shall be construed as a separate and distinct violation thereof.

Chapter 149

STORMWATER MANAGEMENT CONTROL

§ 149-1. Title.

§ 149-2. Scope and purpose.

§ 149-3. Definitions and word usage.

§ 149-4. Design and performance standards for stormwater management measures.

§ 149-5. General stormwater management requirements for major development.

§ 149-6. Calculation of stormwater runoff and groundwater recharge.

§ 149-7. Standards for structural stormwater management measures.

§ 149-8. Sources for technical guidance.

§ 149-9. Safety standards for stormwater management basins.

§ 149-10. Requirements for site development stormwater plan.

§ 149-11. Maintenance and repair.

§ 149-12. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 4-17-2006 by Ord. No. 925. Amendments noted where applicable.]

GENERAL REFERENCES

Land use procedures — See Ch. 27.
Uniform construction codes — See Ch. 84.
Flood hazard control — See Ch. 100.
Sewers — See Ch. 141.
Streets and sidewalks — See Ch. 150.
Subdivision and site plan review — See Ch. 153.
Zoning — See Ch. 175.

§ 149-1. Title.

This chapter shall be known as and may be cited as the "Stormwater Management Ordinance of the Borough of Demarest, County of Bergen."

§ 149-2. Scope and purpose.

A. Policy statement. Flood control, groundwater recharge, and pollutant reduction through nonstructural or low-impact techniques shall be explored before relying on structural best management practices (BMPs). Structural BMPs should be integrated with nonstructural stormwater management measures and proper maintenance plans. Nonstructural measures include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated loading of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

B. Purpose. It is the purpose of this chapter to establish minimum stormwater management requirements and controls for major development as defined in § 149-3, Definitions.

C. Applicability.

(1) This chapter shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:

(a) Nonresidential major developments; and

(b) Aspects of residential major developments that are not preempted by the Residential Site Improvement Standards at N.J.A.C. 5:21.

(2) This chapter shall also be applicable to all major developments undertaken by the Borough of Demarest.

D. Compatibility with other permit and ordinance requirements. Development approvals issued pursuant to this chapter are to be considered an integral part of development approvals under the development permit, subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This chapter is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

§ 149-3. Definitions and word usage.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words

used in the present tense include the future, works in the plural number include the singular and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

CAFRA CENTERS, CORES or NODES — Those areas within boundaries accepted by the Department pursuant to N.J.A.C. 7:8E-5B.

CAFRA PLANNING MAP — The geographic depiction of the boundaries for coastal planning areas, CAFRA centers, CAFRA cores and CAFRA nodes pursuant to N.J.A.C. 7:7E-5B.3.

COMPACTION — The increase in soil bulk density.

CORE — A pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

COUNTY REVIEW AGENCY — An agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be a county planning agency, or a county water resource association created under N.J.S.A 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

DEPARTMENT — The New Jersey Department of Environmental Protection.

DESIGNATED CENTER — A State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

DESIGN ENGINEER — A person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

DEVELOPMENT — The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural lands, "development" means any activity that requires a state permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A. 4:1C-1 et seq.

DRAINAGE AREA — A geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving water body or to a particular point along a receiving water body.

EMPOWERMENT NEIGHBORHOOD — A neighborhood designated by the Urban Coordinating Council in consultation and conjunction with the New Jersey Redevelopment Authority pursuant to N.J.S.A. 55:19-69.

ENVIRONMENTALLY CRITICAL AREAS — An area or feature which is of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and wellhead protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

EROSION — The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

IMPERVIOUS SURFACE — A surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

INFILTRATION — The process by which water seeps into the soil from precipitation.

MAJOR DEVELOPMENT — Any development that provides for ultimately disturbing one or more acres of land. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.

MUNICIPALITY — Any city, borough, town, township, or village.

NODE — An area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

NUTRIENT — A chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

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

jurisdiction pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

POLLUTANT — Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance [except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)], thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, groundwaters or surface waters of the state, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

RECHARGE — The amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

SEDIMENT — Solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

SITE — The lot or lots upon which a development is to occur or has occurred.

SOIL — All unconsolidated mineral and organic material of any origin.

