Chapter 150

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[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest: Art. I, 8-19-74 as Ord. No. 399; Art. II, 5-18-81 as Ord. No. 517; Article III, 6-16-80 as Ord. No. 503; Art. IV, 2-21-62 as Ord. No. 280; Art. V, 7-5-83 as Ord. No.

568; Art. VI, 12-17-84 as Ord. No. 588. Sections 150-8A, 150-29 and 150-37 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.
Shade Tree Commission — See Ch. 53.
Backfilling — See Ch. 69.
Uniform construction codes — See Ch. 84.
Obstructions at intersections — See Ch. 125.
Soil removal — See Ch. 147.
Subdivision and site plan review — See Ch. 153.
Zoning — See Ch. 175.

ARTICLE I
Excavations and Openings
[Adopted 8-19-74 as Ord. No. 399]

§ 150-1. Definitions.

As used herein, the following terms shall be defined as follows:

APPLICANT — Any person or persons, partnership, association, corporation or public utility making application for a street opening permit.

BOROUGH — The Borough of Demarest.

EMERGENCY — Any unforeseen and unexpected occurrence which causes a clear and immediate danger to persons or damage to property, thereby requiring immediate repair.

OPENING — Any excavation, removal, repair, construction, reconstruction, drilling or tunneling within the rights-of-way of accepted or unaccepted streets or easements owned or regulated by the borough, and including but not limited to drilling or cutting through pavements, curbs, gutters, drainage facilities, shoulders, embankments, utility poles or structures. Test holes of small diameter, whether drilled, driven or cut, are to be considered "openings".

however, only one (1) application permit and fee shall be required for a series of such test holes.

PERMITTEE — Any applicant who has been issued a permit and is obligated to fulfill the terms and conditions of this Article.

STREET — Includes but shall not be limited to a highway, road, avenue, alley, lane or place dedicated to public use, whether or not accepted and whether or not subsequently vacated, and including other areas between the side lines thereof.

UNIMPROVED ROAD — Any road whose traveled way is surfaced with cinders, dirt, gravel or stone without bituminous or cement binder, and any road which may exist within an approved subdivision but which is not yet accepted for ownership, maintenance or legal jurisdiction by the borough.

§ 150-2. Permit required; exemption.

No person, partnership, association, corporation or public utility shall cause the opening of or otherwise disturb any public street or any other public improvement or facility located therein without first having obtained a permit from the Borough Clerk in accordance with the rules, specifications and procedure hereinaf-

(Cont'd on page 15005)

ter set forth. The borough reserves the right to exempt itself from the permit requirement.

§ 150-3. Emergencies.

In the event of an emergency, the opening may be made to remove, repair or correct the emergency, provided that a reasonable attempt is made to first contact the Borough Engineer or Borough Clerk for immediate approval. If the Borough Engineer or the Borough Clerk cannot be contacted, then and in any event the Police Department shall be notified prior to any opening. The application for a permit, as provided for in this Article, shall be made thereafter as soon as possible.

§ 150-4. Permit procedure.

A. Permit application. Application for a permit shall be made on forms provided by the Borough Clerk and must be filled out completely and in the number and copies specified on the form and filed with the Borough Clerk, along with the required permit fee and other required exhibits as set forth herein. Said forms shall request the name of the applicant, the location of the work to be performed, the purpose of the work and the estimated length of time to completion.

B. Drawings. The applicant shall file, along with the application form, appropriate engineering drawings, in triplicate, which show the following details:

(1) Key map showing schematically the location of the proposed opening relative to surrounding streets or other key landmarks.

(2) Existing facilities, such as pavement, curbing, sidewalks, driveways, drainage and utilities, in the working area.

(3) Details of proposed opening and work to be done, including excavation, plan, profile and appropriate sections of the opening and construction details.

C. Review of permit application. Upon the submission of the permit application and all of the above-mentioned required documents and drawings, the Borough Clerk shall forward the entire file to the Borough Engineer. The Borough Engineer shall review the application. He shall reject the application or he shall instruct the Borough Clerk to grant the permit, subject to the fulfillment of the requirements of Subsections B and D of this section where, in his opinion, the application can be approved without any special limitations or conditions and where the requirements of this Article are met. He shall make his recommendations for approval or rejection of the application, with special limitations to be imposed upon the permit, to the Mayor and Council. The Mayor and Council shall review the application.

D. Additional requirements prior to issuance of permit. After approval of the application but prior to the issuance of the permit, the applicant shall:

(1) Insurance. Obtain and keep in full force and effect, for the entire term of the work to be performed, a policy or policies of insurance providing general comprehensive liability insurance coverage with limits of at least three hundred thousand dollars ($300,000.) for injury to any one (1) person and five hundred thousand dollars ($500,000.) for bodily injury for each accident, including personal injury, disease or death, and with limits of at least one hundred thousand dollars ($100,000.) for property damage. There shall be submitted a certificate of insurance evidencing that such insurance is in full force and effect and will remain in full force and effect for the entire time of the proposed work. The certificate shall also state that the insurance policy or policies evidenced thereby shall not be cancelable without ten (10) days' notice to the borough.

(2) Save-harmless agreement. File an agreement, in writing, to save the borough harmless from any loss, injury, damage or liability whatsoever resulting from the course of construction, whether directly or indirectly connected with the work, or from any negligence or

fault of the applicant, its agents, servants, representatives or contractors in connection with the work covered by the plan and permit.

(3) Cost schedule. File an estimate of the cost of the opening work to be done, including the cost of backfill and replacement work, and an estimate of all starting and completion dates. Cost schedules shall be subject to the review and approval of the Borough Engineer.

§ 150-5. Fees. [Amended 11-18-74 by Ord. No. 404]

A. Upon the issuance of the permit, the applicant shall deposit with the Borough Clerk the following:

(1) Cash deposit. A cash deposit in the minimum sum of one hundred twenty-five dollars ($125.) for the opening, plus an additional sum of ten percent (10%) of the estimated cost of the work described in § 150-4D(3) above. The moneys so deposited shall be used to pay the cost of engineering services and fees described herein. The fees for such engineering services shall be computed at the rate of thirty cents ($0.30) per linear foot of pavement, sewer or other sewerage disposal equipment, storm drain, curb or other improvement and at fifteen dollars ($15.) per hour for on-site inspection or wherever the linear foot standard is inapplicable. When, however, any two (2) or more of said improvements are done at the same time as one (1) project, the total charge shall be at the rate of fifteen cents ($0.15) per linear foot for such improvement. A minimum charge shall be made of one hundred dollars ($100.) for each improvement. Within two (2) months after completion and final release of the permittee as described in § 150-11 below, all unexpended moneys remaining shall be returned to the applicant, except for twenty-five dollars ($25.), which shall be retained by the borough as a final application fee. In extenuating circumstances, the Borough Mayor and Council may waive this fee and merely require the payment for services rendered.

(2) Surety bond. In lieu of a cash deposit, the applicant may submit a surety bond of like amount. Said bond shall, by its terms, provide for the compliance with all provisions of this Article by the applicant and for payment by the applicant of any and all damages sustained by any persons or property as a result, directly or indirectly, of the work performed under the permit. Said bond shall be issued by a bonding or surety company licensed to do business in the State of New Jersey and shall be subject to approval as to form, sufficiency and execution by the borough. The bond will remain in effect and not be released until the cost and final fee calculated under Subsection A has been paid by the permittee to the borough and until the issuance of the final release.

B. A public utility, as defined in N.J.S.A. 48:2-13, or a governmental agency may, in lieu of a cash deposit or bond as required by Subsection A above, yearly deposit and maintain the sum of seven thousand five hundred dollars ($7,500.) in cash with the Borough Clerk. Such deposit shall ensure compliance with the applicable provisions of this Article and shall be a continuing obligation to the full amount thereof with respect to each street opening. However, the estimated cost of inspection shall be deposited in cash for each opening as provided above.

C. Upon the failure of the permittee to comply with any of the requirements of this Article, after notice of noncompliance and after providing the permittee with a reasonable amount of time in which to comply, the borough may perform or cause to be performed such work as is necessary to secure such compliance. The permittee and any surety on said surety bond shall be liable for any cost incurred as a result thereof. The cost of any work which the borough performs or causes to be performed pursuant to this section and any damages of any sort as to which a surety bond may be given may be satisfied, in whole or in part, out of the required cash deposits or surety bond.

D. The cash deposit or surety bond shall be subject to the review of the Borough Engineer. If the Borough Engineer

determines that the amount of the deposit or bond is insufficient to secure compliance with this Article, then an amount sufficient to secure such compliance may be required.

§ 150-6. Issuance of permit: contents; renewal; nontransferability; expiration or revocation.

A. Terms. Upon satisfactory completion of the procedure outlined above, the Clerk shall issue the opening permit. The permit shall set forth the following data:

(1) The name of the permittee.

(2) A brief description of the location of the proposed opening and the work contemplated.

(3) A commencement and termination date.

(4) Any special conditions the borough has imposed.

(5) A listing of the supporting documents, plans, specifications, etc., which serves as a basis for the permit.

B. Renewal. An opening permit may be renewed for any part, but not exceeding the total time, of the original permit upon the payment of a renewal fee of ten dollars ($10.).

C. Nontransferability. Opening permits issued under the provisions of this Article are nontransferable.

D. Expiration; revocation. Permits issued under the provisions of this Article will expire at 12:00 midnight of the day indicated on said permit or the day of expiration of any extension to said permit. Permits will also be revoked at any time it might be found by the Mayor and Council, upon recommendation of the Borough Engineer, that the permittee has failed to comply with the provisions of this Article or the permit and, after twenty-four (24) hours' written notice has been given to the permittee, without correction of said failure to comply. If, after permit revocation, it becomes necessary for the borough either to complete the work or to refill or repair the opening, the cost of such work by the borough will be deducted from any deposited

fees that may have been paid by the permittee, or if a surety or corporation bond has been given, then said bond will be declared to be in default to the extent of said unpaid costs. Reinstatement of revoked permits will occur only after favorable recommendation of the Borough Engineer and on majority affirmative vote of the Borough Council.

§ 150-7. Notification of commencement of work; exception.

Except in emergency situations, at least twenty-four (24) hours prior to the planned commencement of work, the permittee shall advise the Borough Engineer or such other official of the borough as may be designated by the Mayor and Council that the work is to commence.

§ 150-8. Regulations and specifications for excavation and restoration.

A. Conduct of the opening work. The work shall be done in an efficient and workmanlike manner and in accordance with the plans and specifications, using proper tools, machinery, materials and manpower to effect a quality and expeditious job. Except under emergency conditions, the opening work will be conducted between the hours of 7:00 a.m. and 4:00 p.m., except on Fridays, Saturdays, Sundays and all legal holidays, when no opening work will be permitted.[1]

B. Supervision. The permittee will have a qualified supervisor at the site of the opening work during all working hours.

C. Inspection. The Engineer, the Mayor and Council or their authorized representatives shall be given access to the construction site during progress of the work in order to observe and inspect the work. All materials, including excavated materials, are subject to inspection and approval by such borough officials. Where the planned opening will

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

be made through, adjacent to or near an existing public utility facility, the permittee shall notify said utility company, whose representative shall be given access to the construction to observe and inspect that portion of the work involving said utility facility.

D. Removal of existing features. The existing pavement, blacktop or concrete shall be cut in a straight line or lines prior to any subsurface excavation, which shall be confined to the area between the cuts. If pavement, curbing or other surface construction becomes damaged, ragged or zigzagged, when it comes time to repave or replace the facility, then the edges shall be cut or recut in a straight line or lines to the satisfaction of the Borough Engineer, in general, parallel with the lines of the excavated trenches and in a width sufficient to accommodate the entire excavation and to create a smooth finished appearance when the construction is complete. When cutting through reinforced concrete pavement, the saw cutting will be done in such a way as to permit the exposing of existing reinforcement, which is not to be cut but is to be exposed, retained and allowed to project into the excavation at least eighteen (18) inches. These exposed bars will later be reformed to tie into the patched concrete. No trees or shrubs may be removed without permission of the Shade Tree Commission[2], and any damaged will be replaced by the permittee.

E. Protection of unpaved areas. On banks and slopes of unpaved or unimproved roads or grass-planted areas, the topsoil shall be saved and carefully reduced to a four-inch depth after the opening has been refilled and resettled. The topsoil shall be raked evenly and shall have rye grass seed, other acceptable grass seed or approved sod placed thereon. The permittee will be responsible for turf growth through two (2) mowings. If sufficient topsoil is available from the excavation, then the permittee will bring new topsoil in and place same as required above.

F. Backfilling. After the scheduled work of construction has been completed in the open excavation, the backfilling

[2] Editor's Note: See Ch. 53, Shade Tree Commission.

shall be done using excavated material, if acceptable to the Borough Engineer, or, if excavated material is unacceptable, using imported clean shale, bank-run gravel, quarry blend stone or other acceptable material. In placing backfill, the permittee or his contractor shall use a mechanical or vibrating tamping device or machine, placing fill in six-inch to ten-inch compacted lots as directed by the Engineer.

(1) Unimproved roads and shoulders. On unimproved roads and shoulders, the backfill shall be brought up to within seven (7) inches, after compaction, of the existing surface grade. There shall then be placed five (5) inches of two-and-one-half-inch crushed stone ballast, which shall be bound on top only with Grade B screenings or bank-run gravel, quarry-blended stone or slag and thoroughly compacted. The remaining two (2) inches shall be three-fourths-inch crushed stone, quarry blended sufficient times to make a tight, stable surface.

(2) Improved roads.

(a) On improved roads with bituminous pavements, the backfill shall be brought up to a level, relative to the original pavement, where a proper base and bituminous pavement can be constructed. Temporary pavement shall consist of a hot-mixed bituminous concrete stabilized base course placed in two (2) three-inch lifts resulting in a minimum depth of six (6) inches. Aggregate gradation shall conform to the three-fourths-inch category stipulated in Table 28, Article 8.5.4, of the New Jersey State Highway Department Standard Specifications, 1961 Edition. The surface wearing course shall consist of FABC-1 Mix No. 5 having a minimum thickness of one and one-half (1½) inches and shall meet the requirements for materials and construction as specified under Division 3, Section 10, of the New Jersey State Highway Department Standard Specifications, as directed by the Borough Engineer.

(b) On improved roads with portland cement concrete pavements, the backfill shall be brought up to a level, relative to the original pavement, where a proper and complete concrete surface pavement can be reconstructed at least to the total thickness of the original pavement, and provided further that a minimum of eight (8) inches of concrete pavement shall be reconstructed. Reinforcement, using No. 3 longitudinal reinforcement bars spaced six (6) inches center to center, shall be set in the new concrete overlapping with the old, exposed bars and of the same approximate vertical positioning. End surfaces of existing concrete pavement are to be thoroughly cleaned, soaked with water and coated with a brush coat of neat cement prior to placing new concrete in contact with same. Concrete shall be Class B conforming to the requirements specified therefor in Article 4.1.2 of the Standard Specifications (1961) of the New Jersey Department of Transportation, as amended and supplemented.

(3) Shoulders. Where shoulders are unimproved, backfilling and surface repairs shall be as specified or unimproved roads in Subsection F(1) above. Where shoulders are of bituminous pavement, the provisions of Subsection F(2)(a) above shall apply. Where shoulders are of portland cement concrete, the provisions of Subsection F(2)(b) above shall apply.

G. Curbs, gutters and driveways. Where the opening involves cutting through existing curbs, gutters, driveways and any other surface structures, the permittee or his contractor shall rebuild or replace such surface structures, as closely as possible duplicating the original as to dimensions, grade, appearance and materials. Curbs and gutters shall be reconstructed of state highway Class B concrete, and concrete aprons and other miscellaneous structures as shall be reconstructed of state highway Class C concrete or superior.

H. Existing pipes, utilities and subsurface structures. Any existing subsurface pipes, utility lines, drains, foundations, abutments, inlets or other structures, such as survey markers or monuments, that may be disturbed, damaged or removed during the necessary opening work are to be replaced, rebraced, reconstructed or repaired under the direction of the Borough Engineer and, if applicable, the appropriate officials of the utility company whose facility may be involved. Such replacement, reconstruction or repair shall be made using materials, methods and standards of workmanship at least equal to those of the existing feature or, in the case of a public utility facility, to the standards imposed by said utility. Caution and care shall be exercised by the permittee not to disturb such existing structures or facilities exposed by the opening, and no blasting will be done in these areas.

I. Other ordinances. If and when the borough may have adopted other ordinances defining standards or specifications for the construction of any structures or facilities covered above, then such ordinance provisions shall govern the standards to be applied for openings or excavations under this Article.

J. Blasting. No blasting shall be allowed unless approved by the Borough Engineer. Blasting work shall be done only by an experienced and, where required, licensed firm, person or corporation and only after all required safety precautions have been taken and other necessary permits or additional insurance coverage as the Mayor and Council requires, if any, obtained.

K. Surplus materials. The permittee or his contractor shall remove all surplus or unusable fill, debris and other materials from the jobsite at his own expense. The area shall be left clean and in a neat condition at the end of the work to the satisfaction of the Borough Engineer. Machinery, vehicles and tools of the contractor shall be promptly removed from the jobsite when the work is completed.

§ 150-9. Safety standards; traffic regulations; protection of adjacent properties.

A. Safety precautions. The permittee and his contractor shall keep all openings, all excavated materials and all machinery, tools or other materials properly guarded and shall place and maintain barricades, temporary fencing, guards or other appropriate warning devices at all times during the progress of the work. Adjustable flashing warning lights shall be operated at the opening site to warn the public from one (1) hour before sunset until one (1) hour after sunrise unless the borough deems it necessary that the opening be closed because of any circumstance. The permittee and his contractor shall at all times comply with all state safety regulations outlined in the Construction Safety Code of the Department of Labor and Industry, Bureau of Engineering and Safety, State of New Jersey, effective November 15, 1963, as may be amended from time to time.

B. Cleanliness. If dust, dirt, air pollution and poor housekeeping of detrimental material are allowed to exist, occur or continue as a result of the work to the point where a public nuisance has occurred in the opinion of the Borough Council or the Borough Engineer, the Borough Engineer may stop the work until the situation complained of is eliminated. Streets are to be kept broom-cleaned on a daily basis. If dust persists, streets may be required to be hosed clean. The Borough Engineer may direct the permittee or his contractor to spread dust-inhabiting chemicals.

C. Maintenance of traffic.

(1) At all times during the course of construction, at least one-half (½) of the traveled way shall be kept open for public vehicular travel, unless the permittee or his contractor provides and marks, to the satisfaction of the Police Department, a suitable detour. The permittee shall at all times make provision for local residents to have access to their properties and shall maintain the roadway and adjacent areas free from needless obstruction. No length of street, road, shoulder or embankment shall be left open at any one time in ex-

cess of five hundred (500) linear feet. No street may be completely closed to traffic unless authorization is obtained from the Mayor and Council.

(2) The applicant shall, for the protection of the traveling public and his personnel, familiarize himself with and adhere strictly to the requirements of these specifications and to the requirements of Title 39, Motor Vehicle and Traffic Regulations, of the New Jersey Revised Statutes, wherever it shall pertain to necessary and required precautionary measures regarding the type of work being done.

(3) Traffic on all roadways within the municipality is under the direct supervision and control of the Police Department of the borough, hereinafter referred to as the "police," who will enforce these requirements and the Motor Vehicle Code as they pertain to the applicant.

(4) If the police notify the permittee or his superintendent of any hazardous construction practice, violation of the regulations or violations of the Motor Vehicle Code, or if traffic volumes becomes excessive, all operations shall be summarily discontinued and immediate remedial action shall be taken to the satisfaction of the police before work is resumed.

(5) The safety measures outlined herein shall be considered as elementary only and not necessarily sufficient in every instance to guarantee the protection of the traveling public. The final responsibility for the installation of adequate safety precautions and for the protection of the traveling public and the workers employed shall rest with the applicant.

(6) Compliance with all prescribed safety precautions contained herein shall not relieve the applicant of his primary responsibility to take all necessary measures to protect and safeguard the work, nor relieve him of any responsibilities.

(7) No contractor, subcontractor or employee of any company shall begin work in or immediately adjacent

to any roadway, sidewalk or any walkway until the provisions of these specifications have been complied with and the Chief of Police or Traffic Safety Officer of the Police Department has inspected and approved all traffic inspection devices proposed by the contractor for use. Furthermore, the applicant shall, where it may be necessary for emergency repairs or service at the site of the work under construction, register at police headquarters the names and telephone numbers of responsible representatives of the applicant who may be contacted to correct or lessen any hazardous conditions which may arise at times other than the normal working hours.

(8) Whenever the applicant will be performing an operation which requires the closing of a lane of traffic even for brief periods of time, the applicant shall close the lane and so mark it with necessary protective devices in accordance with the requirements hereinafter set forth. Flagmen shall be placed in advance of all lane closings. Additional flagmen shall be placed in the work area whenever trucks or other vehicles enter or leave the traffic stream. These flagmen shall be uniformed wherever the vehicle speeds or volumes are high and present the need for such personnel. All flagmen shall be provided and paid for by the contractor. Personnel vehicles shall not be permitted to park in the work area or immediately adjacent thereto.

(a) The work shall include the installation, transportation, continuous maintenance, repair and replacement of all protective and warning devices required by these provisions, including immediate repair or replacement of any such devices as may be damaged by weather, vehicular traffic or other causes.

D. Protection of private property. Prior to starting work on the opening, it shall be the responsibility of the permittee to advise each nearby or adjacent property owner whose property will be temporarily inconvenienced or disturbed

or whose access or use of his property or the road facilities, utilities or other features will be affected by the opening work, either directly or indirectly, when the work will be done and as far as possible the effect it will have on the owner's free use of his property. The permittee will be solely responsible for any damage, inconvenience or disruption to nearby or adjacent properties and will save the borough harmless for any neglect, real or alleged, that may arise from the conduct of his work. It will be the permittee's obligation and responsibility to arrange for any trespass permission needed. The permittee shall not store tools, machinery, materials, dirt or debris on private property nor use water, electricity, telephone or other private facilities without first obtaining permission from the property owner.

§ 150-10. Maintenance of opening by permittee.

The permittee shall assume the responsibility of refilling the excavation as it may sink, consolidate or break out from time to time. Whether the repair is temporary or permanent and approved by the borough, the permittee shall be responsible for maintaining the opening for a period of twenty-four (24) months and for refilling, compacting, repaving, repairing damage or restoring turf or shrubbery, all as directed by the Borough Engineer when necessary, and in the case of undue trench settlement, it may be required to reopen the trench excavation to ascertain the cause of the undue settlement, all as required by the Borough Engineer.

§ 150-11. Acceptance of work and release by borough; applicability of provisions; filing of as-built plans.

A. Final release. All openings made and restored under the terms of this Article and any permits issued shall be subject to final release and acceptance in writing by the Borough Engineer. No deposit money shall be returned or bond released until after said written release has been effected. The final release shall not issue until the expiration

of the twenty-four-month period specified in § 150-10 above, unless the Borough Council, for good cause shown, decides otherwise.

B. Exemptions.

(1) The provisions of this Article shall not apply to work being done on openings in the borough by working forces of the borough.

(2) Major subdivisions. The provisions of this Article shall apply to openings involved within newly developed major subdivisions in the borough whenever it is intended that the borough will accept the roads, easements or utility facilities within the borough street system or for borough maintenance and responsibility, except that whenever the subdivision construction work, including such proposed openings, is covered under a surety or performance bond arrangement or a cash deposit as a condition imposed for subdivision approval, then no additional deposit arrangement or permit procedures will be required under this Article.

C. Filing of plans. At the conclusion of the work, the permittee shall file with the Borough Clerk three (3) sets of as-built plans or drawings showing dimensionally all subsurface facilities as finally located and installed and also showing changes, if any, made to surface features. Revisions made to old plans by the permittee, previously filed, will be annotated and dated for any new opening revisions.

§ 150-12. Violations and penalties. [Amended 7-15-1991 by Ord. No. 703]

Any person who shall violate any of the provisions of this Article shall, upon conviction, be subject to a fine, for each separate offense, 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 II
Construction and Repair of Curbs, Sidewalks and Driveways
[Adopted 5-18-1981 as Ord. No. 517]

§ 150-13. Permit required. [Amended 10-19-1981 by Ord. No. 520; 12-15-1986 by Ord. No. 629]

No concrete curbs, sidewalks or driveways shall be laid or repaired within the Borough of Demarest except upon the issuance of a permit by the Borough Clerk.

§ 150-14. Permit fee. [Amended 10-19-1981 by Ord. No. 520]

A permit fee of five dollars ($5.) shall be charged for a permit to lay curbs, sidewalks or driveways in the borough.

§ 150-15. Application for permit; contents.

Any person desiring to lay or repair a concrete curb, sidewalk or driveway within the borough shall first apply for a permit therefor from the Borough Clerk, which permit shall specify the lot and block where the work is to be done, the owner of the lot and block and by whom the work shall be done.

§ 150-16. Inspection fee. [Amended 10-19-1981 by Ord. No. 520]

An inspection fee of twenty dollars ($20.) shall be charged in addition to a permit fee.

§ 150-17. Maintenance of sidewalks.

The owner or occupant of premises abutting any concrete sidewalk shall maintain such sidewalk at all times in a good and passable condition at a grade which will prevent water accumulating thereon and shall maintain the sidewalk so that the joints thereof are even. The surface of all concrete sidewalks shall be kept properly roughened so as not to become smooth or slippery.

§ 150-18. Repair and/or replacement of sidewalk by property owner. [Amended 10-15-1990 by Ord. No. 692; 1-5-1992 by Ord. No. 711]

A. All sidewalks and driveway aprons shall be constructed of concrete, built in one (1) course and placed on a bed of coarse sand or gravel not less than four (4) inches deep after compaction.

B. In the event that any sidewalk, curb or drive apron construction or maintenance will involve the removal of any tree or part thereof, including roots, situate between the edge of the sidewalk and the curb or within the shade tree easement as defined in § 163-1, the owner shall comply with the provisions set forth in § 163-3C.

§ 150-19. Construction standards for sidewalks and driveway aprons.

A. All sidewalks and driveway aprons shall be constructed of concrete, built in one (1) course and placed on a bed of coarse sand or gravel not less than four (4) inches deep after compaction.

B. Construction of sidewalks and driveway aprons in residential zones shall meet the following specifications:

(1) The sidewalk shall be four (4) inches in depth of slabs four by five (4 x 5) feet with a one-fourth-inch pitch per foot of width, separated from adjoining slabs by a bituminous strip one-fourth by four (1/4 x 4) inches extending to one-fourth (1/4) inch below the finished surface of the sidewalk.

(2) The driveway apron shall be six (6) inches in depth, divided in half and separated from the sidewalk and curb by a bituminous strip.

(3) The compressive strength shall be three thousand five hundred (3,500) pounds per square inch after twenty-eight (28) days when tested under standard conditions.

§ 150-20. Construction standards for curbs. [Amended 10-17-1983 by Ord. No. 572]

Concrete curbs shall be six (6) inches wide on top, nine (9) inches at the bottom and twenty (20) inches in depth. The vertical face shall be at the back of the curb, shall be divided into sections not longer than ten (10) feet and shall be built of a concrete which will show a compressive strength of four thousand (4,000) pounds per square inch after twenty-eight (28) days when tested under standard conditions.

§ 150-21. Location and arrangement of driveways.

Driveways should be so located as to avoid interference with normal vehicular and pedestrian traffic so that areas of traffic congestion will not be created. In accordance with this principle, driveways should be constructed where street alignment and profile are favorable, i.e., where there are no sharp curves or steep grades and where a sight distance in conjunction with driveway access would be adequate for safe traffic operation. Driveway locations should be avoided within intersections, rotaries and interchanges. Also to be avoided are locations that would interfere with the placement and proper functioning of street signs, signals, lighting or other devices that affect traffic operation.

§ 150-22. Authority of Borough Engineer to impose special conditions for driveways.

The Borough Engineer may impose special conditions in conjunction with the standard requirements where an access driveway requires an unusual design and is to the best interest of the welfare and safety of the traveling public.

§ 150-23. Construction standards for driveways crossing sidewalks.

That portion of the driveway crossing the sidewalk strip shall be portland cement concrete. No person shall lower the curb or change the grade of the sidewalk for the purpose of providing a carriageway or driveway across such sidewalk without the approval therefor from the Borough Engineer.

§ 150-24. Installation of driveway aprons; curb cuts.

All driveway aprons shall be installed to sidewalk specifications and grades. Where it is necessary to depress existing curbs, the full section of the curb shall be entirely removed and a depressed curb cut constructed in accordance with the

standards set by the Borough Engineer. All work shall be done to the satisfaction and with the approval of the Borough Engineer.

§ 150-25. Inspection and approval of concrete forms.

Concrete shall not be placed in curb or sidewalk forms until the forms have been inspected and approved for line, grade and depth by either the Superintendent of Public Works or the Borough Engineer.

§ 150-26. Pouring and finishing concrete; prohibited time for pouring.

Concrete shall be finished in a workmanlike manner with a smooth wood float, shall be steel-troweled and broom-finished and shall be properly cured and protected against sun and frost. No concrete shall be placed from December 1 to March 1.

§ 150-27. Additional requirements for driveways; noncompliance.

A. No blacktop, macadam or asphalt pavement shall be laid over existing hard-surface sidewalks.

B. All such driveways shall be at the same grade or level as existing sidewalks and highways where they intersect such sidewalks and highways and shall be constructed in such manner as not to obstruct or block existing surface drainage or to encroach upon the road area.[1]

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[1] Editor's Note: Former Subsection C, dealing with inspections, was repealed 6-2-1986 by Ord. No. 621.

§ 150-27.1. Inspection of driveways, curbs and sidewalks. [Added 6-2-1986 by Ord. No. 621]

A. Upon completion of the construction of a private driveway, curb or sidewalk, it shall be inspected by either the Superintendent of Public Works or the Borough Engineer to ensure compliance with this Article. In the event of failure of the property owner to complete the construction of such private driveway, curb or sidewalk in strict compliance with the terms hereof, the Superintendent of Public Works or the Borough Engineer may, after filing due proof of service or publication of the notice as set forth in N.J.S.A. 40:65-14, cause such work to be done as shall either restore the property to its original condition or ensure compliance with the terms hereof.

B. When the Superintendent of Public Works or the Borough Engineer causes work to be done pursuant to Subsection A hereof, the Superintendent of Public Works or the Borough Engineer will certify to the Tax Assessment Collector the amount of the cost of such work, including therein the cost of advertising, financing, inspection, engineering expense and legal expense. The amount so determined shall be and become a lien upon the abutting land in front of which such work was done to the same extent that assessments for local improvements are liens in the Borough of Demarest.

§ 150-28. Applicability of provisions. [Added 10-19-1981 by Ord. No. 520]

The provisions of this Article shall not be applicable to any construction which is the subject matter of a subdivision or site plan approval where construction standards are covered by a developer's agreement.

§ 150-29. Violations and penalties. [Amended 4-18-1983 by Ord. No. 562; 7-15-1991 by Ord. No. 703]

Any person who violates any of the provisions of this Article 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.

ARTICLE III
Regulations for Construction of Street Improvements
[Adopted 6-16-1980 as Ord. No. 503]

§ 150-30. Preparation of unpaved roadway; protection of adjoining properties.

Notwithstanding nor limiting any ordinance of the Borough of Demarest, whenever any new building or development shall be undertaken which abuts a paper street or an unpaved road surface, the contractor or developer or owner, as the case may be, shall furnish and install three-fourths-inch foundry stone on said roadway surface, compacted to a depth of not less than four (4) inches. Compacting shall be achieved by a vibratory compactor or a five-ton roller. The stone shall be spread on center a width of twenty (20) feet and for a length beginning at the nearest accepted intersecting street to the far end of the property being developed. The roadway should be crowned and graded to grades supplied by the Borough Engineer. All adjoining properties are to be protected by the contractor from runoff and erosion and shall be subject to the approval of the Superintendent of the Department of Public Works.

§ 150-31. Posting cash bond; maintenance guaranty. [Amended 7-16-1990 by Ord. No. 688]

The contractor, owner or developer, as the case may be, shall post with the Borough Clerk in all instances a cash bond in the minimum amount of two thousand dollars ($2,000.) per building lot, which security deposit shall be used as a maintenance guaranty that the work as described in § 150-30 shall be maintained for a period of one (1) year from the date of completion. In the event that more than four hundred (400) linear feet of roadway is to be furnished and installed, the contractor, owner or developer shall post a cash bond in an amount equal to one hundred percent (100%) of the estimated cost to complete said work, which cost shall be determined by the Borough Engineer, but in no event shall said cash bond be less than two thousand dollars ($2,000.) per building lot.

§ 150-32. Bond returned upon completion and approval of work.

The cash bond shall be returned to the contractor, owner or developer, as the case may be, one (1) year after the date of completion and, upon the approval of the Borough Engineer that the aforesaid work has been performed satisfactorily and has been maintained adequately.

ARTICLE IV
Snow and Ice Removal
[Adopted 2-21-1962 as Ord. No. 280]

§ 150-33. Duty of owner or occupant to remove.

The owner or owners, occupant or occupants or tenant or tenants of premises abutting or bordering upon any street in the Borough of Demarest shall remove for a width of at least two (2) feet all newly fallen snow and ice from, on and along the abutting sidewalks of such streets or, in the event of ice which may be so frozen as to make removal impracticable,

shall cause the same to be thoroughly covered with sand, ashes, cinders or dirt within twenty-four (24) hours of daylight after the same shall fail or be formed thereon.

§ 150-34. Failure to remove after notice; removal by borough; cost as lien.