STATE DEVELOPMENT AND REDEVELOPMENT PLAN METROPOLITAN PLANNING AREA (PA1) — An area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state's future redevelopment and revitalization efforts.

STATE PLAN POLICY MAP — The geographic application of the State Development and

Redevelopment Plan's goals and state-wide policies, and the official map of these goals and policies.

STORMWATER — Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

STORMWATER MANAGEMENT BASIN — An excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

STORMWATER MANAGEMENT MEASURE — Any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal nonstormwater discharges into stormwater conveyances.

STORMWATER RUNOFF — Water flow on the surface of the ground or in storm sewers, resulting from precipitation.

TIDAL FLOOD HAZARD AREA — A flood hazard area, which may be influenced by stormwater runoff from inland areas, but which is primarily caused by the Atlantic Ocean.

URBAN COORDINATING COUNCIL EMPOWERMENT NEIGHBORHOOD — A neighborhood given priority access to state resources through the New Jersey Redevelopment Authority.

URBAN ENTERPRISE ZONES — A zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et seq.

URBAN REDEVELOPMENT AREA — Previously developed portions of areas delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes; designated as CAFRA Centers, Cores or Nodes; designated as Urban Enterprise Zones; and Designated as Urban Coordinating Council Empowerment Neighborhoods.

WATERS OF THE STATE — The ocean and its estuaries, all springs, streams, wetlands, and bodies of surface water or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

WETLANDS or WETLAND — An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

§ 149-4. Design and performance standards for stormwater management measures.

A. Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in § 149-5. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures

necessary to meet these standards shall be incorporated into the design.

B. The standards in this chapter apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or water quality management plan adopted in accordance with Department rules.

§ 149-5. General stormwater management requirements for major development.

A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with § 149-11.

B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly Helonias bullata (swamp pink) and/or Clemmys muhlnebergi (bog turtle).

C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of § 149-5F and G.

(1) The construction of an underground utility line, provided that the disturbed areas are revegetated upon completion;

(2) The construction of an aboveground utility line, provided that the existing conditions are maintained to the maximum extent practicable; and

(3) The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.

D. A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of § 149-5F and G may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:

(1) The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;

(2) The applicant demonstrates through an alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of § 149-5F and G to the maximum extent practicable;

(3) The applicant demonstrates that, in order to meet the requirements of § 149-5F and G, existing structures currently in use, such as homes and buildings, would need to be condemned; and

(4) The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under § 149-5D(3) above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of § 149-5F and G that were not achievable on site.

E. Nonstructural stormwater management strategies.

(1) To the maximum extent practicable, the standards in § 149-5F and G shall be met by incorporating nonstructural stormwater management strategies set forth at § 149-5E into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in Subsection E(2) below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.

(2) Nonstructural stormwater management strategies incorporated into site design shall:

(a) Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;

(b) Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;

(c) Maximize the protection of natural drainage features and vegetation;

(d) Minimize the decrease in the time of concentration from preconstruction to postconstruction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;

(e) Minimize land disturbance including clearing and grading;

(f) Minimize soil compaction;

(g) Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;

(h) Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;

(i) Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:

[1] Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy § 149-5E(3) below;

[2] Site design features that help to prevent discharge of trash and debris from drainage systems;

[3] Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and

[4] When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.

(3) Site design features identified under § 149-5E(2)(i)[2] above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this Subsection, "solid and floatable

materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see § 149-5E(3)(c) below.

(a) Grates.

[1] Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

[a] The New Jersey Department of Transportation (NJDOT) bicycle-safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or

[b] A different grate, if each individual clear space in that grate has an area of no more than seven square inches, or is no greater than 0.5 inches across the smallest dimension.

[2] Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

(b) Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening

has two or more clear spaces) shall have an area of no more than seven square inches, or be no greater than two inches across the smallest dimension.

(c) This standard does not apply:

[1] Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

[2] Where flows from the water quality design storm as specified in § 149-5G(1) are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

[a] A rectangular space $4^5/_8$ inches long and $1^1/_2$ inches wide (this option does not apply for outfall netting facilities); or

[b] A bar screen having a bar spacing of 0.5 inches.