In case such snow or ice shall not be removed from such sidewalk as provided in § 150-33 hereof, the same shall be removed therefrom within three (3) days after notice to remove the same has been given, under the direction of the Superintendent of Public Works when the Chief of the Police Department deems it reasonably necessary for the safety of the general public, and the cost of such removal, as nearly as can be ascertained, shall be certified by the Superintendent of Public Works to the governing body. The governing body shall examine such certification and, if found to be correct, shall cause such cost to be charged against such real estate so abutting or bordering upon such sidewalks, and the amount so charged shall forthwith become a lien and a tax upon such real estate and be added to, recorded and collected in the same manner as the taxes next to be levied and assessed upon such premises and shall bear interest and be enforced and collected by the same officers and in the same manner as other taxes. The imposition and collection of a fine or fines imposed by the provisions of this Article shall not constitute any bar to the right of the Borough of Demarest to collect the cost, as certified, for the removal of snow or ice in the manner herein authorized.

§ 150-35. Definitions.

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

> SIDEWALK — The cement, asphalt, flagstone, slate or established walks between the traveled roadways and the adjacent property lines.

§ 150-36. Statutory authority.

This Article is adopted pursuant to the authority conferred by N.J.S.A. 40:65-12.

§ 150-37. 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 Article 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.

ARTICLE V
Sewer Connections
[Adopted 7-5-1983 as Ord. No. 568]

§ 150-38. Installation requirements. [Amended 5-15-1989 by Ord. No. 668]

No person, partnership, corporation, association or public utility shall make any connection or reconnection to the main sanitary sewer line of the Borough of Demarest without first:

A. Having obtained a permit as required by Article I of Chapter 150 of the Code of the Borough of Demarest.

B. Paying three hundred dollars ($300.) for a sewer connection saddle provided by the Borough of Demarest.

C. Receiving the approval therefor from the Superintendent of Public Works or Borough Engineer.

§ 150-39. Emergencies.

In the event of an emergency, the provisions of Borough of Demarest Code § 150-3 shall apply. The application for a permit and the payment of the connection fee shall be made thereafter as soon as possible.

§ 150-40. Responsibility for making connections.

All connection, reconnection or disconnection with the sanitary sewer system shall be done exclusively under the direction and control of the Superintendent of Public Works. Unless otherwise ordered by the Superintendent of Public Works or Borough Engineer, all connection, disconnection or reconnection with the sanitary sewer system shall be done by borough employees, agents or independent contractors. All excavation work, paving, backfilling and related construction shall, unless otherwise required by the Superintendent of Public Works or Borough Engineer, be done by the person, partnership, association, corporation or public utility requesting the connection, reconnection or disconnection with the sanitary sewer system.

§ 150-41. Violations and penalties. [Amended 7-15-1991 by Ord. No. 703]

Any person who shall violate any of the provisions of this Article shall, upon conviction thereof by a court of competent jurisdiction, be subject to a fine, for each separate offense, 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 VI
Obstructions and Nuisances
[Added 12-17-1984 by Ord. No. 588]

§ 150-42. Obstructions.

No person shall encumber or obstruct any street, road, culvert or public place within the borough with any article or thing whatsoever, without having first obtained permission therefor from the Borough Council. In the event that permission is granted, such activity shall be carried on under the supervision and according to the directions of the Superintendent of Public Works and the Borough Engineer.

§ 150-43. Litter.

A. No person shall throw, put or place or cause or permit to be thrown, put or placed into, upon or within any public street, road or place in the borough any substance, matter or thing whatsoever, whereby the safe, free or unobstructed use of the same by the public may be in any wise impeded or interfered with or whereby the same may be rendered unsightly in appearance, and no person shall put, deposit or leave any rubbish, ashes, refuse or other material in or upon any of the sidewalks or gutters or public streets, roads or places within the borough.

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

as to prevent spillage of solid waste. **[Added 7-15-1991 by Ord. No. 704]**

C. Commercial establishments and residences. It shall be the duty of the owner, lessee, tenant, occupant or person in charge of any structure to keep and cause to be kept the sidewalk and curb abutting the building or structure free from obstructions of every kind and to keep sidewalks, areaways, front yards, backyards, side yards, courts and alleys free from litter and other solid waste. **[Added 7-15-1991 by Ord. No. 704]**

§ 150-43.1. Litter receptacles. [Added 2-21-1989 by Ord. No. 663]

A. The Borough of Demarest shall place and maintain litter receptacles at the following locations:

(1) Sidewalks used by pedestrians in active commercially zoned areas to be placed so that at a minimum there shall be no single linear quarter-mile without a receptacle.

(2) Buildings held out for use by the public, including schools, municipal buildings and railroad and bus stations.

(3) Parks.

(4) Construction sites.

(5) Gasoline service station islands.

(6) Shopping centers.

(7) Parking lots.

(8) At the location of special events to which the public is invited, including sporting events, parades, carnivals, circuses and festivals, when sponsored by the Borough of Demarest.

B. Litter receptacles shall be provided at special events to which the public is invited, including sporting events, parades, carnivals, circuses and festivals sponsored by any person, group, corporation or entity other than the Borough of Demarest. Said person, group, corporation or entity shall be responsible for providing and servicing the litter receptacles so as to provide adequate containerization of any and all solid waste, rubbish, ashes, refuse or other material. This responsibility shall be in addition to any other obligation or responsibility imposed by law or regulation of the Borough of Demarest.

§ 150-44. Responsibility for care of sidewalks.

All owners or occupants of stores or other places of business in the borough and all owners of land abutting on the streets or parts of streets where there is a flag, concrete or asphalt sidewalk shall keep the sidewalks in front of their premises at all times in a safe, passable and orderly condition, free from snow, ice and other impediments; provided, however, that the removal of snow within twenty-four (24) hours after it has ceased falling, or ice within twenty-four (24) hours after is has ceased forming, shall be deemed in compliance with this Article.

§ 150-45. Athletic activities restricted.

No person shall engage in the playing of baseball, any game or athletic activity in any of the public streets, roads or public places of the borough, without first obtaining permission therefor from the Borough Council.

§ 150-46. Violations and penalties. [Amended 5-16-1988 by Ord. No. 651; 7-15-1991 by Ord. No. 703]

Any person who shall violate any of the provisions of this Article shall, upon conviction thereof by a court of competent jurisdiction, be subject to a fine, for each separate offense, not to exceed one thousand dollars ($1,000.) or to imprisonment in the county jail for not more than ninety (90) days or by 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 153

SUBDIVISION AND SITE PLAN REVIEW

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§ 153-21. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 12-6-82 as Ord. No. 546.[1] Amendments noted where applicable.]

GENERAL REFERENCES

Environmental Commission — See Ch. 16.
Land use procedures — See Ch. 27.
Uniform construction codes — See Ch. 84.
Flood hazard control — See Ch. 100.
Official Map — See Ch. 118.
Sewers — See Ch. 141.
Soil removal — See Ch. 147.
Streets and sidewalks — See Ch. 150.
Zoning — See Ch. 175.

ARTICLE I
Site Plan Review

§ 153-1. Purposes.

This Article is adopted pursuant to the Municipal Land Use Law, as amended and supplemented,[2] in order to establish rules, regulations, standards and procedures for approval of all development other than single- or two-family dwellings or uses accessory thereto in order to:

A. Preserve existing natural resources and give proper consideration to the physical constraints of the land.

[1] Editor's Note: This ordinance also superseded former Ch. 153, Subdivision of Land, adopted 12-20-76 as Ord. No. 430.
[2] Editor's Note: See N.J.S.A. 40:55D-1 et seq.

B. Provide for safe and efficient vehicular and pedestrian circulation.

C. Provide for screening, landscaping, signing and lighting.

D. Ensure efficient, safe and aesthetic land development.

E. Provide for compliance with appropriate design standards to ensure adequate light and air, proper building arrangements and minimum adverse effects on surrounding property.

F. Develop proper safeguards to minimize the impact on the environment, including but not limited to soil erosion and sedimentation and air and water pollution.

G. Ensure the provision of adequate water supply, drainage and stormwater management, sanitary facilities and other utilities and services.

H. Provide for recreation, open space and public use areas.

I. Promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste. **[Added 4-16-1990 by Ord. No. 682]**

§ 153-2. Approving authority.

A. Planning Board. The provisions of this Article I shall be administered by the Planning Board of the Borough of Demarest, except as noted below.

B. Board of Adjustment. The provisions of this Article I shall be administered by the Board of Adjustment in applications before the Board of Adjustment involving variances pursuant to N.J.S.A. 40:55D-70d.

§ 153-3. General provisions.

A. Application requirements.

(1) Site plan review and approval by the Planning Board or, when applicable, by the Board of Adjustment shall

be required before any change of use or before any excavation, removal of soil, clearing of a site or placing of any fill on lands contemplated for development, and, except as hereinafter provided, no building permit shall be issued for any building or use or reduction or enlargement in size or other alteration of any building or change in use of any building, including accessory structures, unless a site plan is first submitted and approved by the Planning Board, and no certificate of occupancy shall be given unless all construction and development conforms to the plans as approved by the Planning Board.

(2) Site plan approvasl shall not be required for any detached one- or two-dwelling unit buildings or any uses accessory thereto, such as a private garage or storage shed incidental to residential uses; but this shall not limit the requirements for submission and approval of subdivision plats for developments of more than two (2) lots.

B. Exceptions from site plan requirements. In any case where site plan review is required under the provisions of this chapter, an applicant may apply for an exception from site plan requirements. The Planning Board or, where applicable, the Board of Adjustment may grant exceptions from the requirements of this Article I if the proposed development:

(1) Secures previous site plan approval under the terms of this Article I;

(2) Involves normal maintenance or replacement such as a new roof, painting, new siding or similar activity; or

(3) Does not affect existing circulation, drainage, building arrangements, landscaping, buffering, lighting and other considerations of site plan review.

C. Period of approval extended. In the event that, during the period of approval heretofore or hereafter granted to an application for site plan approval, the applicant is barred or

prevented, directly or indirectly, from proceeding with the development otherwise permitted under such approval by a legal action instituted by any state agency, political subdivision or other party to protect the public health and welfare or by a directive or order issued by any state agency,

(Cont'd on page 15305)

political subdivision or court of competent jurisdiction to protect the public health or welfare and the applicant is otherwise ready, willing and able to proceed with said development, the running of the period of approval under this Article I shall be suspended for the period of time said legal action is pending or such directive or order is in effect.

D. Conditional approvals.

(1) In the event that an applicant submits an application for site plan approval proposing a development that is barred or prevented, directly or indirectly, by a legal action instituted by any state agency, political subdivision or other party to protect the public health and welfare or a directive or order issued by any state agency, political subdivision or court of competent jurisdiction to protect the public health and welfare, the Planning Board shall process such application in accordance with this Article I, and, if such application complies with all borough regulations, the Planning Board shall approve such application conditioned on removal of such legal barrier to development.

(2) In the event that development proposed by an application for site plan approval requires an approval by a governmental agency other than the Planning Board, the Planning Board shall, in appropriate instances, condition its approval upon the subsequent approval of such governmental agency. The Planning Board shall make a decision on any application for site plan approval within the time period provided in this Article I or within an extension of such period as has been agreed to by the applicant unless the Planning Board is prevented or relieved from so acting by the operation of law.

E. Reservation of public areas. If the Master Plan or the Official Map provides for the reservation of designated streets, public drainageways, flood control basins or public areas within the proposed development, before approving a site plan, the Planning Board may further require that such

streets, ways, basins or areas be shown on the plan in locations and sizes suitable to their intended uses. The Planning Board may reserve the location and extent of such streets, ways, basins or areas shown on the plan for a period of one (1) year after the approval of the final plan or within such further time as may be agreed to by the applicant. Unless during such period or extension thereof the borough shall have entered into a contract to purchase or institute condemnation proceedings according to law for the fee or a lesser interest in the land comprising such streets, ways, basins or areas, the applicant shall not be bound by such reservations shown on the plan and may proceed to use such land for private use in accordance with applicable development regulations. The provisions of this section shall not apply to the streets and roads, flood control basins or public drainageways necessitated by the land development and required for final approval. The applicant shall be entitled to just compensation for actual loss found to be caused by such temporary reservation and deprivation of use. In such instances, unless a lesser amount has previously been mutually agreed upon, just compensation shall be deemed to be the fair market value of an option to purchase the land reserved for the period of reservation, provided that determination of such fair market value shall include but not be limited to consideration of the real property taxes apportioned to the land reserved and prorated for the period of reservation. The applicant shall be compensated for the reasonable increased cost of legal, engineering or other professional services incurred in connection with obtaining site plan approval caused by the reservation.

F. Simultaneous review. The Planning Board shall have the power to review and approve or deny conditional uses or site plans simultaneously with review for subdivision approval without the applicant's being required to make further application to the Planning Board or the Planning Board's being required to hold further hearings. The longest time period for action by the Planning Board, whether it is for subdivision, conditional use or site plan approval,

shall apply whenever approval of a conditional use is requested by the applicant pursuant to this subsection; notice of the hearing on the plat shall include reference to the request for such conditional use.

§ 153-4. Performance standards.

No site plan shall be approved by the Planning Board unless the use conforms to the specific provisions of this chapter and meets the performance standards set forth herein and such county, state or federal standards as may be more stringent than those set forth herein. Failure to comply with the performance standards at any time after the issuance of a certificate of occupancy shall be cause for revocation of such certificate. In reviewing any site plan, the Planning Board shall consider:

A. Circulation.

(1) Pedestrian and vehicular traffic movement within and adjacent to the site, with particular emphasis on the provision and layout of parking areas, off-street loading and unloading, movement of people, goods and vehicles from access roads, within the site, between buildings and between buildings and vehicles.

(2) The Planning Board shall ensure that all parking spaces are usable and are safely and conveniently arranged. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress to and egress from the site.

B. Site design and building layout. The site design and layout of buildings and parking areas shall be reviewed so as to provide an aesthetically pleasing design and efficient arrangement. Particular attention shall be given to safety and fire protection, impact on surrounding

development and contiguous and adjacent buildings and lands. Building designs shall resemble the residential design commonly prevalent throughout the borough with regard to exterior finishes, roof slopes, entranceways and pedestrian approaches.

C. Lighting. Adequate fighting shall be provided to ensure safe movement of persons and vehicles and for security purposes. Lighting standards shall be a type approved by the Planning Board. Directional lights shall be arranged so as to minimize glare and reflection on adjacent properties.

D. Buffering. Buffering shall be located around the perimeter of the site to minimize headlights of vehicles, noise, light from structures, the movement of people and vehicles, and to shield activities from adjacent properties when necessary. Buffering may consist of fencing, evergreens, shrubs, bushes, deciduous trees or combinations thereof to achieve the stated objectives.

E. Landscaping. Landscaping shall be provided as part of the overall site plan design and integrated into building arrangements, topography, parking and buffering requirements. Landscaping shall include trees, bushes, shrubs, ground cover, perennials, annuals, plants, sculpture, art and the use of building and paving materials in an imaginative manner.

F. Signs. Signs shall be designed so as to be aesthetically pleasing, harmonious with other signs on the site and located so as to achieve their purpose without constituting hazards to vehicles and pedestrians. All signs shall conform to applicable standards contained in the Borough of Demarest Zoning Ordinance.

G. Utilities. Storm drainage, sanitary waste disposal, water supply and solid waste collection and disposal shall be reviewed and considered. Particular emphasis shall be given to the adequacy of existing systems and the need for improvements, both on-site and off-site, to

adequately carry runoff and sewage and to maintain an adequate supply of water at sufficient pressure.

H. Environmental considerations. The proposed development shall seek to minimize negative impacts to the natural and manmade environment, including wetlands, areas prone to flooding, stream corridors, steep slopes, surface and groundwater systems, significant stands of vegetation, wildlife, historical structures and sites, existing structures, neighborhood character and the fiscal stability of the community. **[Amended 4-16-1990 by Ord. No. 682; 4-15-1996 by Ord. No. 774]**

I. Street furniture. The site plan shall provide for those elements of street furniture appropriate to the particular use. These may include phone booths, benches, bike racks, trash receptacles, bus shelters, etc.

J. Compliance with other laws. There will be compliance with all other laws, ordinances and municipal regulations, including the purposes of the Municipal Land Use Law.[1] **[Added 4-15-1996 by Ord. No. 774]**

§ 153-5. Design details.

A. Purpose of design details. The purpose of the design details set forth in this section is to implement general standards established in § 153-4. The Planning Board may, for good and sufficient reason, vary these design standards and details as they may apply to a specific site plan application. Unless otherwise specified, standards for street design shall be those specified in the subdivision regulations.[2]

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

2 Editor's Note: See Art. II, Subdivision Review, of this chapter.

B. Any site plan presented to the Planning Board shall be drawn at a scale not smaller than one (1) inch equals fifty (50) feet and not larger than one (1) inch equals twenty (20) feet, except that plans for land developments that will occupy sites of more than forty (40) acres may be drawn at a scale of one (1) inch equals one hundred (100) feet. The size of all maps and plans of any proposed land development shall be consistent with the sizes permitted under Chapter 141 of the Laws of 1960 known as the "New Jersey Map Filing Act."[3]

C. All site plans shall include and show the following information:

(1) The site plans shall be prepared by a professional engineer licensed in the State of New Jersey and shall be duly signed and sealed. Said site plan shall be certified as to accuracy of everything represented thereon.

(2) Places for signatures of the Chairman and Secretary of the Planning Board and Mayor and Borough Clerk, and County Planning Board, where applicable.

(3) A place for the signature of the Borough Engineer.

(4) The name and address of the applicant and the owner and the name and address and title of the person preparing the plan, maps and accompanying data.

(5) The name of the development, the Municipal Tax Map sheet numbers, and the block and lot numbers or lots included in the site plan.

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

(6) Date, scale and North arrow.

(7) The zone district in which the site in question is located and the zone district or districts of all immediately adjoining properties.

(8) Topographical details, as follows:

(a) Topography of existing grades and proposed grades with contour intervals not exceeding five (5) feet in elevations except at two-foot intervals where the grade is less than ten percent (10%). All contour lines shall be referenced to the New Jersey Geodetic Control Survey Datum.

(b) Topography of existing and proposed grades within two hundred (200) feet of the site when there will be a modification of existing grades and contours or a material change in the existing drainage.

(9) All existing and proposed setback dimensions, landscaped areas, trees and fencing; and the size and type of existing and proposed plantings upon the site.

(10) All existing and proposed signs and lighting standards, utility poles and their size, type construction and location on the site.

(11) The existing and proposed principal building and all accessory structures, if any, with dimensions showing present and finished grade elevations at all corners and entrances of said structures, and the floor plans thereof, including the number of square feet to be occupied by the existing and proposed buildings.

(Cont'd on page 15311)

(12) Complete building elevation drawings of any proposed structure or structures and any proposed appurtenances to be placed on any structure on the ground.

(13) The location, type and size of existing and proposed catch basins, storm drainage facilities, including all required design data supporting the adequacy of the existing or proposed facility to handle future storm flows, and all utilities, both above- and below-ground. The location of easements to accommodate all of the foregoing shall be clearly indicated on the plan.

(14) The location, type and size of all existing and proposed curbs, sidewalks, driveways, fences, retaining walls, parking space areas, and the layouts thereof, and all off-street loading areas, together with all the dimensions of all the following:

(a) Adjacent roadways, curbs, curb cuts, and driveway entrances or exits within one hundred (100) feet of both sides of the lot and across the street.

(b) Sidewalk areas with dimensions and construction cross sections, including location of existing or proposed street trees.

(c) Type of paving and construction cross sections for parking, aisles and driveways, curbing, walkways, exterior stairways and railings.

(15) The number and type of proposed uses to occupy the building.

(16) The number of units and the number of tenants, employees or occupants of each unit.

(17) Water use and connections and details of any specific fire protection connection systems.

(18) Plans and computations showing existing and proposed sewerage facilities serving the site, including the following:

(a) The location, size and slope of all sanitary sewer lines, pumping stations and connections to existing facilities.

(b) The location of any proposed sanitary sewage treatment plants, together with evidence of submission of plans to the appropriate governmental agencies and the Borough Engineer.

(c) The volume and content of sewage and waste to be produced.

(19) The location, size and nature of all existing and proposed rights-of-way, easements, deed restrictions and other encumbrances which may affect the site in question and the location, size and description of any lands contemplated to be dedicated to the Borough of Demarest or to the County of Bergen.

(20) The location, size, to the nearest 10th of an acre, and nature of the entire plot or tract in question and any contiguous plot or tract owned by the applicant or in which the applicant has a direct or indirect interest, even though only a portion of the entire properties involved in the site plan for which approval is sought; provided, however, that if it is physically impossible to show the entire plot or tract or contiguous plot or tract on one (1) map, a key map thereof shall be submitted.

(21) The location, names and widths of all existing and proposed streets, including cross sections and profiles, abutting the site in question and within one hundred (100) feet of said site. The typical cross section of streets shall clearly indicate the type and width of pavement and the location of curbs, sidewalks and shade tree planting areas.

(22) The property lines of all abutting properties and properties within a distance of three hundred (300) feet, together with the names and addresses of the owners as disclosed on the latest tax maps of the Borough of Demarest as of the date of the site plan applications.

(23) **[Amended 4-16-1990 by Ord. No. 682]** A recycling plan as follows:

(a) When any development proposal is for the construction of fifty (50) or more units of single-family residential housing or twenty-five (25) or more units of multifamily residential housing, the developer shall be required to submit a recycling plan as part of the developer's application to the Planning Board. The plan shall include, at the minimum:

[1] The types of recyclable materials to be included in the recycling plan, which shall include those recyclable materials designated in § 189-152A and any additional recyclable materials proposed by the developer.

[2] Each individual unit of a multifamily residential unit or single-family residential housing unit shall be designated to accommodate a one-cubic-yard storage area for the accumulation of one (1) week's worth of all recyclable material. The location and type of the storage area shall be determined by the developer and approved by the Demarest Recycling Coordinator prior to submission to the Planning Board.

[3] Multifamily dwelling units shall also have storage space or spaces designed to accommodate the recyclable materials generated by all of the units in the multifamily residential housing complex. The multiunit storage area will be determined by the developer and approved by the Demarest Recycling Coordinator prior to submission to the Planning Board. The amount of storage space required shall be determined by using Charts I and II below. Chart I provides weekly recovery levels for recyclables per unit. Chart II converts weekly recovery levels to cubic yards.

Chart I
Recyclable Materials: Weekly Recovery Levels

Material	Recovery Level (pounds per unit per week)
Newspaper	3.0
Glass containers	0.8
Steel cans	0.2
Aluminum cans	0.1
PET soda bottles	0.1
HDPE milk jugs	0.1

Chart II
Converting Weight to Volume

Material	Volume (pounds per cubic yard)
Newspaper	500
Glass	600
Steel cans	160
Aluminum cans	60
PET bottles	30
HDPE bottles	25

[4] The collection of recyclables from a single-unit storage area to a multiunit storage area shall be determined by the developer and approved by the Demarest Recycling Coordinator.

[5] The collecting of recyclable materials from the multiunit storage area shall be provided for by the Borough of Demarest.

(b) When a commercial, industrial or institutional development (i.e., nonresidential development) proposes the utilization of one thousand (1,000) square feet or more of land, the developer shall submit a recycling plan along with his application to the Planning Board. Materials to be collected

shall depend upon the type of services to be provided by the commercial, industrial or institutional establishment and the amount of storage space required for the accumulation of recyclable materials from said commercial, industrial or institutional establishment. Materials to be collected shall be as recommended and approved by the Recycling Coordinator and approved by the Planning Board, taking into consideration the function of the establishment, the material specification of the markets being utilized and the type of recyclable material generated therein.

(c) No site plan shall be approved by the Planning Board without the submission to the Planning Board of a recycling plan approved by the Demarest Recycling Coordinator.

(d) All recycling material storage areas must meet all local building and fire codes.[1]

(24) Any and whatever information and data necessary to meet any of the requirements of this chapter not listed above. **[Added 4-16-1990 by Ord. No. 682]**

(25) 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]**

(Cont'd on page 15313)

[1] Editor's Note: See Ch. 84, Construction Codes, Uniform and Ch. 98, Fire Prevention.

§ 153-6. Approval procedure.

A. General intent. All site plans shall be reviewed except as noted herein in two (2) stages: preliminary and final. It is the objective of this two-stage process to enable the Planning Board and applicant to arrive at a suitable design as early and as economically as possible. The most intensive review shall take place at the preliminary stage.

B. Site plan detail requirements for all stages.

(1) Map details. All maps or other documents submitted for site plan review shall contain the following:

(a) Title and location of the property.

(b) Name and address of landowner and applicant. If a corporation is the landowner or applicant, the principal offices and names of the president and secretary shall be included.

(c) Name, address and professional license number and seal of the professional preparing the documents and drawings. All plans shall be prepared, signed and sealed by a licensed professional engineer or architect.

(d) Places for signatures of the Chairman and Secretary of the Planning Board.

(e) Date of the plan and any modifications thereto.

(f) The following legends shall be on the site plan map:

1. SITE PLAN OF _____

LOT _____ BLOCK _____ ZONE _____

DATE _____ SCALE _____

APPLICANT _____

ADDRESS _____

2. I CONSENT TO THE FILING OF THIS SITE PLAN WITH THE PLANNING BOARD OF _____

(Owner) _____ (Date) _____

3. I HEREBY CERTIFY THAT I HAVE PREPARED THIS SITE PLAN AND THAT ALL DIMENSIONS AND INFORMATION ARE CORRECT.

   (Name) _____ (Title and License No.) _____

4. I HAVE REVIEWED THIS SITE PLAN AND CERTIFY THAT IT MEETS ALL CODES AND ORDINANCES UNDER MY JURISDICTION.

   (Date) _____ (Borough Engineer) _____

5. TO BE SIGNED BEFORE ISSUANCE OF A BUILDING PERMIT:

   I HEREBY CERTIFY THAT ALL THE REQUIRED IMPROVEMENTS HAVE BEEN INSTALLED OR A BOND POSTED IN COMPLIANCE WITH ALL APPLICABLE CODES AND ORDINANCES.

   (If improvements installed)
   (Borough Engineer) _____ (Date) _____

   (If bond posted)
   (Borough Clerk) _____ (Date) _____

   Building permit issued _____ (Date) _____

6. APPROVED BY THE PLANNING BOARD.

   (Preliminary) _____ (Final) _____

   (Chairman) _____ (Date) _____

(2) Other information. The Planning Board may require other information and data for specific site plans. These data may include but are not limited to geologic information, water yields, flood data, environmental information, traffic counts, road capacities, market information, and similar material.

(3) Compliance with other ordinances. Information and documents required for other borough codes and ordinances, such as environmental impact statements, soil erosion and sedimentation plans and stormwater

management plans, shall be submitted as part of site plan approval and may be used to comply with site plan submission requirements for particular stages as applicable.

(4) Submittal and classification procedure.

(a) The applicant shall submit sufficient copies of all required exhibits as set forth under the appropriate site plan review stage of this section, together with an application form and all applicable fees to the Secretary of the Planning Board. The time for the Board's review shall not begin to run until the submission of a complete application with the required fee. Unless the applicant is informed by regular mail by the Secretary of the Planning Board within forty-five (45) days of the actual submission of the application that it is incomplete, said application shall be deemed complete as of such 45th day after submission. The Secretary of the Planning Board shall forward, upon receipt, one (1) copy each of an application to the Zoning Officer and Borough Engineer for their determination as stipulated in § 153-6B(4)(b) and (c) as may be appropriate. Both the Zoning Officer and the Borough Engineer shall report back to the Planning Board Secretary within fourteen (14) days of receipt whether the application is complete or noting items omitted or ordinances violated for forwarding to the applicant. If the application is complete, the Planning Board Secretary shall distribute copies as stipulated within this chapter for the appropriate site plan review stage.

(b) Upon receipt of an application, the Zoning Officer and Borough Engineer shall review all documents for completeness and compliance with detailed requirements for submission as stipulated under the appropriate site plan review stage of this chapter as well as their compliance with applicable codes and ordinances.

(c) The Zoning Officer shall also determine whether the Planning Board or Zoning Board of Adjustment has approval jurisdiction on the application. The Zoning Officer may confer with the Borough Attorney in making its determination.

C. Preliminary plan.

(1) Objectives of review. The preliminary plan shall be reviewed to determine the acceptability of the detailed design concept and shall be in sufficient detail to enable the Planning Board to ascertain compliance with the performance standards and other standards of this chapter.

(2) Application. Three (3) or more copies of the preliminary plan, an application in a form approved by the Planning Board and the requisite fee shall be delivered to the Planning Board Secretary, through the office of the Borough Clerk.

(3) Preliminary plan details. The preliminary site plan shall contain the following unless it is determined in a preliminary discussion with the Planning Board that any of these items are not necessary:

(a) Locator map at a scale of one (1) inch equals two hundred (200) feet, or larger scale, showing the lot and block number of the parcel in question and the lot and block numbers of adjacent and opposite properties. This map should also show any contiguous lot in which the applicant has any direct or indirect interest, and the nature of the applicant's interest.

(b) Photographs of the property where necessary to show any unusual topographic, environmental or physical aspect of the site. This would include but not be limited to rock outcroppings, vegetation, natural drainageways, wetlands and existing structures and improvements.

(c) A preliminary plan at a scale of one (1) inch equals fifty (50) feet or larger scale, and any sup-

plemental plans that are necessary to properly depict the project. In the case of a complex project, a scale other than one (1) inch equals fifty (50) feet may be submitted, provided that one (1) copy of a photo mechanical reduction to a scale of one (1) inch equals fifty (50) feet is submitted. The preliminary plan shall show at least the following information:

[1] North arrow, scale, graphic scale, date and noted and dated revisions.

[2] The zoning district in which the parcel is located together with the district boundaries included within the boundaries of the parcel or within two hundred (200) feet therefrom. All setback lines, landscape strips, landscape buffers, building height and other bulk requirements shall be shown and dimensioned. Any deviation from requirements of this chapter shall be specifically shown.

[3] Survey map, prepared by a licensed surveyor of New Jersey, showing boundaries of the properties, lines of all existing streets and roads, easements, rights-of-way and areas dedicated to public use within two hundred (200) feet of the development. These shall be dimensioned and, where applicable, referenced as to direction.

[4] Reference to any existing or proposed deed restrictions or exceptions concerning all or any portion of the parcel. A copy of such covenants, deed restrictions or exceptions shall be submitted with the application.

[5] The existing and proposed contours, referred to United States Coast and Geodetic Survey Datum, at a contour interval of not less than two (2) feet. Existing contours are to be indicated by dashed lines, and proposed contours are to be indicated by solid lines. The location

of existing rock outcroppings, high points, watercourses and drainageways, depressions, ponds, marshes, vegetation, wooded areas and other significant existing features, including previous flood elevations of watercourses, bonds and areas as determined by survey, shall be shown. Trees of six (6) inches or over in caliper shall be specifically located and identified. Any proposed change of such natural features shall be specifically noted.

[6] The location, size, elevation, slope and type of storm drainage structures and other utility structures, above and below grade, whether publicly or privately owned. A design calculation supporting the adequacy of proposed drainage structures and/or surface drainage shall be submitted.

[7] The location of all existing buildings, bridges, culverts, paving, lighting, signs or any other structures with grade elevations for each structure.

[8] The distance measured along the right-of-way lines of existing streets abutting the property, to the nearest intersection with other streets.

[9] The proposed use or uses of the land, buildings and structures.

[10] The quantitative aspects of the proposal, such as improvement coverage, number of units, square feet of construction, value of construction, density, coverage, number of employees, number of residents and area of land, etc.

[11] The proposed buildings and structures and any existing structures to remain, with dimensions, setbacks, heights (in feet and stories), and first floor or grade elevations. Existing buildings and structures to be removed shall be indicated.

[12] The location and designs of any off-street parking areas, service, trash or loading areas, showing size and location of bays, aisles, barriers, planters, maneuvering areas and traffic patterns.

[13] The means of vehicular access for ingress to and egress from the site, showing the proposed traffic channels, lanes and any other structure or device intended to control traffic.

[14] The location, design and size of any on- or off-site pedestrian parks and bicycle pathways, open space, common open space, plazas and recreation areas or any other public use areas.

[15] The location and design of all proposed utility structures and lines, stormwater drainage on-site and off-tract, as well as telephone, power and light, water hydrant locations, sewer, gas, whether publicly or privately owned, with manholes, inlets, pipe sizes, grades, inverts and directions of flow.

[16] The location and design of the proposed screening, landscaping and planting, including a planting plan and schedule of plant materials.

[17] The location of all outdoor lighting (freestanding or on building), the size, nature of construction, lumens, heights, area and direction of illumination, footcandles produced, as well as time controls proposed for outdoor lighting and display.

[18] The location and design of all signs, the size, nature of construction, height and orientation, including all identification signs, traffic and directional signs and arrows, freestanding and facade signs and time control for sign lighting.

[19] The location and size of all proposed easements, rights-of-way, public areas to be dedi-

cated to the public or to be restricted or defined by deed or any other arrangement.

[20] Where applicable, the method by which any common or public open space or commonly held building or structure is to be owned and maintained.

[21] The location and design of all recycling material storage areas. **[Amended 4-16-1990 by Ord. No. 682]**

[22] Where warranted, such other material deemed necessary by the Planning Board to evaluate the physical, fiscal or socioeconomic impact of the proposed development upon the Borough of Demarest. **[Added 4-16-1990 by Ord. No. 682]**

[23] 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]**

(4) Preliminary plan review. If a preliminary site plan application is found to be incomplete, the applicant shall be notified in writing of the deficiencies therein by the Board or the Board's designee for the determination of completeness within forty-five (45) days of the submission of such application or it shall be deemed to be properly submitted. Within forty-five (45) days of the submission to the Planning Board Secretary of a complete site plan application for ten (10) acres of land or less, or within ninety-five (95) days of submission of a complete application for a site plan of more than ten (10) acres, or within such further time as may be

agreed upon by the applicant, the Planning Board shall act upon the application.