[3] Where flows are conveyed through a trash rack that has parallel bars with one-inch spacing between the bars, to the elevation of the water quality design storm as specified in § 149-5G(1); or

[4] Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C.

7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

(4) Any land area used as a nonstructural stormwater management measure to meet the performance standards in § 149-5F and G shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.

(5) Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices (BMP) Manual. The BMP Manual may be obtained from the address identified in § 149-8 or found on the Department's website at www.njstormwater.org.

F. Erosion control, groundwater recharge and runoff quantity standards.

(1) This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.

(a) The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.

(b) The minimum design and performance standards for groundwater recharge are as follows:

[1] The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at § 149-8, either:

[a] Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100% of the average annual preconstruction groundwater recharge volume for the site; or

[b] Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from preconstruction to postconstruction for the two-year storm is infiltrated.

[2] This groundwater recharge requirement does not apply to projects within the urban redevelopment area, or to projects subject to § 149-5F(1)(b)[3] below.

[3] The following types of stormwater shall not be recharged:

[a] Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than reportable quantities as defined by the United States Environmental

Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department-approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

[b] Industrial stormwater exposed to source material. "Source material" means any material(s) or machinery, located at an industrial facility that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; byproducts; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

[4] The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or

down gradient of the groundwater recharge area.

(c) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at § 149-6, complete one of the following:

[1] Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, postconstruction runoff hydrographs for the two-, ten-, and one-hundred-year storm events do not exceed, at any point in time, the preconstruction runoff hydrographs for the same storm events;

[2] Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the preconstruction condition, in the peak runoff rates of stormwater leaving the site for the two-, ten-, and one-hundred-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;

[3] Design stormwater management measures so that the postconstruction peak runoff rates for the two-, ten-, and one-hundred-year storm events are 50%, 75% and 80%, respectively, of the preconstruction peak runoff rates. The percentages apply only to the postconstruction stormwater runoff that is attributable to the portion of the site on

which the proposed development or project is to be constructed. The percentages shall not be applied to postconstruction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or

[4] In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with Subsection F(1)(c)[1][2], and [3] above shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.

(2) Any application for a new agricultural development that meets the definition of "major development" in § 149-3 shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this section, "agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

G. Stormwater runoff quality standards.

(1) Stormwater management measures shall be designed to reduce the postconstruction load of total suspended solids (TSS) in stormwater runoff by 80% of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4 acre of impervious surface is being proposed on a

development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may take into account the implementation of nonstructural and structural stormwater management measures.

Table 1: Water Quality Design Storm Distribution

Time (minutes)	Cumulative Rainfall (inches)	Time (minutes)	Cumulative Rainfall (inches)
0	0.0000	65	0.8917
5	0.0083	70	0.9917
10	0.0166	75	1.0500
15	0.0250	80	1.0840
20	0.0500	85	1.1170
25	0.0750	90	1.1500
30	0.1000	95	1.1750
35	0.1330	100	1.2000
40	0.1660	105	1.2250
45	0.2000	110	1.2334
50	0.2583	115	1.2417
55	0.3583	120	1.2500
60	0.6250		

(2) For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from

the address identified in § 149-8 or found on the Department's website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in § 149-8. Total suspended solids (TSS) reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, P.O. Box 418, Trenton, New Jersey 08625-0418.

(3) If more than one BMP in series is necessary to achieve the required 80% TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (A \times B)/100$$

Where

R = Total TSS percent load removal from application of both BMPs

A = The TSS percent removal rate applicable to the first BMP

BS = The TSS percent removal rate applicable to the second BMP

Table 2: TSS Removal Rates for BMPs

Best Management Practice	TSS Percent Removal Rate
Bioretention systems	90
Constructed stormwater wetland	90
Extended detention basin	40-60

Table 2: TSS Removal Rates for BMPs

Best Management Practice	TSS Percent Removal Rate
Infiltration structure	80
Manufactured treatment device	See § 149-7C
Sand filter	80
Vegetative filter strip	60-80
Wet pond	50-90

(4) If there is more than one on-site drainage area, the 80% TSS removal rate shall apply to each drainage area, unless the runoff from the subareas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.

(5) Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the postconstruction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in § 149-5F and G.

(6) Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in § 149-8.

(7) In accordance with the definition of "FW1" at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.