(a) Upon receipt of a complete application, the Planning Board Secretary shall submit one (1) copy to each member of the Planning Board and one (1) copy of the application to the following professionals and boards:

[1] The Borough Engineer.

[2] The Borough Planning Consultant (if one is retained).

[3] The Borough Board of Health.

[4] The Borough Recreation Committee.

(Cont'd on page 15321)

[5] The Borough Chief of Police.

[6] The Bergen County Planning Board and, where applicable, the State Department of Transportation.

[7] Such other boards or professionals as the Planning Board may deem necessary.

(b) Said professionals and boards shall have a period of thirty (30) days after receipt of the preliminary plan to make a report and recommendations concerning the preliminary plan. The Planning Board shall take such recommendations into account but shall have the right to proceed in the absence of any such recommendation.

(5) Public hearing. The Planning Board shall hold a public hearing on the application prior to taking action on said application. The hearing shall be held not less than ten (10) days following submission of a complete site plan application. Public notice of said hearing shall be given in the official newspaper of the Borough of Demarest at least ten (10) days prior to the hearing date.

(6) Preliminary plan action. The Planning Board shall by resolution approve, disapprove or conditionally approve the preliminary plan, stating reasons for any disapproval.

(7) Decision of Planning Board.

(a) A copy of the decision shall be mailed by the Planning Board within ten (10) days of the date of decision to the applicant and shall be filed in the office of the Planning Board. Copies of such filed decision shall be made available to any interested party for a reasonable fee and be available for public inspection at the Planning Board office through the office of the Borough Clerk during reasonable hours.

(b) A brief notice of the decision shall be published by the Planning Board in the official newspaper of the

Borough of Demarest. The period of time in which an appeal of the decision may be made shall run from the first publication of the decision.

(8) Bergen County Planning Board approval. Any application requiring Bergen County Planning Board approval shall be approved by the Borough Planning Board subject to approval by the Bergen County Planning Board.

(9) Effect of preliminary approval. Preliminary approval of a site plan shall confer upon the applicant the following rights for a three-year period from the date of the preliminary approval:

(a) That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to use requirements; layout and design standards for streets, curbs and sidewalks; lot size; yard dimension and on-site and off-tract improvements; and any requirements peculiar to the specific site plan. The borough may modify by ordinance such general terms and conditions of preliminary approval as they may relate to public health and safety, provided that such modifications are in accord with amendments adopted by ordinance subsequent to approval.

(b) That the applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary site plan.

(10) Extension of preliminary approval.

(a) The applicant may apply for and the Planning Board may grant extensions on such preliminary approval for additional periods of at least one (1) year but not to exceed a total extension of two (2) years, provided that if the design standards have been revised by ordinance, such revised standards shall govern.

(b) In the case of a site plan for an area of fifty (50) acres or more, the Planning Board may grant the rights referred to above for such period of time, longer than three (3) years, as shall be determined by the Planning Board to be reasonable, taking into consideration:

[1] The number of dwelling units and nonresidential floor area permissible under preliminary approval.

[2] Economic conditions.

[3] The comprehensiveness of the development.

(c) The applicant may apply for thereafter and the Planning Board may thereafter grant an extension to preliminary approval for such additional period of time as shall be determined by the Planning Board to be reasonable, taking into consideration:

[1] The number of dwelling units and nonresidential floor area permissible under preliminary approval.

[2] The potential number of dwelling units and nonresidential floor area of the section or sections awaiting final approval.

[3] Economic conditions.

[4] The comprehensiveness of the development, provided that if the design standards have been revised, the standards shall govern.

(11) Exceptions. The Planning Board when acting upon applications for preliminary site plan approval shall have the power to grant such exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of these provisions if the literal enforcement of one (1) or more provisions of this chapter is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

(12) Planning Board variances in lieu of Board of Adjustment. The Planning Board when reviewing applications for site plans shall have the power to grant, to the same extent and subject to the same restrictions as the Board of Adjustment, variances from lot and bulk area as well as off-street parking and loading requirements. Said variances shall be granted where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or by reason of other extraordinary and exceptional situation or condition of such piece of property, the strict application or any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the applicant of such property. The variance granted from such strict application of such regulation shall relieve such difficulties or hardship; provided, however, that no variance shall be granted under this subsection to allow a structure or use in a district restricted against such structure or use.

D. Final plan.

(1) Objectives of review. The final plan shall be reviewed to ascertain whether the construction documents to be utilized in construction of the project conform to the approved preliminary plan.

(2) Application. Three (3) or more copies of the final plan, an application in a form approved by the Planning Board and the requisite fee shall be delivered to the Planning Board Secretary, through the office of the Borough Clerk.

(3) Final plan details. The final plan shall include the following:

(a) The approved preliminary plan, together with all proposed additions, changes or departures therefrom.

(b) Final construction documents amongst other items, illustrating:

[1] The final plans for site development and site improvement.

[2] The first, ground or other floor plans sufficient to show pedestrian, vehicular or other access.

[3] The building facades, including size, structure, materials, colors and textures.

[4] Elevations of any other structure, sign or area visible to the general public.

(4) Final plan review.

(a) Within forty-five (45) days after submission of a complete final site plan application, or within such further time as may be agreed upon by the applicant, the Planning Board shall approve the application for site plan approval with or without conditions, provided that the following requirements are met:

[1] That the detailed drawings and specifications meet all applicable codes and ordinances;

[2] That the final plans are substantially the same as the approved preliminary site plans;

[3] That all improvements have been installed or bonds posted to ensure the installation of improvements;

[4] That the applicant agrees in writing to all conditions of final approval;

[5] That proof has been submitted that all taxes and assessments for local improvements on the property have been paid.

(b) Upon receipt of a complete application, the Borough Clerk shall submit one (1) copy to each member of the Planning Board and one (1) copy to each of those professionals and boards having received a copy of the preliminary plan.

(c) Said professionals and boards shall have a period of thirty (30) days after receipt of the final plan to make a report and recommendation concerning the final plan. The Planning Board shall take such recommendation into account but shall have the right to proceed in the absence of any such recommendation.

(5) Decision of Planning Board. The decision of the Planning Board shall be as set forth in § 153-6C(7) herein.

(6) County Planning Board approval. The County Planning Board approval shall be as set forth in § 153-6C(8) herein.

(7) Effect of final approval. Final approval shall terminate the time period of preliminary approval for the section granted final approval and shall guarantee the applicant that the zoning requirements applicable to the preliminary approval and all other rights conferred upon the applicant as part of the preliminary approval shall not be changed for a period of two (2) years after the date of final approval.

(8) Time limit for final approval and extensions. Final approval shall expire two (2) years from the date of final approval unless the applicant has secured a building permit to commence construction. The Planning Board may extend final approval and the protection offered under § 153-6D(7) for one (1) year. The applicant may apply for thereafter, and the Planning Board may thereafter grant, an extension of final approval for such additional period of time as shall be determined by the Planning Board to be reasonable, taking into consideration:

(a) The number of dwelling units and nonresidential floor area permissible under final approval.

(b) The number of dwelling units and nonresidential floor area remaining to be developed.

(c) Economic conditions.

(d) The comprehensiveness of the development.

(9) Conditions of final approval. The Planning Board may, as a condition of final approval:

(a) Grant final approval only for designated geographic sections of the development.

(b) Grant final approval for certain work but require resubmission for final approval for designated elements, such as but not limited to such items as landscaping, signs or street furniture, and require approval of these elements as a prerequisite for a certificate of occupancy.

(c) Condition the granting of a certificate of occupancy subject to the applicant or developer or subsequent heirs or assignees meeting certain requirements within a designated period of time, not to exceed one (1) year, from the date of issuance of the certificate of occupancy. This may include, but is not limited to, such items as the installation of landscaping, erection of signs, installation of improvements or reevaluation of circulation patterns.

§ 153-7. Improvements.

A. On-tract improvements required. As a condition of final site plan approval, the Planning Board may require and shall accept in accordance with the standards adopted herein for the purpose of assuring the installation and maintenance of on-tract improvements:

(1) The furnishing of a performance guaranty in favor of the borough in an amount not to exceed one hundred twenty percent (120%) of the cost of installation for improvements, including streets, grading, pavement, gutters, curbs, sidewalks, streetlighting, shade trees, surveyor's monuments, water mains, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage structures, erosion control and sed-

imentation control devices, public improvements of open space, landscaping and other on-site improvements.

(2) Provision for a maintenance guaranty to be posted with the governing body for a period not to exceed two (2) years after final acceptance of the improvement, in an amount not to exceed fifteen percent (15%) of the cost of the improvement. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guaranty to another governmental agency, no performance or maintenance guaranty, as the case may be, shall be required by the borough for such utilities or improvements.

(3) The amount of any performance guaranty may be reduced by the governing body, by resolution, when portions of the improvements have been certified by the Borough Engineer to have been completed. The time allowed for installation of the improvements for which the performance guaranty has been provided may be extended by the governing body by resolution.

(4) If the required improvements are not completed or corrected in accordance with the performance guaranty, the obligor and surety, if any, shall be liable thereon to the borough for the reasonable cost of the improvements not completed or corrected, and the borough may, either prior to or after the receipt of the proceeds thereof, complete such improvements.

(5) When all of the required improvements have been completed, the obligor shall notify the governing body in writing, by certified mail addressed in care of the Borough Clerk, of the completion of said improvements and shall send a copy thereof to the Borough Engineer. Thereupon, the Borough Engineer shall inspect all of the improvements and shall file a detailed report, in writing, with the governing body, indicating either approval, partial approval or rejection of the im-

provements with a statement of reasons for any rejection. If a partial approval is indicated, the cost of the improvements rejected shall be set forth.

(6) The governing body shall either approve, partially approve or reject the improvements on the basis of the report of the Borough Engineer and shall notify the obligor in writing, by certified mail, of the contents of said report and the action of said approving authority with relation thereto, not later than sixty-five (65) days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from all liability pursuant to the performance guaranty, except for that portion adequately sufficient to secure provision of the improvements not yet approved. Failure of the governing body to send or provide such notification to the obligor within sixty-five (65) days shall be deemed to constitute approval of the improvements, and the obligor and surety, if any, shall be released from all liability pursuant to such performance guaranty.

(7) If any portion of the required improvements is rejected, the approving authority may require the obligor to complete such improvements, and, upon completion, the same procedure of notification as set forth in this section shall be followed.

(8) Nothing herein, however, shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the governing body or the Borough Engineer.

(9) The obligor shall reimburse the borough for all reasonable inspection of improvements.

B. Off-tract improvements required. As a condition for approval of a site plan, the Planning Board may require an applicant to pay his pro rata share of the cost of providing reasonable and necessary street improvements and water, sewerage and drainage facilities, and easements therefor, located outside the property limits of the development but

necessitated or required by construction or improvements within such development. Such improvements shall be based on the circulation and comprehensive utility service plans of the borough's adopted Master Plan as required by N.J.S.A. 40:55D-42 and 40:55D-28. The proportionate or pro rata amount of the cost of such facilities that shall be borne by each applicant within a related and common area shall be computed by the Borough Engineer or such other persons as requested by the Planning Board. Where an applicant pays the amount determined as his pro rata share under protest, he shall institute legal action within one (1) year of such payment in order to preserve the right to a judicial determination as to the fairness and reasonableness of such amount.

§ 153-8. Definitions.

The definitions contained in the Borough of Demarest Zoning Ordinance[5] shall apply to this chapter. Additionally, the following words and phrases shall have the following meanings:

APPLICANT — An applicant submitting an application for development.

COMMON OPEN SPACE — A parcel of land or an area of water, or a combination thereof, or a preservation of natural features such as floodplains and natural slopes within a site designated as a development and designed and intended for the use or enjoyment of the residents and owner of the development. "Common open space" shall not include parking areas or accessways thereto, but may include such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

DAYS — Calendar days.

DEVELOPMENT — The division of a parcel of land into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of

[5] Editor's Note: See Ch. 175, Zoning.

any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land.

FINAL APPROVAL — Official action of the Planning Board taken on a preliminary approved major subdivision after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guaranties properly posted for their completion or approval conditioned upon the posting of such guaranty.

FINAL SITE PLAN — The final map of all or a portion of the site plan which is presented to the Planning Board for final approval in accordance with these regulations and which, if approved, shall be filed with the proper county recording officer.

MAINTENANCE GUARANTY — Any security, including cash, which may be accepted by the borough for the maintenance of any improvements required by this chapter.

MASTER PLAN — A composite of one (1) or more written graphic proposals for the development of the borough as set forth in and adopted pursuant to N.J.S.A. 40:55D-28 et seq.

OFFICIAL MAP — A map adopted by ordinance pursuant to N.J.S.A. 40:55D-32 et seq.

OFF-SITE — Located outside the lot lines of the lots or portions of a lot but within the property (of which the lot is a part) which is the subject of a development application or contiguous portion of a street or right-of-way.

ON-TRACT — Located on the property which is the subject of a development application or on a contiguous portion of a street or right-of-way.

PERFORMANCE GUARANTY — Any security which may be accepted in lieu of a requirement that certain improvements be made before the Planning Board or other approving body approves a plat, including performance bonds, escrow agreements and other similar collateral or surety agreements, provided that the borough shall not require more than ten percent (10%) of the total performance guaranty in cash.

PRELIMINARY APPROVAL — Conferral of certain rights pursuant to § 153-6 herein prior to final approval and after specific elements of a site plan have been agreed upon by the Planning Board and the applicant.

SITE PLAN — A development plan of one (1) or more lots on which is shown:

A. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, floodplains, marshes and waterways;

B. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress or egress, drainage facilities, utility services, landscaping, structures and signs, lighting and screening devices; and

C. Any other information that may be reasonably required in order to make an informed review and approval.

§ 153-9. Application and fees.

A. Every application for site plan review and approval shall be filed in triplicate at least fourteen (14) calendar days prior to a scheduled public meeting of the Planning Board. The application, with twelve (12) copies of all supporting documents and data, shall be filed with the Zoning Officer, who shall forthwith forward the same to the Secretary of the Planning Board. If the applicant is

other than the owner, a written consent of the owner shall be required in filing the application.

B. **[Amended 4-15-1996 by Ord. No. 774]** The following fees and deposits shall be required to be paid in connection with site plan review:

(1) Site plan.

(a) Preliminary site plan: one hundred dollars ($100.), plus ten dollars ($10.) per one thousand (1,000) square feet of gross floor area.

(b) Final site plan: five dollars ($5.) per one thousand (1,000) square feet of gross floor area or a minimum of one hundred dollars ($100.), whichever is greater.

(c) Simultaneous filing of preliminary and final site plan: fifteen dollars ($15.) per one thousand (1,000) square feet of gross floor area or a minimum of one hundred fifty dollars ($150.), whichever is greater.

(d) Existing building occupancy or change of use approval. For change of tenancy or change of use where no new construction or structural renovation to buildings is proposed or where no construction of improvements is intended: thirty-five dollars ($35.).

(e) Amended site plan application. For approval of an amended site plan application: seventy-five dollars ($75.).

(2) Initial escrow deposits for professional review of site plans:

(a) Site plan without variance: one thousand five hundred dollars ($1,500.).

(b) Site plan with variance: one thousand seven hundred fifty dollars ($1,750.), plus, for each

additional variance: one hundred dollars ($100.).

(3) Deposit for inspection of site plan. The applicant shall deposit, simultaneously with any application for final site plan approval, the amounts permitted by N.J.S.A. 40:55D-53h, as an escrow for reasonable inspection fees paid to the Borough Engineer for inspection of improvements.

(4) Rules governing escrow deposits. Escrow deposits shall be maintained, disbursed, replenished and closed in accordance with the Municipal Land Use Law, including, without limitation, N.J.S.A. 40:55D-53 and N.J.S.A. 40:55D-53.2.

(5) Appeals authorized by N.J.S.A. 40:50D-53.4 shall proceed in accordance with that statutory provision. Appeals shall lie with the Demarest Construction Board of Appeals pursuant to Chapter 84, Construction Codes, Uniform, of the Code of the Borough of Demarest.

(6) Fees and charges shall be based upon a schedule to be adopted by resolution of the Mayor and Council. Charges for the borough's professionals shall be at the same rate as all other work of the same nature of said professionals for the Borough of Demarest.

§ 153-10. Conformance required; notice of revocation.

A. Failure to comply with any of the conditions of site plan approval subsequent to the receipt of a building permit or certificate of occupancy shall be grounds for:

(1) The revocation of any building permit or the withholding or revocation (if issued) of any certificate of occupancy.

(2) Forfeiture of any performance bond or other payment guaranty required under this chapter to cover the costs of improvements specified in that portion of the site plan over which the borough has control.

(3) Appropriate court action by the borough to enforce the terms of the site plan approval.

B. A written notice of revocation sent by certified mail (return receipt requested) to the applicant, by the Zoning Officer, requiring compliance with the conditions of the site plan approval in not less than five (5) days shall effectively revoke any building permit or certificate of occupancy, as the case may be, if compliance shall not be had within the time limit set.

ARTICLE II
Subdivision Review

§ 153-11. Purpose.

The purpose of this Article II shall be to provide rules, regulations and standards to guide the subdivision of land in the Borough of Demarest, County of Bergen, State of New Jersey, in order to promote the public health, safety and welfare of the Borough of Demarest and the citizenry thereof. Said Article II shall be administered to ensure the orderly growth, development, conservation, protection and proper use of land within the Borough of Demarest and to further ensure adequate provisions in all development for circulation, utilities and services.

§ 153-12. Administrative agencies.

Whenever the term "administrative agency" is referred to within this Article II, it shall mean either the Planning Board or the Board of Adjustment of the Borough of Demarest as provided in N.J.S.A. 40:55D-37 et seq., which Boards are

hereby deemed to be the administrators of the terms and provisions of this Article II.

§ 153-13. Definitions.

A. The definitions contained in the Borough of Demarest Zoning Ordinance[4] shall apply to this chapter. Additionally, the following words shall have the following meanings:

APPLICANT — The legal or beneficial owner or owners of a lot or any land to be included in any proposed development, including the holding of an option or contract to purchase, or other person having an enforceable proprietary interest in said land; provided, however, that said person is acting with a power of attorney on behalf of the owner or with the consent of the owner.

AS-BUILT PLAT — See "plat."

BLOCK — A parcel or portion of lands separated from other parcels or portions of land by public streets or rights-of-way, or as otherwise designated on the current Tax Assessment Map of the Borough of Demarest.

CLEAR SIGHT — The ability to see from one point to another point without obstruction.

DEVELOPER'S AGREEMENT — The agreement entered into between the applicant and the Borough of Demarest whereby the applicant obligates himself to fulfill the requirements of the administrative agency concerning the subdivision of the applicant's lands, the extension of municipal facilities and municipal ordinances and regulations which are the conditions of the preliminary plat approval.

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4 **Editor's Note: See Ch. 175, Zoning.**

DRAINAGE RIGHT-OF-WAY — The lands required for installation of stormwater sewers or drainage ditches or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

EASEMENT — An interest running to the municipality created by grant or agreement or reservation shown on a plot approved by the administrative agency and duly filed with the Bergen County Clerk for the purpose of installing and maintaining public facilities, including but not limited to water mains, gas mains, stormwater sewers, lateral or trunk sanitary sewers, underground utilities, open drainage ditches and groundwater diversion facilities. An "easement" also includes conservation, open space, stream protection and environmental sensitive areas properly delineated. **[Amended 4-15-1996 by Ord. No. 774]**

FINAL PLAT — See "plat."

IMPROVEMENT — The construction of any municipal facility as hereinafter defined, which may be deemed necessary by the administrative agency or the development of the land sought to be subdivided.

LOT — A parcel or portion of land separated from other parcels or portions of land by description as on a subdivision or record-of-survey map or by metes and bounds for the purpose of sale, lease or separate use.

MINOR SUBDIVISION — A subdivision of land that does not involve:

(1) The creation of more than three (3) lots;

(2) Planned development;

(3) Any new street;

(4) Extension of any off-tract improvement;

(5) An extension of municipal facilities; or

(6) Provision for drainage facilities.

MUNICIPAL FACILITIES — Any one or more of the following improvements: street paving, including the widening or repaving of existing pavement; curb; sidewalk; storm drains or appurtenances; sanitary sewers or appurtenances, except house connections; water mains or appurtenances, except house connections; gas, electricity and telephone systems, except house connections; drainage rights-of-way; and street signs.

OWNER — Any individual, firm, association, syndicate or copartnership or corporation, or other legal entity, having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this Article II.

PERFORMANCE GUARANTY — Any security to be accepted to assure and guarantee to the borough that certain improvements be made before the administrative agency approves a plat, including performance bonds, escrow agreements and other similar collateral or surety agreements.

PLAT — A map or maps of a subdivision or site plan.

(1) AS-BUILT PLAT — The final map of all or a portion of a subdivision which shows the development site after completion with the actual location of improvements, finished grades and as-built plans and profiles of the improvements.

(2) FINAL PLAT — The final map of all or a portion of a subdivision which is presented to the administrative

(Cont'd on page 15339)

agency for final approval in accordance with this Article and which, if approved, shall be filed with the Bergen County Clerk's office.

(3) PRELIMINARY PLAT — The plat indicating the proposed layout of the subdivision and municipal facilities filed with the administrative agency for its consideration and tentative approval.

(4) SKETCH PLAT — The plat filed with the administrative agency for the purpose of classifying the subdivision application.

PRELIMINARY PLAT — See "plat."

SHADE TREE EASEMENT — Pursuant to § 153-17D, an area of five (5) feet in width and abutting the right-of-way line of a street on properties which have received subdivision or site plan approval. **[Added 1-5-1992 by Ord. No. 711]**

SKETCH PLAT — See "plat."

STREET — As defined in N.J.S.A. 40:55D-7. For the purpose of this Article, "street" shall be classified as follows:

(1) PRIMARY STREET — A street carrying a heavy volume of relatively fast-moving traffic between municipalities.

(2) COLLECTOR STREET — A street carrying traffic from minor streets to the major system of primary streets, including the principal entrance streets of a residential development and streets for circulation within such development.

(3) MINOR STREET — A street that is used primarily for access to abutting properties.

B. Any and all definitions as contained in N.J.S.A. 40:55D-3, 55D-4, 55D-5, 55D-6 and 55D-7 are incorporated herein by reference. If such statutory definitions conflict with any definitions of this chapter, such statutory definition shall govern.

§ 153-14. Procedures.

A. Application and classification.

(1) Any owner of land desiring to subdivide or redivide his land shall file with the Secretary of the administrative agency eighteen (18) copies of a sketch plat conforming to the provisions of § 153-16A and a subdivision application on a form to be provided by the Secretary of said administrative agency and pay the fees set forth in § 153-20.

(2) The Secretary of the Planning Board shall prepare subdivision applications, which subdivision applications shall be made available to the Secretary of the Board of Adjustment for distribution to any proposed applicant.

(3) Said subdivision application form shall state the following:

(a) The names and addresses of the owners of all the lands to be subdivided.

(b) The name and address of the applicant.

(c) The relationship between the owner and the applicant.

(d) Written authority from the owner to the applicant to make the application.

(e) The name and address of the applicant's licensed engineer or surveyor.

(f) The name and address of the applicant's attorney, if any, who will represent it in the subdivision proceedings.

(g) A description of all easements and restrictions of record affecting the land to be subdivided.

(h) A statement of any existing or proposed violations of the Demarest Zoning Ordinance for which variances may be necessary.

(i) A statement as to whether the applicant has knowledge of any previous applications for subdivision, resubdivision or variances concerning the land to be subdivided.

(j) A statement as to the reasons for the subdivision.

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(k) Such other information as the administrative agency may, from time to time, determine useful.

(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]**

(4) The administrative agency's Secretary shall distribute a copy of the application and sketch plat to:

(a) The administrative agency Subdivision Committee.

(b) The Borough Engineer.

(c) The Borough Police Department.

(d) The Borough Fire Department.

(e) The Superintendent of Public Works.

(f) The Board of Health.

(g) The Environmental Commission.

(h) The County Planning Board (when necessary).

(5) The Borough Engineer, Superintendent of Public Works and Environmental Commission shall submit to the administrative agency in writing their observations and comments. Said officials and agencies shall file their observations and recommendations with the administrative agency within thirty (30) days after delivery of the application to each official and agency. Copies of said observations and recommendations shall be made available to the applicant. Failure to submit such observation(s) and recommendation(s) within the time provided may be deemed a favorable recommendation by the agency failing to submit.

(6) The administrative agency may require the subdivider to have his engineer or surveyor locate certain portions of the proposed subdivision on the land to be subdivided in order that the administrative agency may make visual observations of the land to be subdivided and the proposed subdivision prior to classifying the application.

(7) The administrative agency may require the subdivider to submit an amended plat in the event that the administrative agency requires any substantial amendment in the layout of improvements proposed by the subdivider.

(8) After consideration of the subdivider's application and sketch plat and the observations and recommendations of the aforementioned officials and agencies, the administrative agency shall classify the application either a minor subdivision or a major subdivision.

B. Minor subdivision.

(1) In the event that the application is classified a minor subdivision in conformance with the definition of a minor subdivision and same promotes the public health, safety and general welfare of the municpality, then in that event the administrative agency shall approve and grant the minor subdivision.

(2) In the event that the administrative agency approves and grants the minor subdivision, the applicant shall submit to the administrative agency an original and eighteen (18) copies of the minor subdivision plat containing any conditions imposed by the administrative agency and a place for the administrative agency's approval.

(3) After the approval on the minor subdivision plat has been signed by the administrative agency Chairman and Secretary, copies of the minor subdivision plat shall be distributed to:

(a) The Mayor and Council.

(b) The Borough Clerk.

(c) The Borough Engineer.

(d) The Building Inspector.

(e) The Tax Assessor.

(f) The Board of Health.

(g) The Superintendent of Public Works.

(Cont'd on page 15343)

(h) The Shade Tree Commission.

(i) The Environmental Commission.

(4) In the event that the subdivider's application for a minor subdivision is denied by the administrative agency on the grounds that the lots sought to be created by the subdivision abut a street which shall not have been certified to be suitably improved to the satisfaction of the Mayor and Council and the applicant alleges that improvement of the street to standards and specifications approved by the Mayor and Council would entail practical difficulty or unnecessary hardship, the subdivider shall have the right of appeal to the Board of Adjustment for the relief and pursuant to the procedures set forth in N.J.S.A. 40:55D-70 et seq.

C. Major subdivision.

(1) In the event that the application is classified a major subdivision, a notation to that effect shall be made upon the sketch plat, and the sketch plat shall be returned to the applicant who shall proceed in accordance with this subsection.

(2) The applicant shall file with the administrative agency at least eighteen (18) black-on-white prints of the preliminary plat and an application for soil permit pursuant to Borough of Demarest Code Chapter 147, together with the fee set forth in § 153-20. If a preliminary subdivision application is found to be incomplete, the applicant shall be notified in writing of the deficiencies therein by the Board or the Board's designee for the determination of completeness within forty-five (45) days of submission of such application or it shall be deemed to be properly submitted.

(3) The administrative agency's Secretary shall distribute a copy of the preliminary plat and soil removal application to:

(a) The Bergen County PLanning Board.

(b) The Borough Engineer.

(c) The Borough Clerk.

(d) The Board of Health.

(e) The Borough Fire Department.

(f) The Borough Police Department.

(g) The Superintendent of Public Works.

(h) The Shade Tree Commission.

(i) The Environmental Commission.

(4) The administrative agency shall hold a public hearing concerning the major subdivision in accordance with the procedures set forth in the Land Use Procedures Ordinance of the Borough of Demarest.[7]

(5) In the event that Bergen County Planning Board approval is required pursuant to N.J.S.A. 40:27-6.3 and the report has not been received by the administrative agency within the time period in which said municipal agency is to act, then in that event, the municipal agency shall condition any approval that it grants upon timely receipt of a favorable report on the application by the Bergen County Planning Board or approval by the Bergen County Planning Board by its failure to report thereon within the required time period. Any reports received by the administrative agency from the Bergen County Planning Board will be forwarded to the applicant.

(a) The administrative agency shall take any one (1) of the following actions:

[1] Approval of the preliminary plat as filed or as amended;

[2] Approval of the preliminary plat with conditions;

[3] Directing the applicant to submit an amended preliminary plat (in which case the amended preliminary plat shall be proceeded upon as in the case of the original preliminary plat); or

[7] Editor's Note: See Ch. 27, Land Use Procedures.

[4] Disapproval of the preliminary plat, in which case the administrative agency shall state its findings and reasons for such disapproval in writing and furnish the applicant with a copy.

(b) If approval is required by any other official or public body, the same procedure as applies to the submission and approval by the Bergen County Planning Board shall apply.

(c) The period within which the administrative agency shall act on the preliminary plat may be extended with the approval of the applicant.

(6) In the event that the administrative agency approves the preliminary plat plan, the approval shall be indicated on the preliminary plan plan by the signature of the administrative agency Chairman and Secretary. The applicant shall then have eighteen (18) copies of the approved subdivision made, at the expense of the applicant, and file them with the administrative agency. The administrative agency's Secretary shall distribute copies of the approved preliminary plat plan to:

(a) The Borough Clerk.

(b) The Borough Engineer.

(c) The Building Inspector or Zoning Officer.

(d) The Tax Assessor.

(e) The Bergen County Planning Board.

(f) The Board of Health.

(g) The Tax Collector.

(h) The administrative agency Attorney.

(7) The preliminary approval granted by the administrative agency shall confer upon the applicant those rights contained in N.J.S.A. 40:55D-49.

(8) Prior to any excavation or modification of existing grades or the construction or installation of any of the

improvements on the lands being subdivided, the applicant shall enter into a written agreement with the Borough of Demarest providing that:

(a) The applicant will make all of the improvements and fulfill all of the conditions of the preliminary plat approval.

(b) The applicant will pay the legal and engineering expenses of the Borough of Demarest concerning said subdivision as provided in § 153-20.

(c) The applicant will provide the Borough of Demarest with the performance and maintenance guaranties as provided in § 153-20.

(d) The applicant will furnish the Borough of Demarest with a certificate of insurance that he and/or his subcontractors are insured against any claims for personal injury and/or property damage arising out of or in connection with the work to be undertaken with regard to the completion of the improvements in the subdivision, in such reasonable sums as the administrative agency may specify.

(9) The applicant shall, seventy-two (72) hours prior to commencing any development of the lands being subdivided, arrange with the Borough Clerk for inspections of any work to be done within the development as follows:

(a) Prior to the start of any excavation work, the applicant shall notify the Borough Clerk. At that time, the Borough Engineer shall inspect the construction location and grade stakes, original ground conditions and weather conditions and shall decide whether work is to proceed or be delayed.

(b) During rough grade work, the Borough Engineer shall conduct periodic inspection of work progress and investigate any subsurface conditions that are encountered. If, during the course of construction, unforeseen conditions, such as springs, aqui-

fier layers, high groundwater tables and miscellaneous unknowns are encountered, it shall be at the discretion of the Borough Engineer whether or not the subdivider shall install additional catch basins, storm drains, trench drains or any other drainage appurtenances.

(c) The Borough Engineer shall inspect all drainage trenches and storm drainpipes prior to any backfilling of the trenches. The storm drainpipes, pipe joints and pipe bedding shall be inspected by the Engineer before the trenches can be backfilled. All trenches shall be backfilled and tamped in accordance with standard specifications approved by the Borough Engineer.

(d) The Borough Engineer shall inspect excavation, subbase and pouring of curbs and sidewalks. Said construction shall conform to plans and specifications, and the tickets for these materials delivered on the site shall be verified to determine the quantities used.

(e) The Borough Engineer shall inspect and check the materials and amount of said materials used or the subbase material. Said materials shall conform to the requirements as set forth on the plans and specifications. When approval is given by the Borough Engineer, the work may proceed.

(f) The Borough Engineer shall inspect final pavement construction work during the course of said construction. The pavement shall be constructed in accordance with the requirements as set forth on the plans and specifications as set forth in this chapter.

(g) The Borough Engineer shall inspect the site for grading of individual lots so as to avoid the creation of low spots on lawns and driveways.

(h) The installation of concrete monuments shall be inspected by the Borough Engineer.

(i) Utilities shall be inspected by the Borough Engineer in conjunction with the various utility companies concerned.

(j) The Borough Engineer shall perform tree inspections to prevent the destruction of trees four (4) inches in diameter and greater.

(k) The Borough Engineer shall file inspection reports of every inspection he makes with the Borough Clerk for distribution to appropriate municipal officials.

(10) Upon completion of the required improvements, the subdivider shall prepare and file with the Borough Clerk an as-built plat.

(11) The final plat, conforming to the requirements of this Article II, and any limiting conditions imposed in the preliminary or tentative approval of the preliminary plat shall be submitted to the Borough Clerk for forwarding to the administrative agency for final approval within three (3) years from the date of preliminary approval. The Borough Clerk shall immediately notify the Secretary of the administrative agency and the Secretary of the Board of Health upon receipt of a final plat, and the administrative agency shall act upon the final approval within forty-five (45) days after submission of the completed application to the Borough Clerk, or within such further time as the applicant may agree to.

(12) The applicant shall file with the administrative agency at least eighteen (18) copies of the final plat and eighteen (18) copies of the application form for final approval, together with the appropriate fees set forth in § 153-20 of this chapter.

(13) Prior to action by the administrative agency granting final approval, the administrative agency's Secretary shall distribute a copy of the final plat to:

(a) The Secretary of the Bergen County Planning Board.

(b) The Demarest Board of Health.

(c) The Demarest Borough Engineer.

(14) Prior to action by the administrative agency's granting final approval, the Borough Engineer shall file a written statement with the administrative agency certifying that:

(a) The applicant has installed all improvements in accordance with the preliminary approval granted by the administrative agency; or

(b) The applicant has posted with the Borough Clerk a performance guaranty as provided in this Article II to assure the completion of all required improvements in a form approved by the administrative agency's Attorney.

(15) In the event that any plat requires approval by the Bergen County Planning Board pursuant to N.J.S.A. 40:27-6.3, then in such event the administrative agency shall condition any approval that it grants upon the timely receipt of a favorable report on the application by the Bergen County Planning Board, or approval by the Bergen County Planning Board by its failure to report thereon within the required time period.

(16) Failure of the administrative agency to act within the allotted time of forty-five (45) days after the date of submission for final approval, or mutually agreed upon extension, shall be deemed to be a favorable approval, and the Borough Clerk shall issue a certificate to that effect.

(17) After administrative agency approval, the Borough Engineer and thereafter the Chairman and Secretary of the administrative agency shall sign the final plat, and thereafter said plat shall be signed by the Bergen County Planning Board. This procedure may be modified by resolution of the Planning Board on a case-by-case basis.

§ 153-15. Informal review.

At the request of the applicant, the Planning Board shall grant an informal review of a concept plan for a development for which the applicant intends to prepare and submit an application for development. The applicant shall not be required to submit any fees for such an informal review. The applicant shall not be bound by any concept plan for which review is requested, and the Planning Board shall not be bound by any such review.

§ 153-16. Plat standards.

A. Sketch plat. The sketch plat shall be based upon Tax Map information or some other similarly accurate base at a scale of not less than one hundred (100) feet to the inch, with the entire tract as shown on one (1) sheet of size thirty by forty-two (30 x 42) inches, twenty-four by thirty-six (24 x 36) inches, or fifteen by twenty-one (15 x 21) inches, and shall show or include the following information:

(1) The location of that portion which is to be subdivided in relation to the entire tract.

(2) All existing structures and wooded areas within the portion to be subdivided.

(3) The name of the owner and of all adjoining property owners, including those owners across the street or streets as disclosed by the most recent municipal tax records.

(4) The Tax Map sheet, block and lot numbers.

(5) All streets or roads and streams within five hundred (500) feet of the subdivision, including the pavement width and the right-of-way of the streets and roads.

(6) The date, North point and scale.

(7) A copy of any existing or proposed covenants or deed restrictions applying to the land being subdivided shall accompany the application.

(8) The location of existing and proposed dwelling houses and existing water supply and sanitary sewer systems and existing and proposed grades.

(9) Drainage details, including an indication of the general topography of the land, and when requested by the administrative agency, soil boring and test pits where requested by the administrative agency.

(10) The boundaries of applicable zoning classifications or districts as prescribed by the Demarest Zoning Ordinance, properly identified.

B. Minor subdivision plat. The minor subdivision plat shall be clearly and legibly drawn or reproduced at a scale of not less than fifty (50) feet to the inch on a sheet of the size thirty by forty-two (30 x 42) inches, twenty-four by thirty-six (24 x 36) inches, or fifteen by twenty-one (15 x 21) inches. The minor subdivision plat shall be designed and drawn by a land surveyor licensed in the State of New Jersey. Where drainage facilities and/or other engineering features are involved, these portions are to be prepared by a professional engineer licensed in the State of New Jersey and shall show or include the following information:

(1) A metes and bounds description of the lots being created by the subdivision or, if the lands are being resubdivided, lot and block descriptions with reference to a filed map.

(2) Street lines and right-of-way widths.

(3) Setback lines.

(4) Location of any easements.

(5) Lot and block numbers as approved by the Borough Tax Assessor.

(6) Street names.

(7) Direction of true North.

(8) The certification or stamp of the licensed engineer or surveyor preparing the subdivision plat.

(9) The name and signature of the owner.

(10) Spaces and suitable inscriptions for approval by the administrative agency.

(11) The date of the subdivision plat.

C. Preliminary plat. The preliminary plat shall be clearly and legibly drawn or reproduced at a scale of not less than fifty (50) feet to the inch on a sheet or sheets size thirty by forty-two (30 x 42) inches, twenty-four by thirty-six (24 x 36) inches, or fifteen by twenty-one (15 x 21) inches. The preliminary plat shall be designed and drawn by a land surveyor licensed in the State of New Jersey. Where drainage facilities and/or other engineering features are involved, these portions are to be prepared by a professional engineer licensed in the State of New Jersey. The plat shall be designed in compliance with the provisions of this Article II and shall show or be accompanied by the following information:

(1) A key map showing the entire subdivision and its relation to surrounding areas to a depth of at least four hundred (400) feet from the boundary of the subdivision.

(2) The name of the development, if any has been assigned, the Tax Assessment Map sheet, block and lot number, date of drawing, reference meridian, graphic scale, and the names and addresses of the following:

(a) The record owner or owners.

(b) The owner's agent, if any, and if a partnership or corporation, the names of the principal partners or officers and of the person on whom service may be made within the State of New Jersey.

(3) Acreage of the tract to be divided to the nearest tenth of an acre and the area of each proposed lot exclusive of street rights-of-way to the nearest fifty (50) square feet.

(4) Existing and proposed contours to be shown at two-foot intervals for the entire property based on mean

sea level, if practicable, with sufficient additional data on elevations at low points and along watercourses. In areas where slopes exceed ten percent (10%), contours at five-foot intervals may be acceptable for the preliminary plat.

(5) The location of existing and proposed property lines, buildings, railroads, bridges, culverts, physical features such as watercourses, brooks, drains, dry runs, springs, water holes, poorly drained and swampy areas and rock outcrops on the tract or on adjacent land, and also outlines of wooded areas.

(6) Tentative lot, block and house address numbers for easy identification.

(7) A complete drainage area contour map showing the size of the individual drainage area for each proposed catch basin, culvert or any other drainage structure. This map shall include all pertinent information within said drainage basin, such as size and location of existing catch basins, culverts, manholes and storm drainpipes. Said calculations shall be based on a twenty-five-years design storm for storm drains and a fifty-year design storm for culverts and stream beds other than the main channels of Tenakill, Cresskill and Demarest Brooks, for which calculations shall be based on a one-hundred-year design storm for culverts. The Borough Engineer shall review and give approval if said drainage map and calculations for the proposed drainage system are found satisfactory.

(8) The size of the drainage areas tributary to existing watercourses and proof of adequacy of the proposed surface drainage facilities without appreciable detrimental effect on adjacent property owners.

(9) The location of a transit traverse on paper as located on the ground with stakes in the ground conspicuously marked and so arranged as to assist in any field inspection with tract owners, center lines of proposed streets and boundaries conspicuously marked.

(10) Existing public facilities adjacent to lands to be subdivided and proposed to be extended, such as water mains, sanitary and storm sewers, gas and electricity.

(11) A street layout and profile, stormwater drainage facilities with size, location and invert elevation of pipes or conduits, location of catch basins, together with the point or points of discharge with approximate elevations thereof, and a cross section of a typical street showing curbs and sidewalks where required (including any necessary off-site improvements).

(12) All easements for public facilities, including groundwater diversion drains where serving more than one (1) lot.

(13) Any other pertinent information required by the administrative agency or by any other agency to whom the preliminary plat has been referred for consideration.

(14) Planned proposed utility layouts (sewers, storm drains, water, gas and electricity) showing feasible connections to existing or any proposed utility systems.

(15) A copy of any protective covenants or deed restrictions applying to the land being subdivided shall be submitted with the preliminary plat.

(16) The house, future garage and driveway locations.

(17) Elevation of each cellar floor and ground floor.

(18) Finished contours, including the ground elevation at all corners of the house or building and corners of each lot.

(19) A section through the roads and curbs is to be shown giving the specifications for the road, curbs and sidewalks where required.

(20) The locations of the test borings.

(21) Open spaces to be dedicated for public use.

(22) Approximate location of large trees ten (10) inches or more in diameter.

(23) For subdivision developments where the development proposal is for the construction of fifty (50) or more units of single-family residential housing, the location and design of storage areas for the collection, disposition and recycling of recyclable materials from all housing units. The recycling plan must be approved by the Recycling Coordinator and Planning Board. **[Added 4-16-1990 by Ord. No. 682]**

(Cont'd on page 15355)

D. Final plat. The final plat shall be drawn in ink on tracing cloth at a scale of not less than one (1) inches equals fifty (50) feet and in compliance with N.J.S.A. 46:23-9.9 et seq. The final plat shall show or indicate the following information:

(1) The date, name and location of the subdivision, name of the owner, graphic scale and reference meridian.

(2) The tract boundary lines, right-of-way lines or streets, street names, easements and other rights-of-way, land to be reserved or dedicated to public use, all lot lines and other site lines, with accurate dimensions, bearings or deflection angles, and radii, arcs and central angles of all curves.

(3) The purpose of any easement or land reserved or dedicated to public use shall be designated and the proposed use of sites other than residential shall be noted.

(4) Each block shall be numbered, as designated by the Demarest Tax Assessor; the lots within each block shall be numbered consecutively, beginning with number one (1); and each lot shall be designated with a house address number.

(5) Minimum building setback lines on all lots and other sites.

(6) Location of all existing and proposed monuments with their elevations referred to the United States Coast and Geodetic Survey Bench.

(7) Direction of true North.

(8) Certification of a licensed engineer or land surveyor as to accuracy of details of the plat.

(9) Specific and suitable inscriptions for approvals of the administrative agency and the Bergen County Planning Board.

(10) The signature of the owner of record.

E. As-built plat. The as-built plat shall be drawn in ink on tracing cloth at a scale of not less than one (1) inch equals fifty (50) feet and in compliance with all of the provisions of N.J.S.A. 46:23-9.9 et seq. The as-built plat shall show or be accompanied by the following:

(1) The date, name and location of the subdivision, name of the owner, graphic scale and reference meridian.

(2) The tract boundary lines, right-of-way lines or streets, street names, easements and other rights-of-way, land to be reserved or dedicated to public use, all lot lines and other site lines, with accurate dimensions, bearings or deflection angles, and radii, arcs and central angles of all curves.

(3) The purpose of any easement or land reserved or dedicated to public use shall be designated, and the proposed use of sites other than residential shall be noted.

(4) Each block shall be numbered, as designated by the Demarest Tax Assessor; the lots within each block shall be numbered consecutively, beginning with number one (1); and each lot shall be designated with a house address number.

(5) Minimum building setback lines on all lots and other sites.

(6) The location of all existing and proposed monuments with their elevations referred to the United States Coast and Geodetic Survey Bench.

(7) Direction of true North.

(8) Certification of a licensed engineer or land surveyor as to accuracy of details of plat.

(9) Specific and suitable inscriptions for approvals of the administrative agency and the Bergen County Planning Board.

(10) The signature of the owner of record.

(11) Cross sections and profiles of streets.

(12) Contours of the finished grades at five-foot intervals for slopes averaging ten percent (10%) or greater, and at two-foot intervals for land of lesser slopes.

(13) As-built plans and profiles of storm and sanitary sewers, drainage, structures, water mains, electric and telephone systems, and other improvements set forth on the preliminary plat plan.

(14) The house, driveway and garage locations.

(15) The elevation of each basement floor and ground floor.

(16) The ground elevation at all corners of each house or building and corners of each lot.

(17) Such additional requirements as the administrative agency may deem necessary.

§ 153-17. Improvements.

A. Required improvements. Prior to the granting of final approval, the applicant shall have installed, or shall have furnished performance guaranties for the ultimate installation of, the following when indicated by the subdivision plat:

(1) Streets shall be paved as follows:

(a) The area to be paved shall be graded and compacted as specified in Section 2.9.3 of the New Jersey State Highway Specifications, 1961 Edition, as amended and supplemented.

(b) The first course of pavement shall be a four-inch-thick macadam base course. Material and workmanship shall comply with Sections 3.2.2 and 3.2.3 of the New Jersey State Highway Specifications, 1961 Edition, as amended and supplemented.

(c) The second course shall be a two-inch-thick layer of bituminous concrete stabilized base course.

Material and workmanship shall comply with the applicable sections of the New Jersey State Highway Specifications, 1961 Edition, as amended and supplemented.

(d) The third and final course shall be a one- and-one-half-inch-thick layer of hot bituminous concrete, type FABC-1, Mix No. 5, surface course. Material and workmanship shall comply with the applicable sections of the New Jersey State Highway Specifications, 1961 Edition, as amended and supplemented.

(e) The minimum grade on pavement shall be one percent (1%), and the maximum grade on a primary and collector street shall not exceed four percent (4%), and grades on other streets shall not exceed ten percent (10%). However, the administrative agency shall have the right to require grades of less than ten percent (10%) where special conditions exist, provided that such special conditions are set forth in writing upon the minutes of the administrative agency.

B. Street signs. Street signs shall be placed at all intersections conforming to the street signs approved for installation in the Borough of Demarest.

C. Streetlighting. One (1) streetlight shall be provided for every four hundred (400) to five hundred (500) linear feet of streets and shall be of the size, type and construction approved by the administrative agency.

D. Shade trees. Shade trees shall be located, at least one (1) tree for every forty (40) feet, within a shade tree easement which shall be five (5) feet in width and abut the right-of-way line of the street. The trees shall be of a type designated by the Demarest Shade Tree Commission.

E. Curbs and/or gutters. Curbs shall be constructed of Class B concrete, three thousand five hundred (3,500) pounds per square inch, six (6) inches by nine (9) inches by twenty (20) inches with a six-inch curb face along the pavement

line, lowered where necessary for driveway purposes. Curbs shall be of barrier-free design at crosswalks and intersections.

F. Sidewalks. Concrete sidewalks shall be constructed from Class B concrete, three thousand five hundred (3,500) pounds per square inch and constructed to a thickness of not less than four (4) inches, four (4) feet in width located three (3) feet from the curbline and three (3) feet from the right-of-way line. Transverse surface grooves shall be cut in the sidewalk between expansion joints at intervals equal to the sidewalk width. Transverse expansion joints one-half (½) inch wide shall be provided at intervals not more than twenty (20) feet and filled with prefabricated bituminous cellular-type filler. Longitudinal joints one-fourth (¼) inch wide shall be provided between curbs and abutting sidewalks and shall be filled with premolded bituminous-type joint filler.

G. Electric and telephone facilities. Electric, telephone and cable television facilities shall be installed underground pursuant to applicable New Jersey Board of Public Utilities Rules and Regulations and municipal ordinances.

H. Driveways. Driveways from the street to the garage of each dwelling house shall be constructed with a first course of pavement consisting of four (4) inches of crushed stone or gravel and a final course of two (2) inches hot bituminous concrete, Type FABC-1, Mix No. 5, surface course, or other suitable surface course as approved by the administrative agency.

I. Monuments. Monuments shall be of the size and shape required by N.J.S.A. 46:23-9.9 et seq. and shall be placed in accordance with said statute.

J. Water mains and fire hydrants. Water mains shall be installed with connections to the right-of-way lines with fire hydrants at such places as the Fire Prevention Bureau of the Demarest Fire Department shall designate.

K. Sanitary sewers. Sanitary sewers shall be installed, with connections to the right-of-way line. The sanitary sewer in-

stallation shall be properly connected with an approved system and shall be adequate to handle all present and future development.

L. Drainage facilities. Storm sewers, culverts, catch basins, manholes and subsurface drains shall be constructed which will adequately dispose of surface and subsurface water on the lands being subdivided.

M. Topsoil protection. No topsoil shall be removed from the site or used as spoil. Topsoil moved during the course of construction, if of sufficient quantity, shall be redistributed so as to provide at least six (6) inches of cover to all areas of the subdivision and shall be stabilized by seeding or planting so as to remain in place.

N. Cleanup. During the construction of improvements within the subdivision area, no debris, rubbish, stumps or other refuse shall be permitted to accumulate for a period of more than three (3) months. At the completion of construction of improvements, the subdivider shall remove all debris, rubbish and stumps from within the subdivision area, fill in all unused excavations and complete all regrading on all lots, whether built upon or not.

O. Off-tract or off-site improvements. Off-tract or off-site improvements shall be made where necessary; however, the applicant shall be responsible to bear only that portion of the cost which bears a rational nexus to the needs created by, and the benefits conferred upon, the subdivision, pursuant to the provisions of N.J.S.A. 40:55D-42 and other applicable statutes.

§ 153-18. Design standards.

The applicant shall observe the following requirements and principles of land subdivision in the design of each subdivision or portion thereof:

A. General. The subdivision plat shall conform to design standards that will encourage good development patterns within the borough. The subdivision shall conform to the

proposals and conditions shown on the Official Map and/or the Master Plan. The streets, drainage rights-of-way, school sites, public parks and playgrounds shown on an officially adopted Master Plan or Official Map shall be considered in the approval process of subdivision plats and shall be such as to lend themselves to the harmonious development of the borough and enhance the public welfare in accordance with the following design standards.

B. Streets.

(1) The arrangement of streets not shown on the Master Plan or Official Map shall be such as to create a convenient road system.

(2) Minor streets shall be so designed as to discourage through traffic.

(3) Subdivisions abutting primary streets shall provide a marginal service road or reverse frontage with a buffer strip for planting or some other means of separation of through and local traffic as the administrative agency may determine appropriate.

(4) The right-of-way width shall be measured from lot line to lot line and shall be as shown on the Official Map.

(5) Subdivisions that adjoin or include existing streets that do not conform to street widths as shown on the Master Plan or Official Map or that do not conform to the street width requirements of this chapter shall dedicate additional width along either one (1) or both sides of such streets of substandard widths. If the subdivision is along one (1) side only, one-half (½) of the required extra width shall be dedicated. The administrative agency may, in its discretion, permit proposed streets to conform to existing streets in a neighborhood although the existing streets are of substandard widths.

(6) The minimum grade on pavement shall be one percent (1%), and the maximum grade on primary and collector streets shall not exceed four percent (4%),

and grades on other streets shall not exceed ten percent (10%). However, the administrative agency shall have the right to require grades of less than ten percent (10%) where special conditions exist, provided that such special conditions are set forth in writing upon the minutes of the administrative agency.

(7) Street intersections shall be designed according to the following standards:

(a) No more than two (2) streets shall cross at one (1) point.

(b) Streets shall not enter into the same side of a primary or collector street at intervals of less than eight hundred (800) feet. Minor streets which enter a primary or collector street from opposite sides should be directly opposite to each other; or, if necessary, they may be separated by at least two hundred (200) feet between center lines measured along the center line of the primary or collector street.

(c) Maximum grades within any intersection shall not exceed three percent (3%), and approaches to any intersection shall follow a straight line course within one hundred (100) feet of the intersection.

(8) Street intersections shall be as nearly at right angles as is possible, and in no case shall be less than sixty degrees (60°). The block corners at intersections shall be rounded at the curbline, with a curb having a radius of not less than twenty-five (25) feet.

(9) Street jogs with center-line offsets of less than one hundred twenty-five (125) feet shall be prohibited.

(10) A tangent at least one hundred (100) feet long shall be introduced between reverse curves in primary and collector streets.

(11) When connecting street lines deflect from each other at any one (1) point by more than ten degrees (10°) and not more than forty-five degrees (45°), they shall

be connected by a curb with a radius of not less than one hundred (100) feet for minor streets and three hundred (300) feet for primary and collector streets.

(12) All changes in grade shall be connected by vertical curbs of sufficient radius to provide a smooth transition and proper sight distance.

(13) Dead-end streets (culs-de-sac) shall not serve more than twelve (12) lots and shall provide a turnaround at the end with a radius of not less than fifty (50) feet permitting a pavement radius of not less than forty (40) feet and tangent wherever possible to the right side of the street. If a dead-end street is of a temporary nature, a similar turnaround shall be provided and provisions made for future extensions of the street and reversion of the excess right-of-way to the adjoining properties.

(14) No street shall have a name which will duplicate or so nearly duplicate as to be confused with the names of existing streets in the Borough of Demarest and neighboring communities. The continuation of an existing street shall have the same name.

C. Blocks.

(1) Block length and width of acreage within bounding roads shall be such as to accommodate the size of lots required in the area by the Borough of Demarest Zoning Ordinance[8] and to provide for convenient access, circulation control and safety of street traffic.

(2) In blocks over one thousand (1,000) feet long, pedestrian crosswalks may be required in locations deemed necessary by the administrative agency. Such walkway shall be ten (10) feet wide and be straight from curb to curb and shall be properly lighted.

(3) For commercial use, block size shall be sufficient to meet all area and yard requirements for such use.

[8] Editor's Note: See Ch. 175, Zoning.

D. Lots.

(1) Lot dimensions and area shall not be less than the requirements of the Borough of Demarest Zoning Ordinance.[9]

(2) Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets.

(3) Each lot must front upon an approved street at least fifty (50) feet in width, except in such cases as the administrative agency may permit a street of lesser width.

(4) Where extra width has been dedicated for widening of existing streets, lots shall begin at such extra width line, and all setbacks shall be measured from such line.

(5) Where there is a question as to the suitability of a lot or lots for their intended use, due to factors such as rock formations, flood conditions or similar circumstances, the administrative agency may, after adequate investigation, withhold approval of such lots.

(6) Easements shall be provided not only for existing or proposed public facilities including groundwater diversion drains, but also, in nonsewered areas, for future sanitary sewers. All easements shall be dedicated to the municipality in a manner approved by the administrative agency's Attorney and shall be indicated on any final plat and as-built plat.

E. Public use and service areas.

(1) In large-scale developments, easements along rear property lines or elsewhere for utility installation may be required. Such easements shall be at least fifteen (15) feet wide and located in consultation with the utility companies or borough departments concerned.

(2) Where a subdivision is traversed by a watercourse, drainageway channel or street, there shall be provided a stormwater easement or drainage right-of-way con-

[9] Editor's Note: See Ch. 175, Zoning.

forming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose.

(3) Natural features such as trees, brooks, hilltops and views shall be preserved whenever possible in designing any subdivision containing such features. No trees four (4) inches or larger in diameter shall be removed from the subdivided plot, unless the same shall interfere with the construction of a building or buildings or utilities.

F. Water mains. To secure adequate fire protection, water mains shall be arranged in design of a grid and, when used for hydrant supply, shall conform to the following:

(1) For residential districts, hydrants shall be spaced not more than five hundred (500) feet apart.

(2) For commercial districts, hydrants shall be spaced not more than three hundred (300) feet apart.

(3) For residential districts, mains shall be eight (8) inches; six (6) inches to be used only where they complete an acceptable grid and in no case in blocks six hundred (600) feet or more in length.

(4) For commercial districts, mains shall be eight (8) inches to meet structural or other conditions existing in a limited area. The strict application of these standards may, to achieve uniformity, be modified in particular cases by the administrative agency upon recommendation of the Borough Engineer and the Fire Prevention Bureau of Demarest Fire Department.

(5) All water main sizes shall be approved by the Hackensack Water Company.

(6) All hydrant locations shall be approved by the Fire Prevention Bureau of the Demarest Fire Department and the Hackensack Water Company.

G. Sanitary sewers. The sanitary sewers shall be designed to be adequate for present and future development according

to plans and specifications approved by the Borough Engineer.

§ 153-19. Performance and maintenance guaranties.

A. No final plat shall be approved by the administrative agency until the completion of all required improvements has been certified to the administrative agency by the Borough Engineer, unless the applicant shall have posted a performance guaranty in favor of the borough in an amount of one hundred twenty percent (120%) of the cost of construction of the improvements as estimated by the Borough Engineer. The guaranty shall be approved as to form by the Borough Attorney.

B. Upon completion of the required improvements, the applicant shall post with the Borough of Demarest a maintenance bond in the amount of fifteen percent (15%) of the cost of construction of the improvements as estimated by the Borough Engineer, which bond is to be approved as to form by the Borough Attorney.

C. The time allowed for installation of the improvements for which the performance guaranty has been provided may be extended by the governing body by resolution. As a condition or as a part of any such extension, the amount of any performance guaranty shall be increased or reduced, as the case may be, to an amount not to exceed one hundred twenty percent (120%) of the cost of the installation as determined as of the time of passage of the resolution.

D. Upon substantial completion of all required appurtenant utility improvements and the connection of same to the public system, the applicant may notify the governing body in writing, by certified mail addressed in care of the Municipal Clerk, of the completion or substantial completion of said improvements and shall send a copy thereof to the Borough Engineer. Thereupon, the Borough Engineer shall inspect all of the improvements of which such notice has been given and shall file a detailed report in writing, with

the governing body, indicating either approval, partial approval or rejection of such improvements with a statement of reasons for any rejection. The cost of the improvements as approved or rejected shall be set forth.

E. The governing body shall either approve, partially approve or reject the improvements, on the basis of the report of the Borough Engineer, and shall notify the applicant in writing, by certified mail, of the contents of said report and the action of said approving authority with relation thereto, not later than sixty-five (65) days after receipt of the notice from the applicant of the completion of the improvements. Where partial approval is granted, the applicant shall be released from all liability pursuant to its performance guaranty, except for that portion adequately sufficient to secure provision of the improvements not yet approved, provided that thirty percent (30%) of the amount of the performance guaranty posted may be retained to ensure completion of all improvements. Failure of the governing body to send or provide such notification to the applicant within sixty-five (65) days shall be deemed to constitute approval of the improvements, and the applicant and surety, if any, shall be released from all liability pursuant to such performance guaranty for such improvements.

F. The applicant shall reimburse the Borough of Demarest for all reasonable inspection fees paid to the Borough Engineer for the foregoing inspection of improvements, provided that the borough may require of the applicant a deposit for all or a portion of the reasonably anticipated fees to be paid to the Borough Engineer for such inspection.

G. In the event that final approval is by stages or sections of development pursuant to N.J.S.A. 40:55D-38, the provisions of this section shall be applied by stage or section.

§ 153-20. Administrative, engineering and legal fees. [Amended 6-16-1986 by Ord. No. 620; 4-15-1996 by Ord. No. 774]

The applicant shall deposit with the Borough of Demarest sufficient funds to pay all of the administrative, engineering and legal expenses incurred by the Borough of Demarest concerning the subdivision application and installation of required improvements. The following fees and deposits set forth for minor subdivisions and major subdivisions are determined to be reasonable fees based upon the normal application for subdivision approval within the borough:

A. Minor subdivision. The applicant shall pay a nonrefundable fee to the borough for minor subdivisions as follows: five hundred dollars ($500.), plus fifty dollars ($50.) per building lot.

B. Major subdivision. The applicant shall pay a nonrefundable fee to the Borough of Demarest for major subdivisions as follows: five hundred dollars ($500.), plus thirty-five dollars ($35.) per building lot.

C. Initial escrow deposits for professional review of subdivisions shall be as follows:

(1) Minor subdivision without variance: one thousand five hundred dollars ($1,500.).

(2) Minor subdivision with variance: one thousand seven hundred fifty dollars ($1,750.), plus, for each additional variance: one hundred dollars ($100.).

(3) Major subdivision without variance: one thousand five hundred dollars ($1,500.), plus, for each lot after third lot: one hundred dollars ($100.).

(4) Major subdivision with variance: one thousand seven hundred fifty dollars ($1,750.), plus, for each lot after third lot: one hundred dollars ($100.), plus, for each additional variance: one hundred dollars ($100.).

D. Deposit for inspection for subdivision. The applicant shall deposit simultaneously with any application for final subdivision approval the deposits permitted by N.J.S.A. 40:55D-53h as an escrow for reasonable inspection fees paid to the Borough Engineer for inspection of improvements.

E. Rules governing escrow deposits. Escrow deposits shall be maintained, disbursed, replenished and closed in accordance with the Municipal Land Use Law,[5] including, without limitation, N.J.S.A. 40:55D-53 and N.J.S.A. 40:55D-53.2.

F. Appeals authorized by N.J.S.A. 40:50D-53.4 shall proceed in accordance with that statutory provision. Appeals shall lie with the Demarest Construction Board of Appeals pursuant to Chapter 84, Construction Codes, Uniform, of the Code of the Borough of Demarest.

G. Fees and charges shall be based upon a schedule to be adopted by resolution of the Mayor and Council. Charges for the borough's professionals shall be at the same rate as all other work of the same nature of said professionals for the Borough of Demarest.

ARTICLE III
Penalties

§ 153-21. Violations and penalties.

A. The penalty provision provided in N.J.S.A. 40:55D-55 and the civil remedies therein contained are hereby incorporated herein by reference as if set forth herein at length.

B. Any person convicted of violating any of the provisions of this chapter shall be subject to a fine not to exceed

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

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]**

Chapter 156[1]

TOWING

§ 156-1. Definitions.

§ 156-2. List of approved towing and storage service providers.

§ 156-3. Listing requirements.

§ 156-4. Rates and charges.

§ 156-5. Rotation of names on list.

§ 156-6. Availability of provisions.

§ 156-7. Enforcement.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 11-18-1996 by Ord. No. 780. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 166.
Operation and storage of vehicles — See Ch. 169.
Zoning — See Ch. 175.

§ 156-1. Definitions.

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

AUTOMOBILE — A private passenger automobile of a private passenger or station-wagon-type that is owned or hired; and a motor vehicle with a pickup body or a delivery sedan, a van or a panel truck or a camper-type

[1] **Editor's Note: Former Ch. 156, Swimming Pools, adopted 8-21-1963 by Ord. No. 292, as amended, was repealed 9-19-1983 by Ord. No. 571.**

vehicle used for recreational purposes owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching. An automobile owned by a farm family copartnership or corporation, which is principally garaged on a farm or ranch and otherwise meets the definitions contained in this section, shall be considered a private passenger automobile owned by two or more relatives resident in the same household. "Automobile" includes the type of vehicle described, notwithstanding that it is used for public or livery conveyance for passengers or rented to others with a drive.

BASIC TOWING SERVICE — The removal and transportation of an automobile from a highway, street or other public or private road or a parking area or from a storage facility and other services normally incident thereto, but does not include recovery of an automobile from a position beyond the right-of-way or berm or from being impaled upon any other object within the right-of-way or berm.

COMMERCIAL VEHICLES — All vehicles which are not automobiles as herein defined.

HIGH-FREQUENCY POLICE RADIO RECEIVING SET — A radio receiving set capable of receiving any message sent out by any police communications system.

INSIDE BUILDING — A vehicle storage facility that is completely indoors, having one or more openings in the walls for storage and removal of vehicles and that is secured by a locking device on each opening.

MOTOR VEHICLE ACCIDENT — An occurrence in which an automobile or commercial vehicle comes in contact with any other object for which the automobile or commercial vehicle must be towed or removed for

placement in a storage facility. This includes all situations which are accidental as to the insured even if they were caused by the intentional acts of a perpetrator where the perpetrator was not the insured or not otherwise involved with the insured.

TOW VEHICLE'S BASE OF SERVICE — The towing operator's principal place of business where the tow vehicle is stationed when not in use.

OUTSIDE SECURED — An automobile and/or commercial vehicle storage facility that is not indoors and is not secured by a fence, wall or other man-made barrier that is at least six feet high and is installed with a passive alarm system or a similar on-site security measure. The facility is to be lighted at night.

OUTSIDE UNSECURED — An automobile and/or commercial vehicle storage facility that is not indoors and is not secured by a fence, wall or other man-made barrier and all other storage facilities not defined above as inside building or outside secured.

STORAGE CHARGES FOR TWENTY-FOUR-HOUR PERIOD — The maximum allowable amount to be charged by a storage facility for a twenty-four-hour period or fraction thereof. A new twenty-four-hour period begins at 12:01 a.m.

TOW VEHICLE — Only those vehicles equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or under-reach equipment specifically designed by its manufacturer for the removal or transport of private passenger automobiles.

§ 156-2. List of approved towing and storage service providers.

The Mayor and Council of the Borough of Demarest shall establish an annual alphabetical list of approved persons or firms who shall be utilized by the Police Department on a

monthly rotational basis as set forth in § 156-5 to provide towing and storage services for abandoned, wrecked or impounded automobiles and a separate rotational list for abandoned, wrecked or impounded commercial vehicles, all at rates and charges as set forth in § 156-5. Said lists shall contain the names, addresses and twenty-four hour telephone numbers of all approved towing and storage service providers.

§ 156-3. Listing requirements.

Any person or firm who wishes to be placed on either list of approved towing and storage service providers must at a minimum agree to provide said services upon the following terms and conditions:

A. General terms and conditions.

(1) The person or firm must have been engaged in the business of towing and/or storing of automobiles and/or commercial vehicles for a minimum of one year and must be of known good reputation in the field.

(2) The person or firm must be available to provide service 24 hours per day, seven days per week.

(3) The person or firm must store all towed automobiles and/or commercial vehicles in a safe manner so as to prevent any damage to such vehicles.

(4) The person or firm shall be able to handle all makes of automobiles and/or commercial vehicles.

(5) Tow vehicles shall have two-way radio capabilities with their dispatching center on a twenty-four-hour basis.

(6) The person or firm must answer calls within 15 minutes of the Demarest Police Department's notice to respond to a call.

(7) Each tow vehicle shall be equipped with a shovel, broom and other equipment necessary to clean up broken glass and debris from the scene of an accident to which it is summoned. The driver of such tow vehicle shall be responsible for such cleanup.

(8) All tow vehicles used in towing of automobiles and/or commercial vehicles shall be kept in clean, good working condition, and the name, address and telephone number of the towing and storage service provider shall be conspicuously displayed on each vehicle.

(9) The person or firm shall comply with all state and local laws and be licensed as required.

(10) The person or firm shall follow the lawful directions of the officers of the Demarest Police Department and of the agents or representatives of the Borough of Demarest.

(11) Each tow vehicle shall have a passenger seat to transport the driver of the automobile and/or commercial vehicle to be towed, if necessary, at no additional cost to the automobile and/or commercial vehicle owner.

(12) Storage facilities for automobiles shall be of sufficient size to properly accommodate a minimum of five automobiles for the borough. Storage facilities for automobiles and/or commercial vehicles shall be secured (inside buildings or outdoor secured) and be located in an area within the Borough of Demarest, or within a three-mile radius of the Borough of Demarest that permits the towing and storage of automobiles and/or commercial vehicles.