(8) Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:

(a) The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:

[1] A three-hundred-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession is provided.

[2] Encroachment within the designated special water resource protection area under § 149-5G(8)(a)[1] above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained

to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed under this Subsection shall be subject to review and approval by the Department.

(b) All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the "Standards For Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.

(c) If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the Standard for Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:

[1] Stabilization measures shall not be placed within 150 feet of the Category One waterway;

[2] Stormwater associated with discharges allowed by this Chapter shall achieve a 95% TSS postconstruction removal rate;

[3] Temperature shall be addressed to ensure no impact on the receiving waterway;

[4] The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;

[5] A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and

[6] All encroachments proposed under this Chapter shall be subject to review and approval by the Department.

(d) A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to § 149-5G(8) has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to § 149-5G(8) shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in § 149-5G(8)(a)[1] above. In no case shall a stream corridor protection plan allow the reduction of the Special Water Resource Protection Area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.

(e) Subsection G(8) does not apply to the construction of one individual single family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.

§ 149-6. Calculation of stormwater runoff and groundwater recharge.

A. Stormwater runoff shall be calculated in accordance with the following:

(1) The design engineer shall calculate runoff using one of the following methods:

(a) The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 – Hydrology and Technical Release 55 – Urban Hydrology for Small Watersheds; or

(b) The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.

(2) For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the preconstruction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology at Subsection A(1)(a) and the Rational and Modified Rational Methods at Subsection A(1)(b). A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a

portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).

(3) In computing preconstruction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts that may reduce preconstruction stormwater runoff rates and volumes.

(4) In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 – Urban Hydrology for Small Watersheds and other methods may be employed.

(5) If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

B. Groundwater recharge may be calculated in accordance with the following: The New Jersey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at http://www.state.nj.us/dep/njgs/; or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427, Trenton, New Jersey 08625-0427; (609) 984-6587.

§ 149-7. Standards for structural stormwater management measures.

A. Standards for structural stormwater management measures are as follows:

(1) Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).

(2) Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one-inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than 1/3 the width of the diameter of the orifice or 1/3 the width of the weir, with a minimum spacing between bars of one inch and a maximum spacing between

bars of six inches. In addition, the design of trash racks must comply with the requirements of § 149-9D.

(3) Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement.

(4) At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of 2 1/2 inches in diameter.

(5) Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at § 149-9.

B. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by § 149-5 of this chapter.

C. Manufactured treatment devices may be used to meet the requirements of § 149-5 of this chapter, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

§ 149-8. Sources for technical guidance.

A. Technical guidance for stormwater management measures can be found in the documents listed at Subsection A(1) and (2) below, which are available from

Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; Telephone (609) 777-1038.

(1) Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.

(2) The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.

B. Additional technical guidance for stormwater management measures can be obtained from the following:

(1) The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540.

(2) The Rutgers Cooperative Extension Service; 732-932-9306.

(3) The Bergen County Soil Conservation Districts, 327 Ridgewood Avenue, Paramus, NJ 07652; (201) 261-4407.

§ 149-9. Safety standards for stormwater management basins.

A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin.

B. Requirements for trash racks, overflow grates and escape provisions.

(1) A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:

(a) The trash rack shall have parallel bars, with no greater than six-inch spacing between the bars.

(b) The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.

(c) The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.

(d) The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square feet.

(2) An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:

(a) The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.

(b) The overflow grate spacing shall be no less than two inches across the smallest dimension.

(c) The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.

(3) For purposes of this Section, "escape provisions" means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:

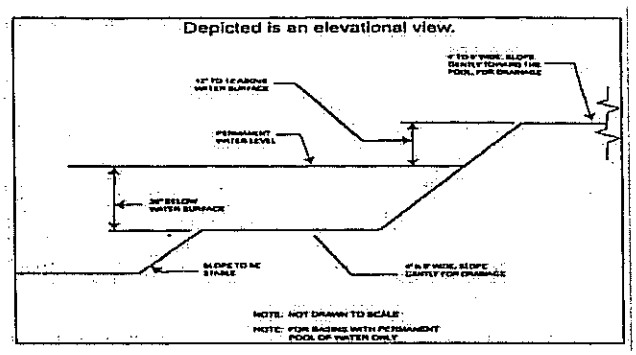
(a) If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in § 149-8C, a freestanding outlet structure may be exempted from this requirement.