(13) If the storage facilities are owned in fee simple, a certified copy of the deed of the subject property,

containing a metes and bounds description, shall be submitted to the Borough of Demarest.

(14) If the storage facilities are leased, a copy of the lease or leases, containing a metes and bounds description, shall be submitted to the Borough of Demarest.

(15) The deeds and leases referenced in Subsection A(13) and (14) shall be approved or disapproved by the Borough Attorney as to form and legality.

(16) All land proposed to be used as a storage facility must be level and clear of debris and, if for automobiles, must be clearly marked as having the capacity necessary to store a minimum of five automobiles for the Borough of Demarest.

(17) Persons retrieving automobiles and/or commercial vehicles shall be able to transact all business, including the pickup of the automobiles and/or commercial vehicles and payment of fees, at the same location.

(18) Automobiles and/or commercial vehicles shall be towed and stored in a safe manner so as to prevent any damage to such automobiles and/or commercial vehicles.

(19) Wrecked automobiles and/or commercial vehicles shall not be stacked one on top of the other, and only one level of storage shall be maintained.

(20) Storage facilities shall be located in areas that legally permit such storage of automobiles and/or commercial vehicles.

(21) The operation of the site(s) shall conform at all times to fire regulations of the applicable municipality.

(22) No impounded automobiles and/or commercial vehicles shall be parked upon a public street or

sidewalk, quasi-public street or sidewalk or any public area but must be stored within the storage area so provided; the service provider, its agents or representatives shall not use the automobiles and/or commercial vehicles for their personal use. License plates shall not be removed from any vehicle, except when lawfully required by the Demarest Police Department or other government agency.

(23) The impound areas must be properly lighted from dusk to dawn and must be properly safeguarded from vandalism and/or theft.

(24) The Borough of Demarest shall have access to any part of storage areas at any time of the day or night for the purpose of inspection and/or investigation. This shall include indoor and outdoor areas.

(25) There shall be no unescorted access to the Borough of Demarest's impound area by the public. The Demarest Police Department, from time to time, shall establish rules and regulations regarding public access to the automobiles and/or commercial vehicles impounded and/or stored; such rules and regulations may also be amended from time to time.

B. **[Amended 5-19-1997 by Ord. No. 789]** Insurance and indemnity requirements. Each towing and/or storage service provider shall submit insurance policies of the type and with the minimum limits indicated below and in a form satisfactory to the borough. A certified copy of the policies and or certificates of insurance shall be provided to the borough prior to commencement of work. The towing and/or storage service provider will indemnify the borough as follows:

(1) Indemnity. The towing and/or storage service provider will defend, indemnify and hold harmless the borough from any and all claims for personal

injury or property damage against the borough arising out of the operation of any towing services, repair services and storage facilities, pursuant to this chapter. It will further defend the borough, at its expense, in connection with any claim, demand, suit or action brought against the borough arising out of the awarding or operation of any towing, garage, repair services and storage facilities agreement.

(2) Insurance.

(a) Garage liability insurance. The limit of liability shall not be less than $500,000 combined single limit (bodily injury and property damage) per occurrence, including premises operations and products/completed operations.

(b) Automobile liability insurance. Limit of liability shall not be less than $500,000 combined single limit (bodily injury and property damage) per occurrence.

(c) Garage keepers' insurance. Physical damage insurance policies shall be specifically endorsed to provide insurance for vehicles in tow, possession of or storage on property owned or controlled by the towing and/or storage service provider. The limit of said coverage shall be not less than $150,000.

(d) Excess umbrella insurance. Limit of liability shall be not less than $1,000,000 providing protection in excess of the $500,000 garage and auto liability coverage. [Note: This requirement may be waived if the limits of liability in Subsection B(2)(a) and (b) above are not less than $1,500,000 combined single limit.]

(e) Workers' compensation insurance and employers' liability coverage.

[1] Workers' compensation insurance shall be in accordance with requirements of New Jersey law.

[2] Employers' liability coverage shall be with a limit of at least $500,000/$500,000/$500,000.

(f) On all liability policies, the municipality shall be added as a named additional insured, and insurance certificates shall indicate such coverage as primary coverage notwithstanding any insurance carried by the municipality.

(g) The towing and/or storage service provider shall indemnify the borough and the public against any loss due to injuries, accidents or damages of any character whatsoever where any such damage is the result of an act or omission of the towing and/or storage service provider, his agents or employees in or due to the execution of the work called for pursuant to this chapter.

(h) Certified copies of all insurance policies provided above or certificates thereof satisfactory to the Borough of Demarest shall be furnished forthwith. Each such policy or certificate shall contain a provision that it is not subject to change or cancellation unless 30 days prior written notice, via certified mail/return receipt, shall have been given to the Borough of Demarest by the insurer. These certificates must be received prior to commencement of work.

(i) The provision of any insurance required herein does not relieve the towing and/or storage service provider of any of the responsibilities or obligations assumed by the towing and/or storage service provider for which the towing

and/or storage service provider may be liable by law or otherwise.

(j) If any policies contain deductibles or copayments, it shall be the responsibility of the towing and/or storage service provider to pay such sums at the same time a claim is settled by the insurance company.

(k) Failure to provide and continue in force such insurance as required above shall be deemed a violation of this chapter and shall cause immediate disqualification of the towing and/or storage service provider for the balance of the listing year.

(l) All policies shall be written in a company licensed in the State of New Jersey, Best's rated A-VIII or better. They shall be written on an ISO (Insurance Service Office) form or better.

§ 156-4. Rates and charges.

A. Day rates-hours defined.

(1) When towing services are required at the scene of a motor vehicle accident, the day rate shall apply when the time of the accident is between 8:00 a.m. and 4:30 p.m., Monday through Friday, except New Jersey State holidays. The night, weekend and holiday rates shall otherwise apply.

(2) When towing services are otherwise required, the day rate shall apply when the vehicle is transported (pickup to delivery) entirely between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday, except New Jersey State holidays. The night, weekend and holiday rates shall otherwise apply.

B. Rates.

(1) Towing of automobiles.

(a) Days.

[1] First mile or less: $40.00.

[2] Each additional mile: $1.75.

(b) Nights, weekends and New Jersey State holidays.

[1] First mile or less: $50.00.

[2] Each additional mile: $1.75.

(2) Storage of automobiles (per twenty-four-hour day).

(a) Inside building.

[1] Twenty-one or more spaces:$15.

[2] Ten to 20 spaces: $20.

[3] Less than 10 spaces: $25.

(b) Outside secured.

[1] Twenty-one or more spaces:$15.

[2] Ten to 20 spaces: $20.

[3] Less than 10 spaces: $25.

(3) Towing of commercial vehicles.

(a) Eleven thousand pounds gross weight or less.

[1] First mile or less: $100.

[2] Each additional mile: $1.75.

(b) For tractor, trailers and vehicles in excess of 11,000 pounds gross weight.

[1] First mile: $175.

[2] Each additional mile: $1.75.

(4) Storage of commercial vehicles (per twenty-four-hour day).

(a) Inside building: $60.

(b) Outside secured: $60.

C. Fee cards. Fee cards conspicuously indicating the towing and storage rates shall be kept in the possession of the drivers of all vehicles and presented to the driver or owner of any vehicle to be towed.

D. Multiple tows. Tow vehicles transporting multiple automobiles and/or commercial vehicles shall receive the appropriate fee for each vehicle transported.

E. Municipally owned vehicles. Notwithstanding the above, the rates to be charged the Borough of Demarest for storage of borough-owned automobiles and/or commercial vehicles shall be:

(1) Limit of $3 per day for the first 30 days of storage per vehicle.

(2) A limit of $2 per day for the 31st day of storage and any day thereafter.

(3) A limit of $400 per vehicle stored regardless of the duration of storage except as otherwise agreed by the borough.

F. Rates adjusted. The rates set forth in this § 156-4 shall remain in full force and effect until the amendment of rates for Region II as set forth in N.J.A.C. 11:3-38.6. Upon the amendment of rates in said N.J.A.C. 11:3-38.6, said amended rates shall become operative in the Borough of Demarest to the extent inconsistent with the rates herein established and without the necessity of further municipal action amending this Chapter 156.

G. Towing rates shall be calculated based on total distance travelled from tow vehicle's base of service to the job site and return, by way of the shortest available route. Fractions shall be rounded up to the nearest whole mile.

H. The fees for storage are the maximum storage charges per twenty-four-hour period or fraction thereof.

(1) The fees for towing rates are the maximum charges that shall apply for basic towing services rendered as a result of an accident or theft recovery. There shall be no additional charges, including but not limited to flatbedding, waiting time, winching, cleanup cost and additional labor, when only basic towing services as defined are provided.

§ 156-5. Rotation of names on list.

The Chief of Police shall establish a procedure and provide the same to every duty officer to ensure that:

A. Only those service providers whose names appear on the approved list referred to in § 156-2 are called to provide towing and storage services.

B. Said calls shall be made on a monthly rotating basis, starting in alphabetical order.

C. The duty officer making such call indicates next to the name of the respective service provider any complaints from vehicle owners concerning the service rendered.

D. No service provider shall be skipped over except in extraordinary circumstances, as where the next available service provider clearly indicates its inability or unwillingness to respond.

§ 156-6. Availability of provisions.

This chapter and the fee schedules of each individual towed on the borough's rotational lists shall be available to the public during normal municipal business hours.

§ 156-7. Enforcement.

The provisions of this chapter shall be enforced by the Chief of Police in accordance with due process of law.

Chapter 161

TRAILERS AND CAMP CARS

§ 161-1. Definitions.

§ 161-2. Parking of trailers or camp cars on borough streets or premises restricted.

§ 161-3. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 11-23-1938 as Ord. No. 131. Section 161-3 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 166.
Operation and storage of vehicles — See Ch. 169.

§ 161-1. Definitions.

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

> TRAILER or CAMP CAR — Any vehicle used or intended to be used as a conveyance upon public streets or highways and duly licensed as such, and shall include self-propelled and non-self-propelled vehicles so designed and constructed and reconstructed or added to by means of accessories in such manner as to permit the occupancy thereof as a temporary dwelling or sleeping place for one (1) or more persons and having no foundation other than wheels, jacks or skirtings so arranged as to be integral with or portable by said trailer or camp car.

§ 161-2. Parking of trailers or camp cars on borough streets or premises restricted.

It shall be unlawful for any person to park any trailer or camp car on any street in the Borough of Demarest or on any premises within the limits of the Borough of Demarest except for the purpose of repairs or storage. Any such trailer or camp car undergoing repairs or being stored shall not, during such period of repairs or storage, be used by any person or persons as a dwelling or sleeping place.

§ 161-3. Violations and penalties. [Amended 4-18-1983 by Ord. No. 562; 7-15-1991 by Ord. No. 703]

Any person or persons 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 163

TREES

ARTICLE I
Shade Trees

§ 163-1.	Definitions.
§ 163-2.	Jurisdiction.
§ 163-3.	Removal, alteration and maintenance.
§ 163-4.	Planting.
§ 163-5.	Cost of trees and improvements.
§ 163-5.1.	Charge; lien on property.
§ 163-5.2.	Notice and hearing.
§ 163-6.	New construction and rehabilitation; plan required; bond.
§ 163-7.	Obstructions.
§ 163-8.	Injury.
§ 163-8.1.	Diseased trees.
§ 163-9.	Protection.
§ 163-10.	Wires.
§ 163-11.	Interference with Commission prohibited.
§ 163-12.	Violations and penalties.
§ 163-12.1.	Enforcement.
§ 163-13.	Manner of compliance.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest: Art. I, 10-16-1989 as Ord. No. 673. Amendments noted where applicable.]

GENERAL REFERENCES

Shade Tree Commission — See Ch. 53.
Obstructions at intersections — See Ch. 125.
Property maintenance — See Ch. 135.
Streets and sidewalks — See Ch. 150.

ARTICLE I
Shade Trees
[Adopted 10-16-1989 as Ord. No. 673]

§ 163-1. Definitions.

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

COMMISSION — The Shade Tree Commission of the Borough of Demarest, including any of its agents, employees and duly appointed members and as stipulated in Chapter 53 of the Code of the Borough of Demarest.

LARGE TREES — Those attaining a height of forty-five (45) feet or more. **[Added 11-15-1993 by Ord. No. 737]**

MEDIUM TREES — Those attaining a height of twenty-five (25) to forty-five (45) feet. **[Added 11-15-1993 by Ord. No. 737]**

PARKS — All borough-owned property designated as parks, nature centers and undeveloped lands. Included are lands known as the "Demarest Swim Club."

PERMIT — Written permission of the Commission whenever, pursuant to the provisions of this Article, the Commission shall have occasion to review and decide upon an application for a permit for existing and new works. It shall, in determining whether or not to issue

§ 163-5. Cost of trees and improvements. [Amended 1-5-1992 by Ord. No. 711]

A. The abutting property owner shall be charged, if the Commission so determines, for the planting and removal of street trees in accordance with and in a manner prescribed by law. Unhealthy tree removals and prunings in the borough right-of-way shall be done by the borough as directed by the Commission. The provisions of this section shall not apply to:

(1) Planting to replace a tree or trees theretofore planted by the Commission.

(2) A planting in connection with Arbor Day exercises or other educational demonstrations.

(3) Where the planting or removal of one or more trees is done by and at the expense any person pursuant to a permit issued by the Commission.

B. Planting or removal shall be accomplished in compliance with the specifications as set forth by the permit.

C. The Commission shall adopt uniform rules and regulations which shall be utilized by the Commission in determining when the initial cost of trees planted by the Commission, the cost of planting the same, the cost of the posts and boxes or guards used for the protection thereof and the cost of the removal of any or part thereof dangerous to public safety shall be a charge upon the real estate in front of which such tree or trees shall be planted or removed as an improvement thereof.

D. The Commission shall determine the species, quantity, quality and manner of planting and removal and whether the Commission or the owner of the real estate in front of which any such trees shall be planted or removed shall perform or otherwise be responsible for the performance of the planting or removal.

§ 163-5.1. Charge; lien on property. [Added 1-5-1992 by Ord. No. 711]

If it is determined, pursuant to the uniform rules and regulations adopted by the Commission, that the cost is to be paid by the owner of the real estate in front of which a tree or trees shall be planted or removed, then unless said cost is paid directly by said owner to the Commission, said cost shall be certified by the Commission to the Collector of Taxes and shall thereupon become a lien upon said real estate and shall be included in the next tax bill rendered to the owner or owners thereof and be collected in the same manner as other taxes against that property.

§ 163-5.2. Notice and hearing. [Added 1-5-1992 by Ord. No. 711]

In every case where the property of an abutting owner will be chargeable with the cost of the planting of any shade tree or trees, the Commission shall give notice of the meeting at which it is proposed to consider said planting by publishing the notice at least once, not less than 20 days before the meeting, in a newspaper circulating in the Borough of Demarest or by personal service of a copy of the notice upon the abutting owner at least 10 days before the meeting. The notice shall specify the street, streets or portions thereof on which such planting is proposed and require all persons who may object thereto to present their objections, in writing, at the office of the Commission at or before the meeting. Before final action shall be taken, all objections so filed shall be considered. The Commission shall give reasonable notice of its intention to remove or cause the removal of a tree or part of tree dangerous to public safety, unless public safety requires that immediate removal shall be made in accordance with the uniform rules and regulations adopted by the Commission.

§ 163-6. New construction and rehabilitation; plan required; bond.

A. Any development and site improvement, including but not limited to individual lots or buildings, which shall impact any existing shade tree shall be required to have a plan for shade trees. This plan is to be reviewed and approved by the Shade Tree Commission prior to issuance of any municipal approvals. **[Amended 11-19-2001 by Ord. No. 850]**

B. The planting and/or protection of shade trees included in the above approvals shall be incorporated into the building permits for individual lots and resolutions of approval of any development by the Board of Adjustment or Planning Board.

C. The performance or maintenance bond shall include an amount of $1,500 for each existing shade tree approved by the Shade Tree Commission pursuant to Subsection A above in the Borough street right-of-way or shade tree easement, but in no event to exceed $10,000. **[Amended 11-19-2001 by Ord. No. 850]**

D. The required maintenance bond shall be released upon written request of the developer, contractor or owner, as the case may be, two years after the date of issuance of a certificate of occupancy and upon approval of the Shade Tree Commission that the aforesaid trees are in a healthy condition and have been maintained properly. **[Added 2-24-2003 by Ord. No. 867]**

§ 163-7. Obstructions.

Where any tree is to be surrounded by pavement of stone, cement or other substance tending to impede the free access of air and water to the roots of the tree, no portion of that pavement shall be nearer than two feet to the base of the trunk.

§ 163-8. Injury.

A. No person shall place salt or other substances injurious to plant growth in any street, park and public place in such a manner as to injure any tree.

B. No person shall build fires or station any tar kettle, road roller, fuel oil dispensing truck or other engine in any street or other public place in such manner that the heat, vapors, fuel or fumes may injure a tree.

C. Every person having or maintaining utility lines in the street, park or public place shall maintain such lines in a manner as will safeguard the tree against damage and make periodic adjustments whenever necessary to prevent damage to trees.

§ 163-8.1. Diseased trees. [Added 1-5-1992 by Ord. No. 711]

The Commission shall have the power to administer treatment to or remove any tree(s) situated upon private property which is believed to harbor a disease or insects readily communicable to neighboring healthy trees in the care of the municipality and to enter upon private property for that purpose, with the consent of the owner thereof, provided that the suspected condition is first confirmed by a certificate issued by or on behalf of the Department of Agriculture.

§ 163-9. Protection.

A. In the erection, alteration or repair of any building, the owner, contractor or person in charge shall place such guards around all nearby trees as will effectively protect them from injury.

B. No person shall do any excavating within four feet of any tree without a permit.

C. No person shall operate excavation and earthmoving equipment in such a manner as to injure any tree.

(Cont'd on page 16309)

§ 163-10. Wires.

A. No person shall string a wire in or through a park or public place without a permit.

B. Every person having or maintaining electric, telephone or other wires through a street or park shall securely fasten and maintain such wires in such a manner as to safeguard all trees.

C. No person shall, without a permit, attach a wire, insulators or other devices to any tree.

D. Whenever the Commission shall deem it necessary to prune or remove any tree, any person having wire running in or through any street or park shall temporarily remove such wire within 24 hours of notice, in writing, by the Commission.

E. Any utility company or its agents may, with prior written permission from the Commission, prune and remove trees for line clearance.

§ 163-11. Interference with Commission prohibited.

No person shall prevent, hinder, delay or otherwise interfere with any member of the Commission or its agents in the performance of their lawful duties.

§ 163-12. Violations and penalties.

A. Any person who violates any of the provisions of this article or who fails to comply with the terms and provisions of any permit issued pursuant hereto shall, upon conviction, be subject to a fine not to exceed $1,500 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. **[Amended**

7-15-1991 by Ord. No. 703; 11-15-1993 by Ord. No. 737]

B. Each day that a violation shall continue shall constitute a separate offense.

C. In addition to the penalties authorized by Subsection A of this section, the Shade Tree Commission may require a person who removes or otherwise destroys a tree in violation of this article to pay a replacement assessment to the Borough. The replacement assessment shall be calculated based upon the number of square inches contained in the cross section of the trunk of the tree multiplied by $27 per square inch. The square-inch cross section shall be calculated from the diameter at breast height and, if there is a multiple-stem tree, then each trunk shall be measured and an average shall be determined for the tree. For purposes of this section, "diameter at breast height" shall mean the diameter of the tree taken at a point 4 1/2 feet above ground level. The Shade Tree Commission shall modify the value and replacement assessment based upon the tree's species, variety, location and condition at the time of removal or destruction. **[Added 11-19-2001 by Ord. No. 850]**

D. Any public utility or cable television company that clears, moves, cuts or destroys any trees, shrubs or plants for the purpose of erecting, installing, moving, removing, altering or maintaining any structures or fixtures necessary for the supply of electric light, heat or power, communication, or cable television services, upon any lands in which said public utility or cable television company has acquired an easement or right-of-way, shall not be subject to any penalty imposed by Subsections A or C of this section. However, this subsection does not exempt any public utility or cable television company from any penalty or replacement assessment imposed for its negligent actions. **[Added 11-19-2001 by Ord. No. 850]**

§ 163-12.1. Enforcement. [Added 1-5-1992 by Ord. No. 711; amended 11-19-2001 by Ord. No. 850]

The Borough's Construction Official and members of the Police Department are authorized by law to serve and execute process in the Municipal Court of the Borough to enforce the provisions of this chapter.

§ 163-13. Manner of compliance.

For the purposes of this article, any planting or removal as herein mentioned shall be accomplished in such a manner as is reasonably calculated to create the least possible obstruction or interference with the public right-of-way.

Chapter 167

VEHICLES: RESIDENTIAL PERMIT PARKING

§ 167-1. Definitions.

§ 167-2. Creation of residential permit parking areas.

§ 167-3. Issuance of permits; placement of signs.

§ 167-4. Parking in residential permit areas.

§ 167-5. Enforcement.

§ 167-6. Parking permit violations.

§ 167-7. Revocation of permits and penalties.

§ 167-8. Exemptions.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 5-17-2004 by Ord. No. 885. Amendments noted where applicable.]

GENERAL REFERENCES

Handicapped parking — See Ch. 104.
Municipal parking lots — See Ch. 129.
Towing — See Ch. 156.
Vehicles and traffic — See Ch. 166.

§ 167-1. Definitions.

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

IMPACTED RESIDENTIAL AREA — A condition whereby an undue number of vehicles are being driven into or left in a residential area regularly between the hours of 8:00 a.m. and 8:00 p.m. of the day, parking therein for purposes unrelated to residential uses.

RESIDENTIAL AREAS — A contiguous or nearly contiguous area containing public streets or parts thereof primarily abutted by residential property or residential and nonbusiness property.

§ 167-2. Creation of residential permit parking areas.

A. Whenever the governing body or its designee shall make a determination that a residential area is impacted by commuter vehicles in accordance with the definition set forth in § 167-1, it may initiate the creation of a residential permit parking area. A request for a determination by the governing body or its designee may also be initiated through petition of a majority of the bona fide residents of a residential area.

B. After initiation of the creation of a residential permit parking area by the governing body or its designee as set forth in Subsection A of this section, the Borough shall hold a public hearing on the matter. Such public hearing shall be held only after notices have been mailed or personally delivered to every household that can reasonably be established within the area under consideration.

C. The Borough shall, by resolution, approve or disapprove the creation of the residential parking permit area.

§ 167-3. Issuance of permits; placement of signs.

A. Following Borough approval of the designation of a residential parking permit area, the municipality shall issue the appropriate permits for specific areas in the Borough identifying streets and shall cause parking signs to be erected in the area, indicating the times and locations where permit parking shall be permitted, and clearly stating "Tow-Away Zones."

Chapter 166

VEHICLES AND TRAFFIC

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ARTICLE XV
Effective Date

§ 166-58. Effective date.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 7-15-85 as Ord. No. 600.[1] Amendments noted where applicable.]

GENERAL REFERENCES

Bicycles — See Ch. 72.
Parks and playgrounds — See Ch. 130.
Streets and sidewalks — See Ch. 150.
Trailers and camp cars — See Ch. 161.
Operation and storage of vehicles — See Ch. 169.

ARTICLE I
General Provisions

§ 166-1. Definitions.

Whenever any words and phrases are used in this chapter, the meanings respectively ascribed to them in Subtitle 1 of Title 39 of the Revised Statutes of New Jersey shall be deemed to apply to such words and phrases used herein.

§ 166-2. Repealer.

All former traffic ordinances of the Borough of Demarest are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this chapter.

[1] Editor's Note: This ordinance was approved by the New Jersey Department of Transportation 12-27-85.

§ 166-3. Severability.

If any part or parts of this chapter are held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter.

§ 166-4. 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 or any supplement thereto shall be liable to a penalty of not more than fifty dollars ($50.) or imprisonment for a term not exceeding fifteen (15) days, or both.

ARTICLE II
Parking

§ 166-5. Regulations not inclusive.

The provisions of this Article imposing a time limit on parking shall not relieve any person of the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles as set forth in N.J.S.A. 39:4-138, any other New Jersey statute or as hereinafter provided.

§ 166-6. All-night parking.

No person or persons, firm or corporation shall park or leave standing any motor vehicle in or along the public streets, avenues or highways of the Borough of Demarest between the hours of 2:00 a.m. and 6:00 a.m.

§ 166-7. Parking prohibited at all times.

No person shall park a vehicle at any time upon any of the streets or parts thereof described in Schedule I (§ 166-36), attached to and made a part of this chapter.

§ 166-8. Parking prohibited during certain hours.

No person shall park a vehicle between the hours specified in Schedule II (§ 166-37) of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said Schedule II, attached to and made a part of this chapter.

§ 166-9. Stopping or standing prohibited.

No person shall stop or stand a vehicle during the times specified in Schedule III (§ 166-38) of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said Schedule III, attached to and made a part of this chapter. Where no time is specified in Schedule III, stopping or standing is prohibited at all times.

§ 166-10. Parking time limited.

No person shall park a vehicle for longer than the time limit shown in Schedule IV (§ 166-39) at any time between the hours listed in said Schedule IV of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said Schedule IV, attached to and made a part of this chapter.

§ 166-10.1. Borough Hall parking lot. [Added 2-18-1992 by Ord. No. 714]

A. No person, excepting those for whom the respective spaces are reserved, shall park a vehicle in the Borough Hall parking lot in a space designated for the Police Department, Borough Clerk, Mayor or borough employees at any time.

B. No person shall park a vehicle in the Borough Hall parking lot between the hours of 2:00 a.m. and 6:00 a.m. of any day.

C. The spaces at the Borough Hall parking lot shall be designated as follows:

(1) Five (5) spaces along the front of the Borough Hall and to the south of the entranceway shall be designated "Police Department Only."

(2) The space in front of the Borough Hall and immediately to the north of the entrance to the Borough Hall shall be designated "Borough Clerk Only."

(3) The space in front of the Borough Hall and immediately to the north of the space designated for "Borough Clerk Only" shall be designated "Mayor Only."

(4) The seven (7) spaces in front of the Borough Hall and immediately to the north of the space designated "Mayor Only" shall be designated "Borough Business Only."

(5) The seven (7) spaces most westerly along the northerly line of the parking lot shall be designated "Employees Only."

(6) The parking space along the side of the Borough Hall and at the terminus of the ramp shall be designated "Handicapped Parking Only."

(7) All spaces not specifically designated in Subsection C(1) through (6) above shall be reserved for the general public, excepting as restricted for overnight parking as set forth in Subsection B above.

D. The Department of Public Works shall post signs designating the reservation of spaces as set forth above.

ARTICLE III
Exclusion of Certain Vehicles from Certain Streets

§ 166-11. Trucks over four tons excluded.

Trucks over four (4) tons' gross weight are hereby excluded from the streets or parts of streets described in Schedule V (§ 166-40) except for the pickup and delivery of materials on such streets, said Schedule V being attached to and made a part of this chapter.

§ 166-12. School street closings designated. [Amended 11-3-86 by Ord. No. 628]

The Mayor and Chief of Police, if he finds that a safety problem exists for ingress and egress to a public or private school or for the provision of recreational facilities for children attending such school, may close, by regulation, any portion of any street within the block upon which the school is located to use of through traffic during such time as he shall determine. Said time shall not exceed one (1) hour between 7:30 a.m. and 10:00 a.m., two (2) hours between 11:00 a.m. and 2:00 p.m. and one (1) hour between 2:30 p.m. and 4:30 p.m. and only on days upon which school is in session, all in accordance with N.J.S.A. 40:67-16.7.

§ 166-12.1. Closing of streets to preserve public safety. [Added 11-3-86 by Ord. No. 628]

The Mayor or Chief of Police may provide, by regulation, for the closing of any street or portion thereof to motor vehicle traffic on any day or days whenever he finds that such closing is necessary for the preservation of the public safety, health or welfare. Pursuant to this section, the Chief of Police shall post the proper warning signs of such closing in said streets.

ARTICLE IV
One-Way Streets

§ 166-13. One-way streets designated.

The streets or parts of streets described in Schedule VII (§ 166-42), attached to and made a part of this chapter, are hereby designated as one-way streets in the direction indicated.

ARTICLE V
Through Streets; Stop and Yield Intersections

§ 166-14. Through streets designated.

Pursuant to the provisions of N.J.S.A. 39:4-140, the streets or parts of streets described in Schedule VIII (§ 166-43), attached to

and made a part of this chapter, are hereby designated as through streets. Stop signs shall be installed on the near right side of each street intersecting the through street except where yield signs are provided for in the designations.

§ 166-15. Stop intersections designated.

Pursuant to the provisions of N.J.S.A. 39:4-140, the intersections described in Schedule IX (§ 166-44), attached to and made a part of this chapter, are hereby designated as stop intersections. Stop signs shall be installed as provided therein.

§ 166-16. Yield intersections designated.

Pursuant to the provisions of N.J.S.A. 39:4-140, the intersections described in Schedule X (§ 166-45), attached to and made a part of this chapter, are hereby designated as yield intersections. Yield signs shall be installed as provided therein.

(Cont'd on page 16609)

ARTICLE VI
Special Zones and Areas

§ 166-17. Loading zones designated.

The locations described in Schedule XI (§ 166-46), attached to and made a part of this chapter, are hereby designated as loading zones.

§ 166-18. Taxi stands designated.

The locations described in Schedule XII (§ 166-47), attached to and made a part of this chapter, are hereby designated as taxi stands.

§ 166-19. Bus stops designated.

The locations described in Schedule XIII (§ 166-48), attached to and made a part of this chapter, are hereby designated as bus stops.

ARTICLE VII
Turn Prohibitions and Lane Reservations

§ 166-20. U-turns.

No person shall make a U-turn on any of the streets or parts of streets described in Schedule XIV (§ 166-49), attached to and made a part of this chapter.

§ 166-21. Turns at intersections.

No person shall make a turn of the kind designated (left, right, all) at any of the locations described in Schedule XV (§ 166-50), attached to and made a part of this chapter.

§ 166-22. Prohibited right turns on red signal.

No person shall make a right turn when facing a steady red signal (stop indication) at any of the locations described in Schedule XVI (§ 166-51), attached to and made a part of this chapter, whenever official signs are present prohibiting such turn.

§ 166-23. Lane use reservations.

The lane locations described in Schedule XVII (§ 166-52), attached to and made a part of this chapter, are designated as lane use reservations and traffic shall move only as indicated.

ARTICLE VIII
Removal of Illegally Parked Vehicles

§ 166-24. Nuisance declared; removal; charges.

Any vehicle parked or standing in violation of this chapter is declared to be a nuisance, an obstruction to the flow of traffic and a danger to other vehicles using the street upon which it is parked. Any police officer may remove such a vehicle or cause it to be removed, and the owner shall pay all expenses incurred in removing or storing the vehicle before regaining possession of it. Removal and storage charges shall be in addition to any penalty imposed for violation of this chapter.

§ 166-25. Notification of vehicle owner.

The police officer shall make all reasonable attempts to ascertain the name and address of the owner of the towed vehicle and notify the owner thereof by mail that said vehicle has been towed away for violating the parking regulations of the borough. Said police officer shall advise the owner of the location where the vehicle is stored and shall advise him of his right to reclaim the vehicle therefrom.

ARTICLE IX
Emergency No Parking

§ 166-26. Designation of snow emergency no-parking areas.

A. Whenever snow has fallen and the accumulation is such that it covers the street or highway, no vehicle shall be parked on either side of any of the streets or parts thereof described in Schedule XVIII (§ 166-53), attached to and made a part of this chapter.

B. The above parking prohibitions shall remain in effect after the snow has ceased until the streets have been plowed sufficiently and to the extent that parking will not interfere with the normal flow of traffic.

§ 166-27. Posting of signs.

A. Upon the declaration of an emergency, there shall be no parking upon streets or parts of streets where temporary emergency no-parking signs are displayed. The Chief of Police, or in his absence the ranking police officer, is authorized to declare an emergency and to direct the posting of said emergency no-parking signs when weather conditions, accidents, fires or public celebrations dictate or require the avoidance of hazards or other conditions which interfere with the free flow of traffic.

B. Notification that the emergency no-parking signs are being or will be posted shall be given to the operator or owner of any vehicle which has been parked prior to the posting of the signs.

§ 166-28. Removal of vehicles.

Any unoccupied vehicle parked or standing in violation of this Article shall be deemed a nuisance and a menace to the safe and proper regulation of traffic and any peace officer may provide for the removal of such vehicle. The owner shall pay the reasonable costs of the removal and storage which may result from such removal before regaining possession of the vehicle.

§ 166-29. Effectiveness of Article.

The effectiveness of this Article is contingent on signs being erected as required by law.

ARTICLE X
Speed Limits

§ 166-30. Limits established.

The speed limit for both directions of traffic along the streets or parts thereof described in Schedule XIX (§ 166-54), attached to and made a part of this chapter, is hereby established at the rate of speed indicated.

§ 166-31. Posting of signs.

Regulatory and warning signs shall be erected and maintained to effect the above-designated speed limits as authorized by the Department of Transportation.

ARTICLE XI
Traffic Control Signals

§ 166-32. Traffic signals established.

Traffic control signals shall be installed and operated at the intersection of those streets described in Schedule XX (§ 166-55), attached to and made a part of this chapter.

§ 166-33. Installation of signals.

The traffic signal installation shall be in accordance with the provisions of An Act Concerning Motor Vehicles and Traffic Regulations, Subtitle 1 of Title 39 of the Revised Statutes, shall conform to the design and shall be maintained in operation as authorized by the Department of Transportation of the State of New Jersey.

ARTICLE XII
No-Passing Zones

§ 166-34. No-passing zones established.

No-passing zones are hereby established and maintained along those streets or parts of streets described in Schedule XXI (§ 166-56), attached to and made a part of this chapter, as authorized by the New Jersey Department of Transportation in accordance with the sketch dated and numbered as indicated.

ARTICLE XIII
Crosswalks

§ 166-35. Midblock crosswalks.

The locations described in Schedule XXII (§ 166-57), attached to and made a part of this chapter, are hereby designated as midblock crosswalks.

ARTICLE XIV
Schedules

§ 166-36. Schedule I: No Parking.

In accordance with the provisions of § 166-7, no person shall park a vehicle at any time upon any of the following described streets or parts of streets:

Name of Street	Side	Location
Grove Street **[Added 10-15-2001 by Ord. No. 848]**	South	From Knickerbocker Road to Columbus Road
Hardenburgh Avenue	North	From Wakelee Drive to Stelfox Street
Hardenburgh Avenue	South	From Park Street to Wakelee Drive

Name of Street	Side	Location
Park Street **[Added 8-20-1990 by Ord. No. 689]**	Both	From Hardenburgh Avenue 500 feet north to the Tenakill Brook
Piermont Road	East	From Northwood Avenue to Orchard Road
Piermont Road	West	From County Road to Orchard Road
Wakelee Drive **[Added 8-20-1990 by Ord. No. 689]**	North	From Conrail easement at Tenakill Bridge generally in a northwesterly direction to the Demarest Swim Club parking lot

§ 166-37. Schedule II: No Parking Certain Hours. [Amended 4-6-1992 by Ord. No. 718; 8-17-1992 by Ord. No. 721]

In accordance with the provisions of § 166-8, no person shall park a vehicle between the hours listed upon any of the following described streets or parts of streets:

Name of Street	Side	Hours/Days	Location
Columbus Road	East	2:30 p.m. to 3:30 p.m./all days when school is in session	From Hardenburgh Avenue South to Luther Lee Emerson School parking area
Edward Street **[Added 7-19-1993 by Ord. No. 733]**	Both	7:00 a.m. to 9:00 a.m. and 2:00 p.m. to 4:00 p.m./Mon. through Fri.	From County Road School exit to Lake Road

Name of Street	Side	Hours/Days	Location
Lake Road **[Added 7-19-1993 by Ord.No. 733]**	West	7:00 a.m. to 9:00 a.m. and 2:00 p.m. to 4:00 p.m./Mon. through Fri.	From County Road to William Street
Northwood Avenue	South	7:00 p.m. to 7:00 a.m.	From Piermont Road to High Street
Orchard Road	South	8:00 a.m. to 4:00 p.m./all days when school is in session	From Old County Road to Piermont Road
William Street **[Added 3-20-1995 by Ord. No. 763]**	Both	2:30 p.m. to 3:30 p.m./school days only	From Lake Road 300 feet east and west

§ 166-38. Schedule III: No Stopping or Standing.

In accordance with the provisions of § 166-9, no person shall stop or stand a vehicle between the time specified upon any of the following described streets or parts of streets:

Name of Street	Side	Hours/Days	Location
County Road	Both	–	From Hardenburgh Avenue south for 1,120 feet
County Road	North	–	From Lake Road west for 500 feet

Name of Street	Side	Hours/Days	Location
County Road	South	–	From Evergreen Place west for 500 feet
Edward Street **[Added 7-19-1993 by Ord. No. 733]**	Both	7:00 a.m. to 9:00 a.m. and 2:00 p.m. to 4:00 p.m./Monday through Friday	From County Road School exit to Lake Road
Hardenburgh Avenue	Both	–	From County Road-Piermont Road east for 150 feet
Hardenburgh Avenue	Both	–	From County Road-Piermont Road to Park Street
Knickerbocker Road	Both	–	From a point 250 feet north of Madison Avenue to Prospect Street
Knickerbocker Road	Both	–	Within the midblock crosswalk at a location 700 feet north of the center of Madison Avenue

Name of Street	Side	Hours/Days	Location
Lake Road **[Added 7-19-1993 by Ord. No. 733]**	West	7:00 a.m. to 9:00 a.m. and 2:00 p.m. and 4:00 p.m./Mon. through Fri.	From Country Road to William Street
Piermont Road	East	–	From Orchard Road to Hardenburgh Avenue
Piermont Road	West	–	From Northwood Avenue to Hardenburgh Avenue

§ 166-39. Schedule IV: Time Limit Parking. [Amended 2-17-1987 by Ord. No. 631]

In accordance with the provisions of § 166-10, no person shall park a vehicle for longer than the time limit shown upon any of the following streets or parts of streets:

Name of Street	Side	Time Limit; Hours/Days	Location
Chestnut Street	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./ weekdays	From Prospect Street south to end of street
Hardenburgh Avenue	North	30 mins.; 8:00 a.m. to 6:00 p.m.	From Park Street to Wakelee Drive
Park Street **[Amended 5-21-2001 by Ord. No. 834]**	East	90 mins.; 8:00 a.m. to 7:00 p.m.	From Hardenburgh Avenue to Serpentine Road

Name of Street	Side	Time Limit; Hours/Days	Location
Park Street **[Amended 5-21-2001 by Ord. No. 834]**	West	30 mins.; 8:00 a.m. to 7:00 p.m.	From Hardenburgh Avenue to Serpentine Road
Park Street **[Amended 5-21-2001 by Ord. No. 834]**	–	3 hours	For 150 feet, between the railroad tracks and Park Street south of the Senior Citizens Center
Prescott Street	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./ weekdays	From Madison Avenue north to end of street
Prospect Street	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./ weekdays	From Knickerbocker Road to Chestnut Street
Stewart Street	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./ weekdays	From Madison Avenue north to end of street
Van Horn Street	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./ weekdays	From Madison Avenue north to end of street
Wakelee Drive	East	1 hr.; 7:00 a.m. to 5:00 p.m.	From Hardenburgh Avenue north for 112 feet

Name of Street	Side	Time Limit; Hours/Days	Location
Woodland Road	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./ weekdays	From Madison Avenue to Prospect Street

§ 166-40. Schedule V: Trucks Over Four Tons Excluded.

In accordance with the provisions of § 166-11, trucks over four tons' gross weight are hereby excluded from the following described streets or parts of streets, except for the pickup and delivery of materials on such streets:

Name of Street	Location
	(Reserved)

§ 166-41. Schedule VI: School Street Closings.

In accordance with the provisions of § 166-12, the following described streets or parts of streets shall be closed to all traffic on such days, between the hours specified, as school may be in session, except for those vehicles having origin and destination within such area:

Name of Street	Hours/Days	Location
Edward Street **[Added 3-20-1995 by Ord. No. 763]**	2:30 p.m. to 3:30 p.m./school days only	From Anderson Avenue to Lake Road
Lake Road **[Added 3-20-1995 by Ord. No. 763]**	2:30 p.m. to 3:30 p.m./school days only	From County Road to William Street

Name of Street	Hours/Days	Location
Northwood Avenue	8:00 a.m. to 4:00 p.m./school days	From Piermont Road to High Street

(Cont'd on page 16617)

§ 166-42. Schedule VII: One-Way Streets.

In accordance with the provisions of § 166-13, the following described streets or parts of streets are hereby designated as one-way streets in the direction indicated:

Name of Street	Direction of Travel	Hours/Days	Limits
Orchard Road	West	8:00 a.m. to 4:00 p.m., school days	From Piermont Road to County Road

§ 166-43. Schedule VIII: Through Streets.

In accordance with the provisions of § 166-14, the following described streets or parts of streets are hereby designated as through streets. Stop signs shall be installed on the near right side of each street intersecting the through street, except where yield signs are provided for in the designations.

Name of Street	Limits
Columbus Road	From Hardenburgh Avenue to the Demarest-Closter Borough line
Madison Avenue	From Columbus Road to Knickerbocker Road
Madison Avenue	From Stelfox Street to Columbus Road

§ 166-44. Schedule IX: Stop Intersections.

In accordance with the provisions of § 166-15, the following described intersections are hereby designated as stop intersections and stop signs shall be installed as follows:

Intersection	Stop Sign On
Blanche Avenue and Lenox Avenue	Lenox Avenue
Brookside Avenue and Lenox Avenue	Lenox Avenue
Brookside Avenue and Serpentine Road	Serpentine Road
Columbus Road and Donnybrook Drive	Donnybrook Drive
Columbus Road and Madison Avenue	Madison Avenue
Columbus Road and Prospect Street	Prospect Street
Cypress Place and Glenwood Avenue **[Added 7-25-2005 by Ord. No. 916]**	Glenwood Avenue
Cypress Place and Highland Avenue **[Added 7-25-2005 by Ord. No. 916]**	Highland Avenue
Cypress Place and Holland Avenue	Cypress Place
Elm Street and Glenwood Avenue **[Added 7-25-2005 by Ord. No. 916]**	All 3 corners
Elm Street and Highland Avenue **[Added 7-25-2005 by Ord. No. 916]**	All 4 corners
Elm Street and Holland Avenue **[Added 7-25-2005 by Ord. No. 916]**	All 4 corners
Elm Street and Ross Avenue **[Added 7-25-2005 by Ord. No. 916]**	All 4 corners
Glenwood Avenue and Spruce Place **[Added 7-25-2005 by Ord. No. 916]**	All 3 corners
Highland Avenue and Spruce Place **[Added 7-25-2005 by Ord. No. 916]**	All 4 corners
Holland Avenue and Cypress Place **[Added 7-25-2005 by Ord. No. 916]**	All 3 corners
Holland Avenue and Spruce Place **[Added 7-25-2005 by Ord. No. 916]**	All 4 corners
Lake Road and Everett Road	Everett Road

Intersection	Stop Sign On
Oak Street and Holland Avenue **[Added 7-25-2005 by Ord. No. 916]**	Oak Street
Prescott Street and Madison Avenue	Prescott Street
Ross Avenue and Spruce Place **[Added 7-25-2005 by Ord. No. 916]**	All 4 corners
Serpentine Road and Stelfox Street	Stelfox Street
Stewart Street and Madison Avenue	Stewart Street
Van Horn Street and Madison Avenue	Van Horn Street
Woodland Road and Madison Avenue	Woodland Road

§ 166-45. Schedule X: Yield Intersections.

In accordance with the provisions of § 166-16, the following described intersections are hereby designated as yield intersections and yield signs shall be installed as follows:

Intersection	Yield Sign on
Belmar Street and Madison Avenue	Belmar Street
Duck Pond Road and Deerhill Road	Deerhill Road
Glenwood Avenue and Elm Place	Elm Place
Glenwood Avenue and Spruce Place	Spruce Place
Highland Avenue and Elm Place	Elm Place
Highland Avenue and Spruce Place	Spruce Place
Holland Avenue and Elm Place	Elm Place
Holland Avenue and Spruce Place	Spruce Place
Lake Road and Pine Terrace	Pine Terrace
Lake Road and William Street	Lake Road
Palisade Boulevard and Madison Avenue	Palisade Boulevard

Intersection	Yield Sign on
Ross Avenue and Elm Place	Elm Place
Ross Avenue and Spruce Place	Spruce Place

§ 166-46. Schedule XI: Loading Zones.

In accordance with the provisions of § 166-17, the following described locations are hereby designated as loading zones:

Name of Street	Side	Location
	(Reserved)	

(Cont'd on page 16619)

§ 166-47. Schedule XII: Taxi Stands.

In accordance with the provisions of § 166-18, the following described locations are hereby designated as taxi stands:

Name of Street	Side	Location
	(Reserved)	

§ 166-48. Schedule XIII: Bus Stops.

In accordance with the provisions of § 166-19, the following described locations are hereby designated as bus stops:

Name of Street	Side	Location
County Road	West	From 140 feet south of Hardenburgh Avenue to 240 feet south of Hardenburgh Avenue
County Road-Piermont Road	East	From 175 feet south of Hardenburgh Avenue south for 90 feet

§ 166-49. Schedule XIV: U-Turn Prohibitions.

In accordance with the provisions of § 166-20, no person shall make a U-turn at any of the following locations:

Name of Street	Location
	(Reserved)

§ 166-50. Schedule XV: Prohibited Turns at Intersections. [Amended 9-18-2000 by Ord. No. 823]

In accordance with the provisions of § 166-21 no person shall make a turn of the kind designated during the specified time below:

Intersection (Location)	Time	Prohibited Turn
County Road and Piermont Road	All	Left, from south on County Road to north on Piermont Road
County Road-Piermont Road	All	Left, from north on County Road-Piermont Road to north on County Road
Drury Lane and Lenox Avenue **[Added 10-2-2000 by Ord. No. 829]**	All	Right, from south on Drury Lane to west on Lenox Avenue
Lenox Avenue and Drury Lane **[Added 10-2-2000 by Ord. No. 829]**	All	Left, from east on Lenox Avenue to north on Drury Lane
Lenox Avenue and Van Horn Street	All	Left, from east on Lenox Avenue to north on Van Horn Street
Lenox Avenue and Woodland Road	All	Left, from East on Lenox Avenue to north on Woodland Road
Piermont Road and County Road	All	Right, from south on Piermont Road to north on County Road

Intersection (Location)	Time	Prohibited Turn
Van Horn Street and Lenox Avenue	All	Right, from south on Van Horn Street to west on Lenox Avenue
Woodland Road and Lenox Avenue	All	Right, from south on Woodland Road to west on Lenox Avenue

§ 166-51. Schedule XVI: Prohibited Right Turns on Red Signal.

In accordance with the provisions of § 166-22, no person shall make a right turn when facing a steady red signal (stop indication) at any of the following locations:

Location	Prohibited Turn
(Reserved)	

§ 166-52. Schedule XVII: Lane Use Reservations.

In accordance with the provisions of § 166-23, all vehicles shall move as described below:

Intersection (Location)	Lane Reserved	Purpose
County Road-Piermont Road and Hardenburgh Avenue	Center lane of County Road-Piermont Road (northbound)	Left turn only

Intersection (Location)	Lane Reserved	Purpose
County Road-Piermont Road and Hardenburgh Avenue	Curb lane of County Road-Piermont Road (south-bound)	Right turn only

(Cont'd on page 16621)

B. A permit shall be issued upon application and payment of fees, if any, only to be owner or the operator of motor vehicle who resides on property immediately adjacent to a street or other location within the designated area.

C. Permit fees, if any, shall be approved by resolution of the Borough. The municipality shall calculate the permit fees based on the actual cost of manufacture and installation of pertinent signs, applications, permits and administrative costs in connection with the issuance of permits, and present recommended fees to the Borough for approval.

D. The application for a permit shall contain the name of the owner or operator of the motor vehicle, residential address, phone number, make and model of the motor vehicle, a copy of his driver's license and a photostatic copy of the vehicle registration. If the applicant is a lessee, a copy of a current valid lease or a utility bill showing proof of residency shall also be made part of the application. The permittee shall apply in person for the initial permit and shall present all required documentation. Personal appearance shall not be required for permit renewals. Renewal of a permit shall be annual or semiannually and in accordance with the conditions and procedures approved by the Borough.

E. The permit shall be displayed on the lower left corner of the outside rear window or on the left rear bumper of the vehicle.

F. The municipality is hereby authorized to make provisions for:

(1) The issuance and collection of fees, if any, for temporary permits to bona fide visitors to residences within designated residential permit parking areas; and

(2) The issuance of special permits to allow service and delivery vehicles to park in the area under extenuating circumstances.

§ 167-4. Parking in residential permit areas.

A. The holder of a residential parking permit that is properly displayed shall be permitted to stand or park a motor vehicle in the appropriate designated parking area. While a vehicle for which a residential parking permit has been issued is so parked, such permit shall be displayed so as to be clearly visible to enforcement personnel. A residential parking permit shall not guarantee or reserve to the holder a parking space within the designated parking area.

B. A residential parking permit shall not authorize the holder of the permit to park in spaces or areas designated by law as restricted or prohibited parking (loading zones, fire hydrants, disabled or other such regulated areas), nor shall it exempt him from the observance of any traffic regulations, other than parking time limits.

C. Time limits for parking in each residential permit area shall be posted in plain view and shall be strictly enforced.

§ 167-5. Enforcement.

Vehicles found within a residential permit area during the time limits posted without a valid permit for that area shall be issued a uniform parking citation pursuant to § 167-4.

§ 167-6. Parking permit violations.

It shall be unlawful for any person to represent that he is entitled to a residential parking permit when he is not entitled

or to hold or display such a permit at any time when he is not entitled.

§ 167-7. Revocation of permits and penalties.

A. The municipality is authorized to revoke the residential parking permit of any individual found to be in violation of the provisions of this chapter.

B. Failure to surrender a revoked permit within 10 working days of written notification from the Parking Department shall carry the following penalties:

(1) The violator shall not be allowed to reapply for another permit for six months.

(2) Once restored, if the permit holder should once again have his permit revoked by the Department, the resident would be restricted from applying for one year.

§ 167-8. Exemptions.

Vehicles with valid handicapped license plates issued by the Department of Motor Vehicles and displaying the internationally accepted wheelchair symbol, handicapped parking permit or disabled veteran motor vehicle license plate are exempt from the requirements of this chapter.

Chapter 169

VEHICLES, OPERATION AND STORAGE OF

ARTICLE I
Parking and Storage Regulations

§ 169-1. Approval required for storage of certain vehicles within borough.

§ 169-2. Approval required for storage of commercial vehicles in residential districts; exception.

§ 169-3. Storage restrictions.

§ 169-4. Approval required for certain vehicles in residential districts.

§ 169-5. Application for approval; duration of approval; renewal.

§ 169-6. Nonapplicability.

§ 169-7. Investigation and enforcement.

§ 169-8. Violations and penalties.

ARTICLE II
Operation of Motor Vehicles on Borough Property

§ 169-9. Definitions.

§ 169-10. Operation of motor vehicles prohibited on certain borough property.

§ 169-11. Erection and maintenance of regulatory signs required.

§ 169-12. Exceptions.

§ 169-13. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest: Art. I, 12-21-66 as Ord. No. 320; Art. II, 7-17-78 as Ord. No. 462. Sections 169-8 and 169-13 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.
Streets and sidewalks — See Ch. 150.
Trailers and camp cars — See Ch. 161.
Vehicles and traffic — See Ch. 166.
Zoning — See Ch. 175.

ARTICLE I
Parking and Storage Regulations
[Adopted 12-21-66 as Ord. No. 320]

§ 169-1. Approval required for storage of certain vehicles within borough.

Certain vehicles, boats, house trailers and other conveyances as herein provided shall not be parked, stored or garaged within the Borough of Demarest without the written authorization and approval of the Mayor and Council of the Borough of Demarest, which approval shall be for a period of not more than one (1) year.

§ 169-2. Approval required for storage of commercial vehicles in residential districts; exception.

No owner or lessee of any premises in a residential district as set forth in the Demarest Zoning Ordinance[1] shall store or garage a commercial vehicle on said premises without the approval of the Mayor and Council of the Borough of Demarest unless it is

[1] Editor's Note: See Ch. 175, Zoning.

§ 169-13. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest: Art. I, 12-21-66 as Ord. No. 320; Art. II, 7-17-78 as Ord. No. 462. Sections 169-8 and 169-13 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.
Streets and sidewalks — See Ch. 150.
Trailers and camp cars — See Ch. 161.
Vehicles and traffic — See Ch. 166.
Zoning — See Ch. 175.

ARTICLE I
Parking and Storage Regulations
[Adopted 12-21-66 as Ord. No. 320]

§ 169-1. Approval required for storage of certain vehicles within borough.

Certain vehicles, boats, house trailers and other conveyances as herein provided shall not be parked, stored or garaged within the Borough of Demarest without the written authorization and approval of the Mayor and Council of the Borough of Demarest, which approval shall be for a period of not more than one (1) year.

§ 169-2. Approval required for storage of commercial vehicles in residential districts; exception.

No owner or lessee of any premises in a residential district as set forth in the Demarest Zoning Ordinance[1] shall store or garage a commercial vehicle on said premises without the approval of the Mayor and Council of the Borough of Demarest unless it is

[1] Editor's Note: See Ch. 175, Zoning.

the only commercial vehicle stored or garaged thereat and has a body, box or platform adapted for carrying goods or materials with a registered gross vehicle weight of less than five thousand (5,000) pounds when loaded.

§ 169-3. Storage restrictions.

A commercial vehicle having a body, box or platform adapted for carrying goods or materials with a registered gross vehicle weight of less than five thousand (5,000) pounds when loaded shall only be permitted in a residential district on the condition that said vehicle is stored in a garage at all times.

§ 169-4. Approval required for certain vehicles in residential districts.

The following vehicles shall not be parked, stored or garaged in a residential district unless the aforementioned approval is obtained from the governing body:

A. Commercial vehicles with a registered gross vehicle weight of five thousand (5,000) pounds or more when loaded.

B. Any other truck, trailer or vehicle with a registered gross vehicle weight of five thousand (5,000) pounds or more when loaded.

C. Any unregistered vehicles.

D. Motorboats, sailboats or other watercraft twenty (20) feet or more in length.

E. House trailers, housing units, mobile homes and self-propelled housing units.

F. Collapsible housing units, whether assembled or disassembled.

G. Animal conveyances, either trailer or self-propelled.

§ 169-5. Application for approval; duration of approval; renewal.

A. Application for the parking, storing or garaging of the vehicles other than those permitted hereunder or in the business district as specified in the Demarest Zoning Ordinance[2] shall be made in writing to the Mayor and Council of the Borough of Demarest and shall set forth the following:

(1) Name of the owner or lessee and address of the premises in question.

(2) Survey, sketch or plan of the premises.

(3) Description and specification of the vehicle or unit, including size, weight, height and dimensions.

(4) Any other information deemed necessary by the Mayor and Council to make a proper determination.

B. The Mayor and Council may grant, within its discretion, for the purpose of promoting the general welfare and public interest, permission and approval to have vehicles parked, stored or garaged at said premises for a period of not more than one (1) year from the date of its approval.

C. The applicant shall have the privilege of renewing its application.

§ 169-6. Nonapplicability.

This Article shall not be applicable to or curtail the use of commercial vehicles making deliveries to or performing services at premises in a residential district.

§ 169-7. Investigation and enforcement.

It shall be the duty and obligation of the Police Department of the Borough of Demarest to investigate violations and to enforce this Article.

[2] Editor's Note: See Ch. 175, Zoning.

§ 169-5. Application for approval; duration of approval; renewal.

A. Application for the parking, storing or garaging of the vehicles other than those permitted hereunder or in the business district as specified in the Demarest Zoning Ordinance[2] shall be made in writing to the Mayor and Council of the Borough of Demarest and shall set forth the following:

(1) Name of the owner or lessee and address of the premises in question.

(2) Survey, sketch or plan of the premises.

(3) Description and specification of the vehicle or unit, including size, weight, height and dimensions.

(4) Any other information deemed necessary by the Mayor and Council to make a proper determination.

B. The Mayor and Council may grant, within its discretion, for the purpose of promoting the general welfare and public interest, permission and approval to have vehicles parked, stored or garaged at said premises for a period of not more than one (1) year from the date of its approval.

C. The applicant shall have the privilege of renewing its application.

§ 169-6. Nonapplicability.

This Article shall not be applicable to or curtail the use of commercial vehicles making deliveries to or performing services at premises in a residential district.

§ 169-7. Investigation and enforcement.

It shall be the duty and obligation of the Police Department of the Borough of Demarest to investigate violations and to enforce this Article.

[2] Editor's Note: See Ch. 175, Zoning.

§ 169-8. 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 Article or neglecting or refusing to comply with any of the terms or conditions hereof shall, upon conviction thereof, 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. Each and every nonconformance of this Article or each day that any provision of this Article is violated shall be construed as a separate and distinct violation thereof.

ARTICLE II
Operation of Motor Vehicles on Borough Property
[Adopted 7-17-1978 as Ord. No. 462]

§ 169-9. Definitions.

For the purposes of this Article, the following terms shall have the meanings indicated:

MOTOR VEHICLE — Includes any vehicle propelled otherwise than by human muscular power, including but not limited to automobiles, trucks, motorcycles, motorized bicycles, trail bikes and mopeds.

§ 169-10. Operation of motor vehicles prohibited on certain borough property.

No person shall operate a motor vehicle on the following property located in the Borough of Demarest:

A. The fifty-foot right-of-way of Orchard Road from a point three hundred seventy-four (374) feet east of the intersection of Orchard Road and Hardenburgh Avenue

to a point eight hundred forty-four (844) feet east of the intersection of Orchard Road and Hardenburgh Avenue, a distance of four hundred seventy (470) feet.

B. The full right-of-way of Lake Road from the intersection of Lake Road and William Street north to a point one thousand three hundred ten (1,310) feet therefrom.

C. The fifty-foot right-of-way of Orchard Road from the intersection of Lake Road and Orchard Road east to a point three hundred fifty (350) feet therefrom.

§ 169-11. Erection and maintenance of regulatory signs required.

Regulatory and warning signs shall be erected and maintained to effect the above-described regulation, and the effectiveness of this Article is contingent upon such signs being erected and maintained.

§ 169-12. Exceptions.

Nothing contained herein shall prohibit the operation of a motor vehicle on the property described in § 169-10 by the Borough of Demarest Police Department, Fire Department, Department of Public Works or any emergency vehicle.

§ 169-13. Violations and penalties. [Amended 4-18-1983 by Ord. No. 562; 7-15-1991 by Ord. No. 703]

Any person violating any provision of this Article 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.

to a point eight hundred forty-four (844) feet east of the intersection of Orchard Road and Hardenburgh Avenue, a distance of four hundred seventy (470) feet.

B. The full right-of-way of Lake Road from the intersection of Lake Road and William Street north to a point one thousand three hundred ten (1,310) feet therefrom.

C. The fifty-foot right-of-way of Orchard Road from the intersection of Lake Road and Orchard Road east to a point three hundred fifty (350) feet therefrom.

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Regulatory and warning signs shall be erected and maintained to effect the above-described regulation, and the effectiveness of this Article is contingent upon such signs being erected and maintained.

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Nothing contained herein shall prohibit the operation of a motor vehicle on the property described in § 169-10 by the Borough of Demarest Police Department, Fire Department, Department of Public Works or any emergency vehicle.

§ 169-13. Violations and penalties. [Amended 4-18-1983 by Ord. No. 562; 7-15-1991 by Ord. No. 703]

Any person violating any provision of this Article 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 175

ZONING

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§ 175-3. Zoning Map.
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§ 175-45. Height.
§ 175-46. Affordable housing provisions.
Limiting Schedule, District
Limiting Schedule, Conditional Uses
Roof Styles

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 7-15-1985 by Ord. No. 596.[1] Amendments noted where applicable.]

GENERAL REFERENCES

Land use procedures — See Ch. 27.
Architectural contours — See Ch. 65.
Uniform construction codes — See Ch. 84.
Flood hazard control — See Ch. 100.
Lighting — See Ch. 113.
Official Map — See Ch. 118.
Parks and playgrounds — See Ch. 130.
Soil removal — See Ch. 147.
Subdivision and site plan review — See Ch. 153.
Trailers and camp cars — See Ch. 161.
Operation and storage of vehicles — See Ch. 169.

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1 Editor's Note: This ordinance also specifically repealed former Ch. 175, Zoning, adopted 12-21-1966 by Ord. No. 319, as amended.

ARTICLE I
Short Title

§ 175-1. Title.

This chapter shall be known and may be cited as the "Borough of Demarest Zoning Ordinance."

ARTICLE II
Establishment of Districts

§ 175-2. Districts enumerated.

For the purpose of this chapter, the Borough of Demarest is hereby divided into classes of districts as follows:

A	Single-Family Residence
BB	Single-Family Residence
B	Single-Family Residence
C	Single-Family Residence
D	Single-Family Residence
CB-I	Community Business I
OL	Overlay Cellular Telecommunications **[Added 7-7-1997 by Ord. No. 791[2]]**
G	Golf Course **[Added 8-20-2001 by Ord. No. 840]**

§ 175-3. Zoning Map. [Amended 7-7-1997 by Ord. No. 791]

Said districts are bounded and defined as shown on the map entitled the "Zoning Map, Borough of Demarest, New

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2 **Editor's Note: This ordinance also provided as follows:**
"The OL-Overlay Cellular Telecommunications District is a zone created for the construction and installation of cellular telecommunications towers and antennas as conditional uses pursuant to the provisions of this chapter. A different existing use of an existing structure on the same lot shall not preclude the installation of antennas or tower on the lot. The OL District shall include the following lands." The Zoning Map and boundary descriptions are on file in the office of the Borough Clerk. See also § 175-10D.

Jersey," dated 1984, last revised, which accompanies and which, with all explanatory matter thereon, is made a part of

(Cont'd on page 17505)

this chapter.[3] If there are any differences between the Zoning Map, Borough of Demarest, New Jersey, and this chapter, the provisions of this chapter shall control.

§ 175-4. Interpretation of boundaries.

A. Where a boundary line is shown as approximately following a lot line, such lot line shall be construed to be said boundary.

B. Where a boundary line is shown as approximately following the center line of a street, highway, stream or railroad or a street fine or highway or railroad right-of-way, such center line, street line or right-of-way line shall be construed to be such boundary.

C. Where a boundary line is shown as approximately parallel to a street, highway or stream, such boundary shall be construed as being parallel thereto and at such distance from the center line thereof, as indicated on the Zoning Map, Borough of Demarest, New Jersey.

ARTICLE III
Application of Regulations

§ 175-5. Use of land and buildings.

No land shall be hereafter used or occupied and no building or part thereof shall hereafter be used, occupied, erected, moved or altered unless in conformity with the regulations and Limiting Schedule hereinafter specified for the district in which it is located.[4]

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3 Editor's Note: The Zoning Map is on file in the office of the Borough Clerk.

4 Editor's Note: The Limiting Schedules are located at the end of this chapter.

§ 175-6. Erection of buildings. [Amended 4-17-1989 by Ord. No. 662]

No building shall be designed, erected or altered to accommodate or house a greater number of families and/or to have a narrower or smaller front yard, rear yard or side yard than specified herein for the district in which such building is located.

§ 175-7. Yards and open space.

No part of a yard or other open space required about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.

§ 175-8. Lot size.

No lot shall be so reduced in area that it does not meet the area requirements or be so reduced that any required open space will be smaller than prescribed in the regulations for the district in which said lot is located.

ARTICLE IV
Residence Districts

§ 175-9. Permitted uses.

In Residence Districts A to D inclusive, the following are permitted by right:

A. A single, detached dwelling used as a residence by not more than one (1) family and accessory buildings necessary thereto. There shall not be more than one (1) private garage appurtenant to each dwelling.

B. Professional or business practices, as defined in § 175-27B, of a physician, surgeon, dentist, architect,

engineer, lawyer, real estate agent, insurance agent, artist, musician or dressmaker, provided that:

(1) Only one (1) professional or business practice shall be permitted in any one (1) residence.

(2) Such professional or business practice shall be carried on wholly within the principal building.

(3) Such professional or business practice shall be confined to one (1) floor or basement and shall occupy not more than four hundred (400) square feet or twenty-five percent (25%) of the floor area of said floor or basement, whichever is the lesser.

(4) There shall be no advertising on the premises other than a sign subject to § 175-17C, and there shall be no display of goods on or about the premises. **[Amended 4-17-1989 by Ord. No. 662]**

(5) Not more than one (1) employee shall be employed so that the total number of persons, including the principal, so employed shall be not more than two (2) persons.

(6) The principal conducting the activity shall be the bona fide owner or lessee and resident of the entire residential premises.

§ 175-10. Conditional uses enumerated. [Amended 4-17-1989 by Ord. No. 662; 4-15-1996 by Ord. No. 774; 7-7-1997 by Ord. No. 791]

A. Residence Districts B, C and D.

(1) In Residence Districts B, C and D, the following uses may be allowed as conditional uses:

(a) In Zoning Districts B, C and D, churches or houses of worship and accessory uses normally incidental thereto, including an administration

office, day school and day-care for preschool students, all of which shall be contained on the same site. In addition, a residence for attending clergy may be erected thereon as an accessory use.

(b) The height of any structure shall not exceed the maximum requirement of the particular zone. In addition, a spire or steeple, not to be higher than thirty (30) feet in excess of the maximum requirement of the structure for the particular zone, may be permitted on further condition that the average height to width ratio shall not be less than ten (10).

(c) The site shall have direct ingress and egress from a county road, except that no access from the following county roads or portion thereof shall be allowed:

[1] Anderson Avenue for its full length.

[2] Hardenburgh Avenue east from County Road to its easterly termination.

(d) Site plan review in accord with Chapter 153, Subdivision and Site Plan Review, of the Code of the Borough of Demarest is required.

B. Parks, playgrounds and open space may be permitted as conditional uses in all districts subject to all of the provisions of all governing laws, ordinances and regulations.

C. Any improvements to any public open space (such open space used for either recreational or conservation purpose) shall be designed to be incidental to the natural openness of the land.

(1) Structure (or building) improvements.

(a) The structure or building improvement shall be set back two hundred (200) feet from any adjoining private property line

(b) No principal structure or building shall exceed two thousand five hundred (2,500) square feet in dimension measured around the widest portion of the outside wall. An accessory building shall not exceed four hundred (400) square feet.

(c) All buildings or structures shall be of single-story construction, not to exceed twenty (20) feet in height with a sloped roof or fifteen (15) feet in height with a flat roof.

(d) There shall be no more than one (1) principal building or structure and one (1) accessory building per fifty (50) acres of land.

(2) Access.

(a) Direct ingress and egress from a county road or a collector street is required. Nonvehicular path access from a minor street is permitted. (Collector street and minor street shall be defined as defined in Chapter 153, Subdivision and Site Plan Review.)