(b) Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and 1/2 feet. Such safety ledges shall be comprised of two steps. Each step shall be four feet to six feet in width. One step shall be located approximately 2 1/2 feet below the permanent water surface, and the second step shall be located one to 1 1/2 feet above the permanent water surface. See § 149-8D for an illustration of safety ledges in a stormwater management basin.

(c) In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical.

C. Variance or exemption from safety standards. A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency (municipality, county or Department) that the variance or exemption will not constitute a threat to public safety.

D. Illustration of safety ledges in a new stormwater management basin.



§ 149-10. Requirements for site development stormwater plan.

A. Submission of site development stormwater plan.

(1) Whenever an applicant seeks municipal approval of a development subject to this chapter, the applicant shall submit all of the required components of the checklist for the site development stormwater plan at Subsection C below as part of the submission of the applicant's application for subdivision or site plan approval.

(2) The applicant shall demonstrate that the project meets the standards set forth in this chapter.

(3) The applicant shall submit 12 copies of the materials listed in the checklist for site development stormwater plans in accordance with Subsection C of this chapter.

B. Site development stormwater plan approval. The applicant's site development project shall be reviewed as a part of the subdivision, site plan, or development application review process by the Planning Board, Zoning Board of Adjustment or official from which municipal approval is sought. The Board and/or Zoning Officer shall consult the Borough Engineer or other such engineer (as appropriate) to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this chapter.

C. Checklist requirements. The following information shall be required:

(1) Topographic base map. The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of one inch equals 200 feet or greater, showing two-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and floodplains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and man-made features not otherwise shown.

(2) Environmental site analysis. A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

(3) Project description and site plan(s). A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.

(4) Land use planning and source control plan. This plan shall provide a demonstration of how the goals and standards of §§ 149-4 through 149-7 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

(5) Stormwater management facilities map. The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

(a) Total area to be paved or built upon, proposed surface contours, land area to be occupied by

the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.

(b) Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

(6) Calculations.

(a) Comprehensive hydrologic and hydraulic design calculations for the predevelopment and postdevelopment conditions for the design storms specified in § 149-5 of this chapter.

(b) When the proposed stormwater management control measures (e.g., infiltration basins) depend on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

(7) Maintenance and repair plan. The design and planning of the stormwater management facility shall meet the maintenance requirements of § 149-11.

(8) Waiver from submission requirements. The municipal official or board reviewing an application under this chapter may, in consultation with the Municipal Engineer, waive submission of any of the requirements in Subsection C(1) through (6) of this section when it can be demonstrated that the

information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

§ 149-11. Maintenance and repair.

A. Applicability. Projects subject to review as in § 149-2C of this chapter shall comply with the requirements of Subsection B and C.

B. General maintenance.

(1) The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.

(2) The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.

(3) Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or

project, unless such owner or tenant owns or leases the entire residential development or project.

(4) If the person responsible for maintenance identified under Subsection B above is not a public agency, the maintenance plan and any future revisions based on Subsection B(7), below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.

(5) Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of nonvegetated linings.

(6) The person responsible for maintenance identified under Subsection B(2) above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.

(7) The person responsible for maintenance identified under Subsection B(2) above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.

(8) The person responsible for maintenance identified under Subsection B(2) above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and

the documentation required by Subsection B(6) and (7) above.

(9) The requirements of Subsection B(3) and (4) do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.

(10) In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have 14 days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the Borough may immediately proceed to do so and shall bill the cost thereof to the responsible person.

C. Nothing in this section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

§ 149-12. Violations and penalties.

A. Any person who violates any provision of this chapter shall, upon conviction thereof in municipal Court, be punishable by imposition of the penalties set forth in § 150-41 of the Borough Code.

B. Each instance of engaging in a separate regulated activity in violation of this chapter shall be deemed a separate offense.

C. In addition, the Borough may institute civil action for injunctive or other relief to enforce the provision of this chapter.

D. The Borough of Demarest Department of Public Works and Building Department shall have enforcement authority related to this provision.