(b) Roads shall be built in from the street access and, thereafter, shall not come within two hundred (200) feet from any residential property.

(c) Roads shall have a maximum width of sixteen (16) feet, and the surface shall be of dustless material only if used for vehicular traffic.

(3) Site plan review. Site plan review in accordance with Chapter 153, Subdivision and Site Plan Review, of the Code of the Borough of Demarest is required.

D. In those portions of Residence Districts A to D, inclusive, and in the Community Business I District that are within the OL-Overlay Zone, cellular telecommunications towers and antennas shall be permitted as conditional uses, provided that they comply with the following specifications and standards:

(1) An application to construct, modify or place the facilities will be subject to site plan review in accordance with Chapter 153, Subdivision and Site Plan Review, of the Code of the Borough of Demarest.

(2) The applicant will be required to demonstrate that the development is the minimal necessary to provide adequate communications as may be authorized by the Federal Communications Commission; that the proposed site is an integral part of a communications network. CMK Communications of New Jersey v. Point Pleasant Zoning Board of Adjustment, Docket No. L-3177-95-PW (Law Div. 1996) p. 17, citing NYNEX Mob. Comm. Co. v. Hazlet Tp., 276 N.J. Super. 598, 612 (App. Div. 1994). As part of this requirement the applicant shall demonstrate that:

(a) The technology proposed is the least visually intrusive of the available suitable technologies.

(b) The height of the tower and/or antennas is the minimum necessary to provide adequate communications.

(c) The colocation of the antennas on other existing structures, either within or outside the Borough of Demarest, is either not practical in order to provide adequate communication; is barred by Subsection D(3) below limiting the number of carriers utilizing the same tower; or that the visual impact to the community from the proposed tower and/or antennas on the

site is less than exists at such alternative locations.

(d) Based upon the inventory of existing towers, antennas or sites approved for towers or antennas belonging to the applicant or others, that are either within the jurisdiction of the Borough of Demarest or within 10 miles of the border thereof, which inventory will include specific information about the location, height and design of each tower, the siting of the cellular telecommunications tower and antennas in the Borough of Demarest is necessary in order for the applicant to provide adequate efficient communications to its customers. **[Added 8-18-1997 by Ord. No. 792]**

(3) Not more than one tower shall be located on each site. A single tower may not have more than three commercial antenna carriers utilizing the same tower, and not more than 27 antennas shall be installed on a single tower.

(4) Area, bulk and yard requirements.

(a) Minimum front yard setback: 50 feet or the height of the structure, whichever is greater.

(b) Minimum rear yard setback: 50 feet or the height of the structure, whichever is greater.

(c) Minimum side yard setback: 50 feet or the height of the structure, whichever is greater.

(d) Maximum height of the structure: 100 feet where there is a single commercial carrier; 115 feet where there are two commercial carriers; 130 feet where there are three commercial carriers.

(e) Any buildings for equipment serving a cellular telecommunications tower or antennas shall

conform with setback requirements otherwise applicable in the zone district (i.e., not OL Zone, but Residence A through D or Community Business I Zones). **[Amended 8-18-1997 by Ord. No. 792]**

(5) The base of the antenna support structure and any Structurds accessory to or servicing the cellular telecommunications tower and antennas structure, except for buildings, shall be screened from the street and adjacent properties in a manner acceptable to the applicable Municipal Land Use Board. If deemed necessary by said Board to mitigate the visual impact of the antennas and related structures, the color, materials and design of the tower and antennas and related structures shall be required to be modified in appearance so as to blend in with the surrounding environment, determined by said Board to be appropriate in the particular situation. Mitigation of visual impact may, without limitation, include such methods as painting, landscaping and selection of antenna materials and design or using an alternative tower structure such as man-made trees, clock towers, bell steeples, light poles or similar alternative-design mounting structures that conceal or camouflage the presence of the tower and antennas. The equipment building shall also be constructed to be architecturally compatible with other structures located on the lot. **[Amended 8-18-1997 by Ord. No. 792]**

(6) All structures shall be suitably secured and shall be equipped with an anticlimbing device.

(7) Except as specifically addressed herein, design standards as established by § 153-18, Design Standards, of Chapter 153, Subdivision and Site Plan Review, shall be applicable.

(8) Any generator located on the site in connection with the cellular telecommunications tower and/or antenna structure shall be located within an equipment structure. All fuel shall be contained in accordance with New Jersey Department of Environmental Protection Regulations.

(9) All permitted exterior lighting, including floodlights, parking lot lighting and lighting necessary for the safety and protection of the property shall be made up of a light source and reflector so selected that acting together the light beam is controlled and not directed across any lot line. Additionally, the intensity of light at any residential property line shall not exceed 1/2 footcandle.

(10) The noise level at any residential property line shall not exceed the levels established by N.J.A.C. 7:29-1.2.

(11) Applicants must agree to the colocation for multiple carriers permitted by this chapter to the extent said colocation is permitted by the property owner and to the extent carriers wishing to colocate on an existing tower are willing to reasonably share in the allocation of costs in connection with the construction, modification and maintenance of the cellular telecommunications tower and antenna structures and any equipment structures. [Amended 8-18-1997 by Ord. No. 792]

(12) Removal. **[Amended 8-18-1997 by Ord. No. 792]**

(a) In the event that a cellular telecommunications tower and/or antenna structure is abandoned or not operated for a period of one year, the same shall be removed at the sole expense of the operator(s) or property owner(s), who will be individually obligated for the removal, within

not more than three months upon written notice from the borough.

(b) In the event that an antenna(s) is removed or relocated, the tower or the portion of the tower no longer needed to support the remaining antennas shall be removed at the sole expense of the operator(s) or property owner(s), who will be individually obligated for the removal, within not more than three months upon written notice from the borough.

(c) If the operators or property owner(s) fails to remove the cellular telecommunications tower and/or antenna structure within said three-month period, pursuant to Subsection D(12)(a), or fails to remove all or a portion of the cellular telecommunications tower within said three-month period, pursuant to Subsection D(12)(b) above, the borough may cause said removal at the cost of the operators and property owner(s), and the cost of said removal shall be a lien against the property until the borough is reimbursed in full for all costs incurred by the borough, including engineering and attorney's fees, reasonably expended in accomplishing the removal.

(13) The applicant must demonstrate that pursuant to N.J.S.A. 48:17-8 it has obtained the consent, in writing, of all of the owners of property within 200 feet in all directions of the property upon which the tower and antennas are to be located or within 650 feet of the cellular telecommunications tower and antennas, whichever is greater, and that said owners were advised, in writing, by the applicant that the radio wave to be emitted from the cellular telecommunications tower and antennas is a conduit, as that term is used in N.J.S.A. 48:17-8,

which will pass upon, through or over said owners' land.

(14) The applicant must demonstrate pursuant to N.J.S.A. 48:17-8 that it has paid for or agreed to pay all owners of property within 200 feet in all directions of the property upon which the tower and antennas are to be located, or within 650 feet of the cellular telecommunications tower and antennas, whichever is greater, full compensation for any taking resulting by virtue of the radio wave to be emitted from said cellular telecommunications tower and antenna upon, through or over said property owners' land. If there is a dispute between the applicant and the property owner as to the value of the land taken, this provision may be satisfied by the applicant having agreed to be subject to a decision, as to the fair market value of the property taken, by condemnation commissioners pursuant to the Eminent Domain Act or some other legally binding arbiter or court of competent jurisdiction.

(15) A landscape buffer of not less than 25 feet in width shall be provided around any cellular telecommunications tower and antennas located on a lot in a residential district, abutting a residential district or abutting a lot containing a residential use.

(16) No signs shall be permitted in connection with the siting of a cellular telecommunications tower and/or antenna structure. **[Added 8-18-1997 by Ord. No. 792]**

(17) An applicant must warrant that the proposed cellular telecommunications tower and antennas shall not interfere with any of the borough's police, fire, ambulance, public works or any municipal emergency transmission or reception equipment. The applicant must further agree that, in the event that such interference occurs after the applicant's

operations commence, the applicant will take all necessary steps to eliminate the interference. If the applicant is unable to eliminate the interference or fails to eliminate the interference in a timely manner, it shall cease operations from the offending location until the problem is corrected, upon receiving 10 days' advance written notice from the borough. **[Added 8-18-1997 by Ord. No. 792]**

(18) The applicant shall post necessary escrows in accordance with N.J.S.A. 40:55D-53.1 and 40:55D-53.2 to pay the cost of application review and inspection charges by outside consultants retained by the borough's Planning Board (or Zoning Board of Adjustment, if applicable), which outside consultants shall include without limitation structural, mechanical, electrical and electronic engineers. After completion of construction of a cellular telecommunications tower and antennas, said professionals shall perform as-built inspections and certify to the borough that the cellular communications tower and antennas comply with all acceptable standards before the applicant may obtain a certificate of occupancy and commence operations. **[Added 8-18-1997 by Ord. No. 792]**

(19) In addition to the Planning Board (or Zoning Board of Adjustment, if applicable) application process, the applicant must notify the borough not less than 45 days before construction of a cellular telecommunications tower and antennas or any new or additional services to be installed on said tower. Said notice period may run concurrently with the site plan process in whole or in part. **[Added 8-18-1997 by Ord. No. 792]**

(20) The applicant must provide as part of its application package an environmental impact

statement (EIS) which shall evaluate the effects of the proposed project on the environment. It shall be prepared by consultants as may be deemed qualified by virtue of their systematic interdisciplinary approach to ensure the integrated use of the natural and social sciences and the environmental design arts. The EIS shall be in a form and content as shall be in conformance with guidelines adopted by resolution by the Planning Board of the Borough of Demarest. **[Added 8-18-1997 by Ord. No. 792]**

(21) The applicant shall provide a certification that the proposed cellular telecommunications tower and antennas do not interfere with or adversely affect any properties, buildings or structures of historical significance located in the Borough of Demarest. **[Added 8-18-1997 by Ord. No. 792]**

(22) Applicants shall be required as a condition of approval to obtain liability insurance with limits established by resolution of the Planning Board. The Borough of Demarest shall be named as an additional insured on all insurance policies, and the borough shall be entitled to not less than 30 days' notice of cancellation, termination or modification of the policy. **[Added 8-18-1997 by Ord. No. 792]**

(23) Any applicant applying to a Borough Municipal Land Use Board to construct, modify or place a cellular telecommunications tower and antennas in any area other than the OL-Overlay Zone shall be required, in addition to establishing proofs regarding the affirmative and negative criteria established by the Municipal Land Use Law,[3] to meet and satisfy all the specifications and standards of this § 175-10D in the same manner as if said

[3] **Editor's Note: See N.J.S.A. 40:55-D-119 et seq.**

cellular telecommunications tower and antennas were to be sited in the OL Zone.[4]

§ 175-11.[5] Affordable accessory apartments. [Added 8-20-2001 by Ord. No. 842]

A. Where permitted.

(1) Notwithstanding any provision of this Borough of Demarest Zoning Chapter to the contrary, affordable accessory apartments shall be permitted on a lot within the A, BB or B zoning districts which meets the following requirements:

(a) The lot must fully conform to the minimum lot dimensions specified for the subject zoning district in the schedule entitled Limiting Schedule, District, as referenced within and attached to Article VI of this chapter;

(b) The lot must have direct driveway access either to County Road, Piermont Road, Anderson Avenue and Knickerbocker Road; and

(c) The lot must have a single-family detached dwelling situated thereon.

(2) In this regard, the Planning Board shall have the authority to approve the location of an affordable accessory apartment on a lot which does not meet one or more of the three requirements noted hereinabove, provided that the Planning Board finds that the creation of the affordable accessory apartment on the subject lot will not create any adverse effects upon any adjacent or nearby

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4 Editor's Note: Former Subsection E, Golf courses with club facilities, added 9-20-1999 by Ord. No. 811, which immediately followed this subsection, was repealed 8-20-2001 by Ord. No. 840.

5 Editor's Note: Former § 175-11, Procedure for conditional uses, was repealed 4-15-1996 by Ord. No. 774.

property. Deviation from one or more of the subject requirements shall require variance approval pursuant to N.J.A.C. 40:55D-70 c.(2) of the Municipal Land Use Law.

B. Definition. For the purpose of this section, the definition of an "affordable accessory apartment" shall be as follows:

(1) An affordable accessory apartment shall be a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance which is created to be occupied by a low- or moderate-income household in accordance with the applicable provisions of the substantive rules of the New Jersey Council On Affordable Housing (COAH) at N.J.A.C. 5:93-1 et seq. The affordable accessory apartment may be created within an existing dwelling unit, may be created within an existing structure on the lot or be an addition to an existing home or accessory building.

C. Requirements. All affordable accessory apartments shall meet the following requirements, although the Planning Board shall have the right to grant exceptions to one or more of the requirements for good cause shown by the applicant:

(1) The minimum yard dimensions specified for the subject zoning district in the schedule entitled "Limiting Schedule, District," as referenced within and attached to Article VI of this chapter, shall be adhered to, provided that any existing yard dimension that is less than a minimum required dimension shall be permitted to remain, but shall not be made less by providing the affordable accessory apartment.

(2) All affordable accessory apartments shall comply with all applicable statutes and regulations of the

State of New Jersey in addition to all local building codes.

(3) The affordable accessory apartment shall be rented only to a household which is either a low- or a moderate-income household at the time of occupancy of the unit.

(4) The affordable accessory apartment shall, for a period of at least 10 years from the date of the issuance of a certificate of occupancy, be rented only to low- or moderate-income households.

(5) Rents of affordable accessory apartments shall be affordable to low- or moderate- income households in accordance with the applicable provisions at N.J.A.C. 5:93-7.4 of COAH's substantive rules, and shall specifically include an allowance for utilities in accordance with N.J.A.C. 5:93-7.4 (h).

(6) No more than 10 affordable accessory apartments shall be permitted within the Borough of Demarest.

(7) There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the affordable accessory apartment is located running with the land and limiting its subsequent rental to the requirements of § 175-11C(4) and (5) hereinabove.

(8) Each affordable accessory apartment shall have living/sleeping space, cooking facilities, a kitchen sink and complete sanitary facilities for the exclusive use of its occupants. It shall consist of no less than two rooms, one of which shall be a full bathroom.

(9) The affordable accessory apartment shall have a separate door with direct access to the outdoors.

(10) The affordable accessory apartments shall be affirmatively marketed as low-income housing to households within the Northeast Housing Region

consisting of Bergen, Hudson, Passaic and Sussex Counties, in accordance with COAH's substantive rules and the affirmative marketing plan provisions in § 175-11F of this section hereinbelow.

(11) In the case of an existing accessory apartment previously created illegally on the subject property, the owner is entitled to legitimize the accessory apartment as an affordable accessory apartment under the terms of this section, provided that all of the requirements of this and all related COAH criteria shall apply, and except that no subsidy need be provided by the Borough of Demarest.

D. Administration of the affordable accessory apartment program. The Borough of Demarest designates (an administrative entity to be named by the Borough Council) to administer the affordable accessory apartment program in accordance with the following:

(1) The administrative entity shall administer the affordable accessory apartment program, including advertising, income qualifying prospective renters, setting rents and annual rental increases, maintaining a waiting list, distributing the subsidy, securing certificates of occupancy, qualifying properties, handling application forms, filing deed restrictions and monitoring reports, and affirmatively marketing the affordable accessory apartment program.

(2) The administrative entity shall only deny an application for an accessory apartment if the project is not in conformance with COAH's requirements and/or the provisions of this section. All denials shall be in writing with the reasons clearly stated.

(3) In accordance with COAH requirements, the Borough of Demarest shall provide $10,000 per unit to subsidize the physical creation of 10

affordable accessory apartment, conforming to the requirements of this section and COAH requirements, and shall provide the required total of $100,000 (i.e., 10 units x $10,000 per dwelling unit = $100,000) in accordance with the following schedule:

(a) The Borough of Demarest shall provide $33,332 within one year of its fair share plan being certified; and

(b) During each subsequent year, for a period of four additional years, the Borough of Demarest shall provide $16,667 to fund the creation of the affordable accessory apartments, provided that:

[1] No more than $16,667 need be in the affordable accessory apartment fund during each year subsequent to the first year's funding; and

[2] Any unused moneys from a prior year remaining in the fund may be carried forth and credited towards the following year's funding requirement.

(4) Prior to the grant of such subsidy to a property owner, the property owner shall enter into a written agreement with the Borough of Demarest insuring that the subsidy shall be used to create the accessory apartment and the apartment shall meet the requirements of this section and COAH regulations.

E. Application procedures. Each application for the creation of an affordable accessory apartment shall submit the following information to the administrative entity:

(1) A sketch of floor plan(s) showing the location, size and relationship of both the affordable accessory

apartment and the primary dwelling within the building or in another structure;

(2) Rough elevations showing the modification of any exterior building facade to which changes are proposed; and

(3) A site development sketch showing the location of the existing dwelling and other existing buildings; all property lines; proposed addition, if any, along with the minimum building setback lines; the required parking spaces for both dwelling units; and any natural or man-made conditions which might affect construction.

F. Affirmative marketing plan. The administrative entity shall be responsible to prepare and execute an affordable accessory apartment marketing plan which shall, at a minimum, consist of the following:

(1) At least one well-publicized public meeting to be held in the Borough of Demarest Municipal Building to discuss and explain the affordable accessory apartment program;

(2) A large poster highlighting the main features of the affordable accessory apartment program to be prepared and hung in the Borough of Demarest Municipal Building at all times; and

(3) The issuance of periodic press releases to the Newark Star Ledger and to the official newspapers of the Borough of Demarest regarding the affordable accessory apartment program in order to further inform the public regarding the program.

G. Progress report to COAH. In accordance with N.J.A.C. 5:93 5.9(f) of COAH's substantive rules, the Borough Council shall submit a report to COAH two years from the date of the final judgement of compliance and repose documenting the municipality's progress in providing affordable accessory apartments as permitted

by these ordinance provisions in accordance with the Borough's fair share plan:

(1) Should the report result in a determination by COAH that the fair share plan should be amended to provide a more realistic opportunity for the satisfaction of the affordable units which were to be satisfied via the affordable accessory apartments, the Borough of Demarest shall so amend its fair share plan; and

(2) The amendment to the fair share plan shall be submitted by the Borough of Demarest to COAH for its review and approval.

§ 175-12. (Reserved)[6]

§ 175-13. Private garages.

The construction, use or occupancy of a private garage in any residence district shall be permitted only as accessory to a domestic establishment. All vehicles stored in such garage in a residence district shall be the property of the owner or lessee of the premises and shall be noncommercial by type and by registration, unless otherwise permitted by § 175-25C of this chapter.

ARTICLE IVA
Golf Course
[Added 8-20-2001 by Ord. No. 840]

§ 175-13.1. Permitted uses.

In the G – Golf Course District, the following uses are permitted by right.

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[6] **Editor's Note: Former § 175-12, Deliberation for conditional uses, was repealed 4-15-1996 by Ord. No. 774.**

A. Golf course.

B. Golf course with club facilities.

C. Single-family residence on minimum 40,000 square foot lot (see Limiting Schedule, District[7]).

ARTICLE V
Community Business District I

§ 175-14. Permitted uses.

In the Community Business District I, the following uses are permitted by right:

A. Those uses permitted in residence districts (Article IV).

B. A store or shop for the conduct of retail business, provided that all merchandise shall be contained wholly within a building.

C. A personal service shop.

D. A banking, commercial, professional or governmental office.

E. (Reserved)[8]

F. A laundry and/or dry-cleaning agency, provided that no laundering or dry cleaning is done on the premises.

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7 Editor's Note: Said schedule is located at the end of this chapter.

8 Editor's Note: Former Subsection E, Service stations, was repealed 4-15-1996 by Ord. No. 774.

§ 175-15. (Reserved)[9]

ARTICLE VI
Supplementary Regulations For All Districts

§ 175-16. Area and bulk. [Amended 4-15-1996 by Ord. No. 774]

The schedules entitled "Limiting Schedule, District" and "Limiting Schedule, Conditional Use" shall be deemed to be a part of this article and shall govern the use of land and buildings within the Borough of Demarest.[10]

§ 175-17. Signs.

A. Advertising signs and billboards are not permitted in any district, except as otherwise provided in this Article VI. Notwithstanding the above, a sign of not more than two square feet advertising the location elsewhere of a church or a public or semipublic building, on written application, may be permitted in any district by the Planning Board, upon terms and conditions in the public interest where good cause has been satisfactorily proven for the necessity of such sign. In no case shall such sign be illuminated. **[Amended 4-15-1996 by Ord. No. 774; 2-18-1997 by Ord. No. 785]**

B. Business signs shall be permitted in the Community Business I District and shall not exceed 18 inches in height nor 75% of the width of the building to which it is attached and shall not project more than one foot from said building. Such signs shall advertise or promote the business located within said building. **[Amended 4-17-1989 by Ord. No. 662]**

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9 Editor's Note: Former § 175-15, Conditional uses, was repealed 4-15-1996 by Ord. No. 774.

10 Editor's Note: Said schedules are located at the end of this chapter.

C. The use of signs in any residence district shall be limited to the professional and business practices permitted in such residence district. Such signs shall show only the name of the principal person engaged in the professional or business practice. Such signs shall not exceed a height of 10 inches or a length of 18 inches, and there shall not be more than one sign for each building. In no case shall such signs be illuminated except by a light fixture which is an integral part of the sign and so arranged as to have the light shine only on the sign.

D. Any sign for the purpose of identifying the premises of a club or a public or quasi-public building in any district shall not be more than six square feet in area and shall refer only to the premises which it occupies. Such sign shall either be affixed to the building or situated not less than 10 feet from the lot line bordering the street. Notwithstanding the above, a church bulletin board of not more than 20 square feet may be placed not closer than 10 feet to the front lot line. In no case shall such sign be illuminated except by a light fixture which is an integral part of the sign and so arranged as to have the light shine only on the sign.

E. One real estate sign not more than four square feet in area and located at least two feet from the front property line may advertise the sale, rental or lease of the premises on which such sign is maintained. In no case shall such sign be illuminated.

F. Upon written application, temporary signs or exceptions to the foregoing sign limitations may be permitted by the Board of Adjustment, upon terms and conditions in the public interest where good cause has been satisfactorily proven for the necessity of the erection of a temporary sign or the exception to the limitations.

(Cont'd on page 17513)

G. Neon tubes or other types of lights and strings, chains or rows outlining all or part of a business building or business premises are strictly prohibited.

§ 175-18. Nonconforming lots, buildings and uses.

A. Any lot existing heretofore as a legal, separate parcel and not complying with the minimum frontage width at the time of passage of this chapter may, notwithstanding such fact, be improved with a building, provided that the other regulations of its zone are adhered to and provided that the owner owns no other adjacent land which may be included as part of the lot in question.

B. Any building or use of a building, legal heretofore but not complying with the terms of this chapter at the time of passage, may, notwithstanding such fact, be continued as a nonconforming structure or use.

C. When a nonconforming use is changed to a use permitted in the district in which it is located, it shall not be thereafter changed from said conforming use to a nonconforming use.

D. A nonconforming use or structure shall not be modified, extended or expanded.

E. A nonconforming use or structure may be restored or repaired in the event of partial destruction thereof by fire or other causes.

F. Whenever a nonconforming use or structure has been abandoned, such use or structure shall not thereafter be reestablished, and any subsequent use or structure shall be in conformity with the provisions of this chapter.

G. Notwithstanding Subsection D hereof, a residential structure in a one-family zone that is nonconforming due to encroachment in the front, rear or side yard

dimensions, as provided in the Limiting Schedule,[9] may be expanded, provided that said expansion does not take place in the area of front, side or rear yard encroachment, either by an intensification of use or an expansion of existing use, does not further or increase the encroachment in an dimension and provided further that the structure, as expanded, complies in all respects with the Limiting Schedule, except as to the nonconformity existing prior to said expansion. The purpose of this section is to permit expansion of nonconforming structures as delineated herein in areas of the lot which are not nonconforming. It is not the intention of the section to permit any change by way of expansion into an area that does, in fact, constitute an encroachment into the front, rear or side yard dimensions. **[Amended 4-17-1989 by Ord. No. 662]**

§ 175-19. Encroachments into yards. [Amended 4-17-1989 by Ord. No. 662; 4-15-1996 by Ord. No. 774]

A. Residence districts. Yards referred to herein are in each case the entire yard, regardless of the minimum required yards provided in the Limiting Schedule (§ 175-16).

(1) All yards.

(a) Ordinary projections of windowsills, belt courses, cornices, eaves and other architectural features shall be permitted to encroach not more than three (3) feet, and unroofed steps as required.

(b) An overhang as a structural feature shall not be permitted to encroach.

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9 **Editor's Note: The Limiting Schedules are located at the end of this chapter.**

(c) Decks, platforms and porches, whether roofed or unroofed, enclosed or unenclosed, as structural features, shall not be permitted to encroach.

(d) Impervious surfaces are not allowed within the front setback requirement nor within ten (10) feet of the side or rear lot line for the full depth and width of the rear yard, except driveways and access walks to the principal building entrance(s). (See Limiting Schedule)

(2) Front yards.

(a) Open trellises of a single, vertical plane and flagpoles are permitted to encroach.

(b) Accessory uses, buildings and structures shall not be permitted to encroach.

(3) Side yards.

(a) Anything aforementioned permitted in a front yard shall be permitted to encroach.

(b) Accessory uses, buildings and structures shall not be permitted to encroach.

(c) If unroofed steps include a platform as the top step, such platform shall not exceed a dimension of four by four (4 x 4) feet when such unroofed steps encroach in a side yard.

(d) Notwithstanding the foregoing, no encroachment shall be permitted within ten (10) feet of any side lot line.

(4) Rear yards.

(a) Anything aforementioned permitted in a front or side yard shall be permitted to encroach.

(b) Accessory uses, buildings, uses and structures shall be permitted to encroach subject to the restrictions set forth in Subsection B below.

(c) Notwithstanding the foregoing, no encroachment shall be permitted within ten (10) feet of any rear lot line.

B. All districts. Accessory buildings, uses and structures and improvements shall be permitted only in a rear yard, subject to the following regulations, which shall apply to the entire rear yard, not just the required minimum depth:

(1) No accessory use, building or structure in any residence district or community business district shall be erected with a mean roof height in excess of twelve (12) feet. For purposes of this section, "mean roof height" shall be one-half (1/2) the distance between the highest part of the roof and the top of its supporting wall.

(2) All accessory buildings, uses and structures or improvements in any residence district shall conform to all side yard setback requirements and minimum yard dimensions as required by the Limiting Schedule (§ 175-16).

(3) All accessory uses, buildings or structures in any residence district shall be set back from the rear property line at least ten (10) feet.

(4) All accessory uses, buildings or structure in any community business district shall be set back from the rear property line at least five (5) feet, except when abutting a residence district, where such setback shall be at least ten (10) feet.

(5) On a corner lot in any residence district, an accessory use, building or structure shall be located so as to comply with all locational regulations and restrictions relating to each street, including all front, side and rear yard requirements for each street, notwithstanding upon which street the principal building fronts.

(6) An accessory use, building or structure in any residence district on a lot between two (2) parallel streets shall comply with the locational regulations and restrictions for an accessory building or improvement as applicable to each abutting street, including all front, rear and side yard requirements for each street, notwithstanding upon which street the principal building fronts.

(7) Swimming pools. No swimming pools shall be located within any front yard and no swimming pool shall be located in any side yard.

§ 175-20. Transition requirements.

A. Lot divided by district boundary. Where a lot is divided by a district boundary, such lot shall be regulated by all of the area and bulk and use regulations of the more restricted district.

B. Transition at district boundaries. Where a lot in the community business district abuts a lot in a residence district, there shall be provided along such boundary line in the community business district an unencumbered yard space as required by the Limiting Schedule for the abutting residence district. This requirement shall take precedence over the provisions of Note C of the Limiting Schedule, District (§ 175-16).[11]

§ 175-21. Lighting.

Any exterior lighting in connection with any use in all districts shall be so arranged and shielded as to reflect the light downward and away from all adjoining properties and structures so that the lights and glare from lights will not become a nuisance to adjoining properties.

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11 **Editor's Note: The Limiting Schedule, District is located at the end of this chapter.**

§ 175-22. Swimming pools.

A. (Reserved)[12]

B. (Reserved)[13]

C. All ladders or steps leading up to a swimming pool from the exterior grounds shall be removed from the swimming pool when the swimming pool is unguarded and unattended.

D. No person shall construct, install or maintain a swimming pool in the Borough of Demarest without first submitting a plot plan and specifications for the same to the Zoning Official of the Borough of Demarest, who shall issue a permit if the plan and specifications comply with the ordinances of the borough.

§ 175-23. Satellite earth stations.

A. Any property owner or person or entity in possession of property shall submit to the Zoning Official, prior to placement of a satellite earth station (dish), in excess of one meter in diameter if the property is located in Single Residence District A, BB, B, C or D or in excess of two meters in diameter if the property is located in the CB-1 Commercial Business I District a plot plan and specifications showing the size of the dish, the proposed location of same on the subject premises and such other information as may be required herein. **[Amended 12-16-1996 by Ord. No. 782]**

B. The Zoning Official shall review said plan and render a decision within twenty (20) days of the submission of said plan or within such further time as may be

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12 Editor's Note: Former Subsection A, location of swimming pools, as amended, was repealed 4-15-1996 by Ord. No. 774. See § 175-19B(7).

13 Editor's Note: Former Subsection B, pertaining to fences, as amended, was repealed 4-15-1996 by Ord. No. 774. See now § 175-24N.

consented to by the property owner or person in possession of the property.

C. The plan shall be drawn on a map to a scale not smaller than one (1) inch equals forty (40) feet and not larger than one (1) inch equals ten (10) feet and shall include and show the following information:

(1) The name and address of the applicant and the owner, and the name, address and the title of the person or entity preparing the plan and accompanying data, the date of preparation and the dates of each revision where applicable.

(2) An appropriate place for the signature of the Zoning Official.

(3) The lot(s) and block number of the lot(s) from the Borough Tax Map, and the length and bearings of the lot lines of the proposed project.

(4) The location, names and pavement and right-of-way widths of all existing and proposed streets abutting the lot or lots in question, the property lines of all abutting properties, together with the names and addresses as disclosed on the Borough Tax Map and the tax rolls as of the date of the application, and the location of existing buildings within two hundred (200) feet of the site in question.

(5) All existing buildings and structures and all accessory buildings and structures and all accessory buildings on the lot, if any, with dimensions showing present and finished grade elevations at all corners.

(6) All existing and proposed setback dimensions and landscape areas.

(7) Existing and proposed plantings to provide screening as required by this section.

(8) Any and all other information necessary to meet any of the requirements of this section not listed above.

D. Dimensions. **[Amended 12-16-1996 by Ord. No. 782]**

(1) The satellite earth station antennas (dish) shall be in conformance with the following maximum dimensions:

District	Maximum Diameter (meters)	Maximum Overall Height (feet)
Residence A	2.4	9
Residence BB	2.4	9
Residence B	1.8	7
Residence C	1.2	5
Residence D	1.2	5
Community Business I	2.4	9

(2) Maximum height as used herein measures the actual height of the dish from its bottom to its top.

E. No satellite earth station shall be closer than thirty-five (35) feet from any side property line and no closer than twenty (20) feet from any rear property line.

F. In all zoning districts the dish shall be erected on a secure ground-mounted foundation. Maximum height indicated in the above schedule will be from ground level at the location of the dish foundation.

G. The dish should be in an unobtrusive location. It shall be effectively screened by a special planting screen or fence, as approved by the Zoning Official, which shall be maintained in good condition, so that the dish shall not be readily visible from any adjacent property or public street. Provision shall be made to minimize noise impact on adjacent properties.

H. Power control and signal cables from or to the dish shall be underground and installed in accordance with the appropriate building code, if required.

I. The application fee for a permit to install a dish shall be twenty-five dollars ($25.). In addition, the applicant shall deposit the sum of one hundred dollars ($100.) to cover the cost of review sources deemed necessary by the Zoning Official and/or Construction Official, such as the Borough Engineer, Borough Attorney or other borough personnel. The Treasurer shall place the deposit in a trust account and shall charge all disbursements for said review services. Any unused portion of the deposit shall be returned to the applicant. If the cost of review services exceeds the amount of the deposit, sufficient additional funds shall be deposited before any permit shall be issued.

J. Section 175-23E, F, G, H and I shall not be applicable to a dish one meter or less in diameter if the dish is to be placed, located or installed on property in Single Residence District A, BB, B, C or D or a dish two meters or less in diameter if the dish is to be placed, located or installed on property in the CB-1 Commercial Business I District. **[Added 12-16-1996 by Ord. No. 782]**

K. Notwithstanding Subsections E, F, G, H and I, if an applicant presents credible evidence to the Zoning Officer that satellite signals cannot be obtained or that said signal reception will be impaired by strict compliance with the regulations of Subsections E, F, G, H and I, or any of them, then the Zoning Officer may grant waivers from the strict application of those regulations so as to not unnecessarily burden access to satellite reception while promoting fair and effective competition among competing communication services providers. "Credible evidence," as used herein, shall mean a certification or affidavit from a qualified expert either that the satellite earth station will not have the

look angle from azimuth alignment and elevation alignment needed to receive signals in a substantially unobstructed manner unless one or more of the regulations, specifying which one or ones, are waived in whole or part; or that to comply with the regulations and obtain substantially unobstructed signal reception would impose the expenditure of a sum of money, including costs required to screen, polemount or otherwise specially install the antenna, greater than the aggregate purchase or total lease cost of the equipment as normally installed. **[Added 12-16-1996 by Ord. No. 782]**

L. The regulations of this section are enacted to protect and preserve the aesthetic ambiance of the Borough of Demarest, a residential community wherein 99.4% of the parcels are residential or vacant land. **[Added 12-16-1996 by Ord. No. 782]**

§ 175-24. Fences.

All fences erected in the Borough of Demarest shall be subject to the following requirements:

A. A fence permit shall be issued by the Construction Official for all fences except living fences erected in the borough. Except as provided in Subsection F, none of the other restrictions or provisions shall apply to living fences.

B. No fence erected on or around a residential lot or parcel of land shall exceed six (6) feet in height, except as provided in Subsection C herein. Preconstructed fences of a standard six-foot height must be installed as close to the ground as possible. The total height of the fence will not include any slight undulations of the grounds, provided that eighty percent (80%) of the fence does not exceed the maximum height of six (6) feet.

C. No fence shall be erected in a front yard of any lot in a residential district unless the fence is less than fifty percent (50%) solid and is not more than four (4) feet in height. **[Amended 4-15-1996 by Ord. No. 774]**

D. Fences must be constructed with the face or finished side away from the property and the structural side toward the interior.

E. Fences which are painted shall be painted in only one (1) color, harmonious with the surrounding area. Multicolored fences are prohibited.

F. Living fences or screening shall be planted no closer than three (3) feet to the property line. Living fences shall be maintained in a neatly trimmed condition and shall not interfere with visibility on corner lots.

G. Fences shall be erected in a manner so as to permit the flow of natural drainage and shall not cause surface water to be blocked or dammed to create ponding.

H. Fences higher than six (6) feet, such as those required around a tennis court, may be permitted in a residential zone by the Zoning Board of Adjustment. However, such a fence will be considered a structure and shall meet the requirements as set forth in § 175-19B.

I. The following fences and fencing matenals are specifically prohibited: barbed-wired fences, short-pointed fences, canvas, cloth, electrically charged fences, poultry netting, temporary fences such as snow fences, expandable fences and collapsible fences, at any location of the lot upon which a dwelling or structure is situated. During construction on such property and until a certificate of occupancy is issued, a temporary fence may be maintained. **[Amended 4-17-1989 by Ord. No. 662]**

J. Every fence or wall shall be maintained in a safe, sound, upright condition and in accordance with the approved plan on file with the Construction Official.

K. All fences or walls must be erected within the property lines, and no fences will be erected so as to encroach upon a public right-of-way or to interfere with vehicular traffic or with visibility on corner lots or within ten (10) feet of any roadway and within twenty-five (25) feet of the intersection of two (2) roadways. **[Amended 4-17-1989 by Ord. No. 662; 4-15-1996 by Ord. No. 774]**

L. If the Construction Official, upon inspection, determines that any fence or wall or portion of any fence or wall is not being maintained in a safe, sound, upright condition, he shall notify the owner of such fence, in writing, of his findings and state briefly the

(Cont'd on page 17523)

reasons for such findings and order such fence or wall or portion of such fence or wall repaired or removed within ten (10) days of the date of the written notice. Each day that the person fails to obey the order referred to above shall constitute a separate violation of this chapter.

M. No fence permit shall be issued by the Construction Official until the applicant provides the Construction Official with a set of plans or description of the proposed fence and a sketch or survey showing the proposed location of the fence. The proposed fence shall be constructed in conformity with the plans or description and shall be located as shown on the sketch or survey. If the Construction Official, upon inspection, determines that any fence or wall has not been constructed according to the plans or description or has not been located as shown on the sketch or survey, he shall notify the owner of such fence or wall, in writing, of his findings and order such fence or wall to be constructed according to the plans or description or order the fence to be located as shown on the sketch or survey. Such owner shall either remove the fence or comply with the order of the Construction Official within ten (10) days of the date of receipt of the written notice. Each day that the owner fails to obey the order referred to above shall constitute a separate violation of this chapter.

N. All swimming pools now or hereafter constructed shall be enclosed by a substantial fence no less than forty-eight (48) inches in height, so constructed as to prevent, within reason, any person from gaining access beneath or through such fence, and it shall have a similarly substantial self-latching and self-closing gate of the same height as the fence with latches placed four (4) feet in height and with facilities for locking the gate when the pool is unguarded or unattended. **[Added 4-15-1996 by Ord. No. 774]**

§ 175-25. Off-street parking.

In conjunction with any building or use of land, there shall be provided on the same lot therewith sufficient parking spaces to meet the minimum requirements specified herein. No parking area once established shall be diminished unless the parking area remaining meets the minimum requirements specified herein.

A. In Community Business District I and for nonresidential uses permitted in a residential district, no parking space or access thereto, except entrance or exit drives as limited in this section, shall be between the front building setback line and the street line. Entrance and exit drives connecting the parking area and the street shall be permitted between the front building setback line and the street line as required above provided that:

(1) Such drives shall not exceed fifteen (15) feet in total aggregate width for each fifty (50) feet of street line abutting such lot but in no case exceeding thirty (30) feet in total aggregate width for each street line upon which a lot abuts.

(2) Such drives shall be at least sixty (60) feet distant, measured along the street line from the point of intersection of two (2) intersecting street lines or from a bend in the street line of one street where the change in direction is thirty degrees (30°) or greater.

B. Required parking for various uses; buffer area.

(1) The following off-street parking spaces shall be required:

(a) Dwelling: two (2) spaces for the dwelling unit, and the driveway may be used in lieu of parking space.

(b) In the Community Business District I; retail stores, business, professional, commercial and government establishments: one (1) space for

each two hundred (200) square feet of net floor area, or any fraction thereof, with a minimum of two (2) spaces.

(c) Eating and drinking establishments: one (1) space for each four (4) units of eating capacity.

(d) Library, museum or club: one (1) space for each employee, plus one (1) space for each three hundred (300) square feet of net floor area or any fraction thereof.

(e) Schools, grades 1 to 8 inclusive: one (1) space per employee, including teachers.

(f) Schools, grades 9 to 12 inclusive: one (1) space per employee, including teachers, plus one (1) space for each six (6) pupils.

(g) Places of worship: one (1) space per employee, plus one (1) space for each ten (10) units of seating capacity, including choir.

(h) Parks and playgrounds. There shall be no overnight parking on the premises. There shall be no parking space within a dedicated street right-of-way adjacent to the park or playground. Parking for the Demarest Nature Center shall be within the boundaries of the Demarest Nature Center or on adjacent public lands owned by the borough and with agreement of the governing body. A minimum number of parking spaces shall be available to accommodate one-third (1/3) of the lawful membership of the Demarest Nature Center. **[Added 4-15-1996 by Ord. No. 774]**

(2) Where any of the foregoing uses, other than places of worship, consist of structures containing auditoriums, halls, cafeterias, gymnasiums or other rooms that may be used for a public assemblage, there shall be provided one (1) additional parking

space for each one-hundred-square-foot area of such auditorium, hall, cafeteria or gymnasium.

(3) A buffer area which is contiguous with the perimeter lines of the parking spaces shall be fully landscaped with ground cover and evergreen shrubs, within a ten-foot zone, having initial height of six (6) feet.

C. Special or conditional parking and storage regulations.

(1) Approval for storage of certain vehicles within the borough. Certain vehicles, boats, house trailers and other conveyances, as herein provided shall not be parked, stored or garaged unless it is the only commercial vehicle stored or garaged thereat and has a body, box or platform adapted for carrying goods or materials, with a registered gross vehicle weight of less than five thousand (5,000) pounds when loaded.

(2) Storage exception. A commercial vehicle having a body, box or platform adapted for carrying goods or materials, with a registered gross vehicle weight of less than five thousand (5,000) pounds when loaded, shall only be permitted in a residential district on the condition that said vehicle is stored in a garage at all times.

(3) Approval required for certain vehicles in residential districts. The following vehicles shall not be parked, stored or garaged in a residential district unless the approval of exception hereinafter mentioned is obtained from the Board of Adjustment.

(a) Commercial vehicles with a registered gross vehicle weight of five thousand (5,000) pounds or more when loaded.

(b) Any other truck, trailer or vehicle with a registered gross vehicle weight of five thousand (5,000) pounds or more when loaded.

(c) Any unregistered vehicles.

(d) Motorboats, sailboats or other watercraft 20 feet or more in length.

(e) House trailers, housing units, mobile homes and self-propelled housing units.

(f) Collapsible housing units, whether assembled or disassembled.

(g) Animal conveyances, either trailer or self-propelled.

(4) Application for approval; duration of approval; renewal.

(a) A request for exception for the parking, storing or garaging of the vehicles other than permitted by ordinance shall set forth the following:

[1] The name of the owner or lessee and address of the premises in question.

[2] A survey, sketch or plan of the premises.

[3] A description and specification of the vehicle or unit, including size, weight, height and dimensions.

[4] Any other information deemed necessary by the Board of Adjustment to make a proper determination.

(b) Approval of an exception may be granted by the Board of Adjustment, within its discretion, for the purpose of promoting the general welfare and public interest, permitting and approving vehicles to be parked, stored or garaged at said premises for a period of not more than three years from the date of its approval.

(c) The applicant shall have the privilege of renewing his application.

(5) Nonapplicability. This section shall not be applicable to or curtail the use of commercial vehicles making deliveries to or performing services at premises in a residential district.

§ 175-25.1 Golf courses. [Added 8-20-2001 by Ord. No. 840]

A. Golf courses and golf courses with club facilities in the G – Golf Course District must meet the following standards:

(1) Minimum contiguous area of 140 acres of land within the Borough.

(2) Minimum frontage of 450 feet along a section of Anderson Avenue, a County Road within the Borough. Vehicular access to the site shall be restricted to access from said Anderson Avenue.

(3) The golf course shall be 18 hole regulation course.

B. The club house must meet the following standards:

(1) It must be located entirely within six hundred (600') feet of the property line fronting the county road on which the Golf Course has its frontage pursuant to Subsection A(2) above.

(2) Minimum setback of 200 feet from Anderson Avenue, the county road on which the golf course has its frontage pursuant to Subsection A(2) above.

(3) Minimum setback of 100 feet from any property line other than the county road on which the golf course has its frontage pursuant to Subsection A(2) above.

(4) Maximum floor area of the club house building (excluding other club facilities buildings and structures) of 40,000 square feet.

(5) Maximum club house building coverage of 20,000 square feet.

(6) Maximum club house height of 40 feet from the average elevation of the proposed finished grade all around the club house to the highest point of the roof measured to the horizontal line halfway between the eave and ridge of the roof, but in no event shall the ridge of the roof exceed 45 feet in height and 2 1/2 stories

(7) Club facilities accessory to a club house must meet the following standards.

(a) Minimum setback of 10 feet from Anderson Avenue, the county road on which the golf course has its frontage pursuant to Subsection A(2) above.

(b) Minimum setback from lot lines in Residence A District of 25 feet excepting a private drive or private road need only be set back not less than 15 feet from lot line in Residence A District.

(c) Minimum number of parking spaces of 72 and maximum number of parking spaces of 215. Front yard parking is permitted.

(d) Maximum number of tennis courts is eight.

(e) Maximum impervious area of club house and club facilities accessory to a club house of six acres.

(f) The county road on which the golf course has its frontage pursuant to Subsection A(2) above shall be buffered from any uses or structures by deciduous street trees not less than 2 1/2 inches caliper measured six inches above the ground

planted 40 feet on center with understory conifer shrubbery of a type three feet to four feet in height when fully grown subject to sight distance requirements. This standard is the minimum standard which may be modified pursuant to the provisions of § 163-6 of the Borough Code.

(g) Notwithstanding Subsection A(2) above, the Alpine Country Club may access its club facilities accessory a the club house, from a new street (to be dedicated to the Borough) located in Block 120, Lot 13.

(h) The tennis courts may be lighted, provided that all lights must be turned off by 10:00 p.m. daily.

C. A golf course with club facilities may have a secondary social facility (e.g. 19th hole) other than the club house which must meet the following standards:

(1) Access must be achieved through private driveways internal to the site originating from the Anderson Avenue access meeting the requirements of Subsection A(2) above.

(2) The maximum floor area of a secondary social facility shall be 20,000 square feet.

(3) The maximum building coverage of a secondary social facility shall be 10,000 square feet.

(4) The maximum height of a secondary social facility shall be 31 feet and eight inches (i.e., not more than 10 feet above the 21 feet, eight-inch structure which existed in the general area of Academy Lane as of November 2000).

(5) A secondary social facility shall be set back a minimum of 190 feet from any municipal street, excepting that any porte cochere must only have a minimum setback of 170 feet.

(6) Club facilities accessory to a secondary social facility shall meet the following standards.

(a) Maximum number of parking spaces permitted shall be 160.

(b) Parking areas shall be set back a minimum 70 feet from any public street.

(c) All uses, except as set forth in Subsection D below, shall have a minimum setback of 50 feet from any public street and from any residential property line.

(d) Lighting shall be limited to that which is the minimum permitted by the Code of the Borough of Demarest.

(e) Outdoor speaker or public address systems and all manner of sound projection devices are strictly prohibited.

(f) Setback areas from public streets shall be densely landscaped to produce an appropriate and substantial buffer. The landscaping shall include at least one row of trees which are a minimum of 15 feet in height to ensure that all floors of the secondary social facility are substantially shielded from neighboring properties; and to shield headlights from vehicles parking in a parking area accessory to a secondary social facility.

(g) Fencing constructed of a solid material and uninterrupted shall be required to shield headlights from vehicles parking in a parking area accessory to a secondary social facility. Said fencing shall not be required in those areas where a structure exists which shields the headlights of vehicles. Low level landscaping shall also be required on the side of the fence nearest contiguous property lines in addition to

the landscaping set forth in Subsection C(6)(f) above.

D. Additional club facilities.

(1) Notwithstanding the provisions of Subsections A, B and C above, there shall be permitted an accessory structure for maintenance that shall meet the following standards:

(a) The maintenance building must be set back a minimum of 35 feet from any public street and 75 feet from any other property line.

(b) The maintenance building may not exceed 8000 square feet.

(c) Activities in the maintenance building must be conducted so that noise emanating from said building minimally meets the standards of N.J.A.C. 7:29-1.2(a)

(e) The maintenance building shall be screened from a public street and neighboring residential properties by a row of trees which are a minimum of 15 feet in height.

(2) Notwithstanding the provisions of Subsections A, B, and C above, there shall be permitted an accessory structure for storage of personalty not in use that will remain stored uninterruptedly for not less than a season at a time (i.e., dead storage) or golf carts that shall meet the following standards.

(a) There shall be a minimum setback from a public street of 10 feet.

(b) It shall have a maximum floor area of 5,100 square feet.

(c) There shall be landscaping shielding the storage/golf cart building from neighboring uses, including without limitation 15 feet evergreens.

ARTICLE VII
Definitions

§ 175-26. Interpretation of certain terms.

A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word "shall" is mandatory; the word "building" includes the word "structure;" "occupied" or "used" shall be construed to include the words "intended, arranged or designed to be used or occupied."

B. Whenever a term is used in this chapter which is defined in the Municipal Land Use Law, as amended and supplemented, such term is intended to have the meaning set forth in the definition of such term as found in the applicable statute, unless a contrary intention is clearly expressed from the context of this chapter.

§ 175-27. Terms defined.

A. Definitions. N.J.S.A. 40:55D-3, Municipal Land Use Law, and its amendments shall also become part of this Article VII.

B. The following terms or words used herein shall be interpreted or defined as follows:

ACCESSORY BUILDING — A subordinate building or structure which is located on the same zoning lot as the principal building or structure, whose use is clearly incidental and subordinate to the principal use and which use is customary in connection with the principal use; for example, but not by way of limitation, sheds, gazebos, decks, detached garages and structures attendant to accessory uses. **[Amended 4-17-1989 by Ord. No. 662]**

ACCESSORY USE — Either a subordinate use or a building, structure or land whose use is clearly incidental to the principal use and which is customary in connection with the principal use and which is located on the same zoning lot as the principal use; for example, but not by way of limitation, swimming pools, tennis courts and other active recreational areas.

ALTERATION — As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

ATTIC — The unheated space between the ceiling beams of the top story and the roof rafters, provided it is not on the same level as the living space. **[Added 4-17-1989 by Ord. No. 662; amended 4-15-1996 by Ord. No. 774; 8-22-2002 by Ord. No. 862]**

AVERAGE NATURAL GRADE — An average of a natural grade adjacent to the perimeter of a building measured at points 10 feet apart starting at the lowest elevation. **[Added 8-22-2002 by Ord. No. 862]**

BASEMENT — The lowest level of a building which is partly or completely below grade. **[Added 4-17-1989 by Ord. No. 662; amended 4-15-1996 by Ord. No. 774]**

BUILDING — A combination of materials to form a construction adapted to permanent, temporary or continuous occupancy and having a roof.

BUILDING, HEIGHT OF — The vertical distance measured from the average natural grade all around the building to the highest point of the roof. **[Amended 4-17-1989 by Ord. No. 662; 4-15-1996 by Ord. No. 774; 8-22-2002 by Ord. No. 862]**

BUILDING, PRINCIPAL — A nonaccessory building in which the principal use of the lot on which it is located is conducted.

BULK (ZONING ENVELOPE) — The three-dimensional space within which a structure is permitted to be built on a lot and that is defined by maximum height regulations and minimum yard setbacks, and sky exposure plane regulations when applicable. **[Amended 4-15-1996 by Ord. No. 774]**

CELLULAR TELECOMMUNICATIONS TOWER AND ANTENNA **[Added 7-7-1997 by Ord. No. 791]**:

(1) An antenna that is intended for commercial transmission or reception of personal wireless telephone services communications and including commercial mobile services communications and licensed wireless communications and common carrier wireless exchange access services and also including any tower or other supporting structures and equipment necessary for such transmission or reception.

(2) Expressly omitted from this definition are those antennas intended for personal private use.

CHIMNEY — A structure containing one or more flues for drawing off emissions from stationary sources of combustion. The height shall not exceed five feet, including all appendages above the highest point of the roof that the chimney penetrates or is adjacent to, except that the chimney outlet shall be a minimum of two feet higher than any portion of the building within 10 feet. **[Added 4-15-1996 by Ord. No. 774]**

CLUB FACILITIES ACCESSORY TO SECONDARY SOCIAL FACILITY — Parking facilities, putting green(s), driving range(s), golf cart/storage building, and maintenance buildings. **[Added 8-20-2001 by Ord. No. 840]**

CLUB FACILITIES ACCESSORY TO A CLUB HOUSE — Parking facilities, tennis court(s); swimming pool(s); children recreation areas; paddle tennis court(s); putting greens; driving range; shuffleboard or bocci court(s); cabana(s); pump rooms; storage facilities; maintenance facilities; golf cart buildings; snack bar(s); and the full panoply of typical uses associated with a golf club. **[Added 8-20-2001 by Ord. No. 840]**

CLUB HOUSE — A golf course facility with dining room(s); banquet facilities; grill room(s); bar(s); a pro shop; golf bag room(s); locker room, shower and lavatory facilities; club offices; card room(s); and the full panoply of typical uses associated with such a facility. **[Added 8-20-2001 by Ord. No. 840]**

COMPLETE APPLICATION — An application which, for purposes of commencing applicable time periods for action by the municipal agency, has been certified to be complete or is deemed complete pursuant to N.J.S.A. 40:55D-10.3. **[Amended 4-15-1996 by Ord. No. 774]**

COUNTY PLANNING BOARD — The Bergen County Planning Board.

COVERAGE, MAXIMUM — That percentage of the plot or lot area covered by the principal building and the accessory use building and/or structure. **[Amended 4-15-1996 by Ord. No. 774]**

DECK — A structure assembled with level walking surface(s), with or without railings, any part of which, including railings, is on, above or below grade. **[Added 4-17-1989 by Ord. No. 662]**

DWELLING — A structure or portion thereof that is used exclusively for human habitation. **[Amended 4-15-1996 by Ord. No. 774]**

DWELLING UNIT — A building or part of a building containing a complete housekeeping unit for one family. **[Amended 4-15-1996 by Ord. No. 774]**

FAMILY — A group bearing a generic character of a single-family housekeeping unit as a permanent household; a single, nonprofit housekeeping unit. **[Amended 4-15-1996 by Ord. No. 774]**

FLOOR AREA — The aggregate area of all floors within the outer surface of a building's exterior walls, excluding attics, garages and basements or cellars that are at least 70% below average grade. **[Added 8-22-2002 by Ord. No. 862]**

GARAGE, PRIVATE — A compartment in or on an enclosed structure, appurtenant to a residence building on the same lot, designed to house not more than four motor vehicles for the purpose of storage only. A "private garage" shall exclude carports or stalls for vehicles.

GOLF COURSE — A tract of land for playing golf with 18 holes consisting of tees, greens, fairways and hazards. **[Added 8-20-2001 by Ord. No. 840]**

GOLF COURSE WITH CLUB FACILITIES — A golf course with any of the facilities comprising club facilities accessory to a club house and may include secondary social facility and club facilities accessory to a secondary social facility. **[Added 8-20-2001 by Ord. No. 840]**

IMPERVIOUS SURFACE — A material that prevents the absorption of storm water into the ground. **[Added 4-15-1996 by Ord. No. 774]**

IMPROVEMENT — Development, construction, alteration, addition or relocation of a principal building, accessory building or accessory use, including landscaping, paving, porous and nonporous, and fencing, but not including normal maintenance of the above in whole or its components.

LIMITING SCHEDULE FOOTNOTE "D" — Measured from the average natural grade around the perimeter of the proposed structure. **[Added 8-22-2002 by Ord. No. 862]**

LIVABLE FLOOR AREA — The aggregate area of all floors included within the outer walls of a building, excluding basements, garages and other unheated areas, and including only such floor area under a sloping ceiling for which the headroom is not less than five feet six inches, and then only if at least 75% of such floor area has a ceiling height of not less than seven feet six inches and if any such floor that is situated above another story has access to the floor below by a permanent built-in stairway and has a permanent, complete floor and a means of heating to 70° F. at all times. **[Amended 4-17-1989 by Ord. No. 662; 4-15-1996 by Ord. No. 774]**

LOT, CORNER — A lot or parcel of land abutting upon two or more streets at their intersection or upon two parts of the same street, forming an interior angle of less than 135°. The minimum frontage is to be maintained on all streets. The approving authority is to designate the front of the building, and then the yard opposite the designated front of the building shall meet rear yard minimum requirements. **[Added 4-15-1996 by Ord. No. 774]**

LOT, DEPTH OF — The mean horizontal distance between the front and rear lot lines.

LOT FRONTAGE — The horizontal distance measured along the full length of the front lot line.

LOT LINE — Any boundary line of a lot.

LOT LINE, REAR — Any lot line which is opposite and/or does not intersect a front lot line, except in the case of a triangular corner lot or otherwise irregularly shaped lots. **[Amended 4-15-1996 by Ord. No. 774]**

LOT LINE, SIDE — Any lot line not a front lot line or a rear lot line. **[Amended 4-15-1996 by Ord. No. 774]**

LOT OR PLOT — A single parcel of land occupied by a principal use or used or designed for occupancy by one principal building and accessory use buildings and/or structure and including the open spaces required by this chapter, which parcel of land has its principal frontage on a public street or on a private street of record at the time of the effective date of this chapter. **[Amended 4-15-1996 by Ord. No. 774]**

LOT, WIDTH OF — The straight line distance between points on opposite side lot lines where the boundary between the front yard and the street meet said side lot lines.

MINOR SUBDIVISION — A subdivision of land for the creation of a number of lots specifically permitted by ordinance as a minor subdivision, provided that such subdivision does not involve a planned development, any new street or the extension of any off-tract improvement, the cost of which is not be wholly borne by the developer.

MUNICIPAL LAND USE LAW — Laws of 1975, Chapter 291 (N.J.S.A. 40:55D-1 et seq.), as supplemented and amended from time to time.

NATURAL GRADE — The existing topographical elevation of a zoned lot that exists as of the adoption of this definition. **[Added 8-22-2002 by Ord. No. 862]**

NONCONFORMING USE — A use of a building or land, or both, which does not conform to the use regulations for the district in which it is located.

PARKING SPACE — An off-street space accessible to and usable for the parking of one motor vehicle and having an area of not less than 180 square feet,

exclusive of passageways and aisles appurtenant thereto, with a minimum length of 20 feet and contiguous with the principal use driveway. **[Amended 4-15-1996 by Ord. No. 774]**

PLANNED COMMERCIAL DEVELOPMENT — **[Repealed 4-15-1996 by Ord. No. 774]**

PLATFORM — A walk or approach to a doorway and attached to and a part of the main building. **[Added 4-17-1989 by Ord. No. 662]**

PORCH — A covered walk or approach to a doorway and attached to and a part of the main building.

PROFESSIONAL OR BUSINESS PRACTICES — An accessory use of a service character, customarily conducted within a dwelling by residents thereof, which is clearly incidental and secondary to the use of a dwelling for living purposes and which does not change the character thereof or have any exterior evidence other than a professional sign, as provided in § 175-17C.

RIGHT-OF-WAY LINE — The boundary between the total width of property owned by the public body, whether or not it is dedicated as a street, road or roadway and over which the public has the right of passage, and a property border.

SATELLITE EARTH STATION — Any apparatus, building, or structure which is designed for the purpose of receiving television, radio, microwave, satellite or similar signals in connection with what is commonly referred to as a dish-type antenna.

SECONDARY SOCIAL FACILITY — An additional building other than the club house with sit down eating areas and kitchen(s) and bar(s) for serving breakfast and lunch and snacks; locker rooms and showers and lavatory facilities; card room(s); pro shop; bag room; storage space; and the full panoply of typical uses

associated with such a facility. Banquet facilities are expressly prohibited. Supper is specifically excluded, excepting for sporadic barbecues and special events occurring not more than three times a month between May 1 and September 30. **[Added 8-20-2001 by Ord. No. 840]**

SERVICE STATION — **[Repealed 4-15-1996 by Ord. No. 774]**

SIGN — Any structure or part thereof or device attached or painted or represented thereon or painted or represented on any part of a building, which shall

(Cont'd on page 17535)

display or include any letter, work, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an announcement, direction or advertisement. The word "sign" includes the word "billboard," but does not include the flag, pennant or insignia of any nation, state, city or another political unit or of any political, educational, charitable, philanthropic, civic, professional or religious or like campaign, drive, movement or event.

SIGN, ADVERTISING — A sign which directs attention to a business commodity, service or entertainment conducted, sold or offered elsewhere than on the premises where the sign is displayed.

SIGN AREA — The area within the shortest line that can be drawn around the outside perimeter of a sign, including all decoration but excluding supports, if any, unless the same are illuminated.

SIGN, BUSINESS — A sign to make known to the public the nature of a business commodity, service or entertainment, and/or the name of the proprietor of the business, conducted at the premises to which such sign is attached.

STORY — That portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between any floor and the ceiling next above it.

STREET — Any street, avenue, boulevard, road, parkway, viaduct, drive or other way which is an existing state, county or municipal roadway; or which is shown upon a plat heretofore approved pursuant to law; or which is approved by official action as provided by this chapter; or which is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a Planning Board and the grant to such Board of the power to review plats; and includes the land between the street lines,

whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

STRUCTURE — A combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above or below the surface of a parcel of land.

SUBDIVISION **[Amended 4-15-1996 by Ord. No. 774]**:

(1) The division of a lot, tract or parcel of land into two (2) or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered "subdivisions" within the meaning of this chapter if no new streets are created: divisions of land found by the Planning Board or Subdivision Committee thereof appointed by the Chairman to be for agricultural purposes, where all resulting parcels are five (5) acres or larger in size; divisions of property testamentary or intestate provisions; divisions of property upon court order, including but not limited to judgments of foreclosure; consolidation of existing lots by deed or other recorded instruments; and the conveyance of one (1) or more adjoining lots, tracts or parcels of land owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the Tax Map or Official Map of the borough.

(2) Also includes the term "resubdivision."

SUBDIVISION APPLICATION — The application for approval of a subdivision review pursuant to the

Municipal Land Use Law,[13] as amended and supplemented in Chapter 153, Subdivision and Site Plan Review, of the Code of the Borough of Demarest. **[Amended 4-15-1996 by Ord. No. 774]**

SUBDIVISION, MAJOR — A subdivision not classified as a minor subdivision. **[Added 4-15-1996 by Ord. No. 774]**

SUBDIVISION, MINOR — A subdivision of land for the creation of a number of lots specifically permitted by ordinance as a minor subdivision, provided that such subdivision does not involve a planned development, any new street or the extension of any off-tract improvement, the cost of which is to be prorated pursuant to N.J.S.A. 40:55D-42. **[Added 4-15-1996 by Ord. No. 774]**

SWIMMING POOL — A water-filled enclosure, permanently constructed or portable, having a depth of more than twenty-four (24) inches below the level of the surrounding land, or an above-surface pool having a depth of more than twenty-four (24) inches, designed, used, and maintained for swimming and bathing. **[Amended 4-15-1996 by Ord. No. 774]**

TRANSCRIPT — A typed or printed verbatim record of the proceedings, or reproduction thereof.

UNDERGROUND UTILITY — Any property dedicated to the public use and public service which is regulated by the Public Utilities Commissioners and which is located below the ground surface.

USE, ACCESSORY (BUILDING, STRUCTURE) **[Added 4-15-1996 by Ord. No. 774]** — A building, structure or use detached from the principal use, building or structure which is located on the same zoning lot and customarily incidental and subordinate to the principal use, building or structure.

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

(1) Examples.

(a) Use: Tennis, volleyball, full or half basketball courts, etc.

(b) Building: Shed, gazebo, garage, etc.

(c) Structure: Swimming pool (above or inground), playground equipment, arbor, pergola, deck, antennae, patio, retaining wall, etc.

(2) The examples for use, building and structure set forth above are mentioned as examples only and are not meant to be, nor will they be interpreted as an exclusive list.

USE, PRINCIPAL — The specific purpose for which land or a building is designed, arranged, intended or for which it is, or may be, occupied or maintained.

WALL, RETAINING — A structure forming a change of grade with or without footing that is two (2) feet or greater in height from the lowest adjacent grade elevation. **[Added 4-15-1996 by Ord. No. 774]**

YARD — The space on a lot extending along a lot line between such lot line and a principal building or buildings or a nonbuilding use occupying such lot.

YARD, FRONT — A yard extending the full width of the lot and situated between the street line and and the front line of the building projected to the side lines of the lot. The depth of the "front yard" shall be between the front line of the building and the street line. **[Amended 4-15-1996 by Ord. No. 774]**

YARD, REAR — A yard extending the full width of the lot and situated between the rear line of the building and the rear line of the lot.

YARD, SIDE — A yard situated between the building and the side line of the lot and extending from the front yard to the rear yard.

ARTICLE VIII
Administration

§ 175-28. Interpretation of provisions.

In interpreting and applying the provisions of this chapter, the provisions hereof shall be deemed to be the minimum requirements for the promotion of public safety, convenience, prosperity and general welfare.

§ 175-29. Enforcement.

A. The provisions of this chapter shall be enforced by the Zoning Officer. It shall be the duty of members of the Fire and Police Departments to report any violations of the provisions of this chapter to the Zoning Officer and at the same time to send a copy of such report to the Borough Clerk, who shall send such report to the Mayor and Council.

B. It shall be the duty of the Construction Official to keep a record of all applications for permits, together with a record of all permits issued. He shall file and safely keep copies of all plans submitted and shall have them available for the use of the officials of the Borough of Demarest.

C. The Construction Official shall not issue a permit for the construction, alteration or use of any building or land unless there first is filed with him a copy of the plans and specifications prepared as required by a licensed architect or other authorized person permitted by the laws of the State of New Jersey to prepare such plans and specifications for the construction or alteration, together with a plot plan drawn to scale showing the location of all present and proposed buildings on the site. In addition thereto he shall require a complete statement of the use for which any present or proposed buildings or premises are to be occupied. No such permit shall be issued unless the construction

or use shall also conform to the requirements of this chapter and all other ordinances of the Borough of Demarest.

§ 175-30. Purpose. [Amended 10-20-2003 by Ord. No. 876; 2-23-2004 by Ord. No. 882]

There is a need to have an inspection requirement of all property upon sale, transfer or change of ownership, vacancy and reoccupancy, regardless if the business remains the same use, to ensure that all of the Borough of Demarest's municipal ordinances are being complied with and no change of use has occurred. If a change in use has occurred, a business certificate of continued occupancy cannot be issued; instead, the requirements of all Borough of Demarest zoning codes and the New Jersey Uniform Construction Code[2] certificate of occupancy shall be met.

A. The following shall be unlawful until a certificate of occupancy shall have been applied for and issued by the Construction Code Official:

(1) Occupancy and use of a building hereafter erected, structurally altered or moved or any change in the use of an existing building.

(2) Any change in the use or occupancy of an existing, nonresidential building.

(3) Any change in the use or occupancy of any land.

(4) Any change in the use of a nonconforming use.

(5) Any change in the occupancy of a residential dwelling after its sale. The certificate of occupancy may be issued up to two weeks prior to the sale closing. The certificate of occupancy must be obtained by the seller prior to the resale.

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2 **Editor's Note: See Ch. 84, Construction Codes, Uniform.**

B. No certificate of occupancy shall be issued for any conditional use of a building or of land requiring the approval of the Planning Board unless and until such conditional use has been duly approved by the Board. Every certificate of occupancy for a conditional use or in conformance with a duly granted variance granted by the Board of Adjustment shall contain a detailed statement of such conditional use or variance and of any conditions to which the same is subject.

C. Application for a certificate of occupancy, on a form furnished by the Building Inspector, for a new building or for an existing building which has been altered shall be made after the erection of such building or part thereof has been completed in conformity with the provisions of this chapter and, in the case of a new building, shall be accompanied by an accurate survey prepared by a land surveyor licensed by the state, showing the location of all buildings as built. Such certificate shall be issued within 10 days after receipt of the application, but only provided that all requirements of this chapter and of all other applicable codes and ordinances in effect are complied with. Attached is the Borough certificate which is to become part of this chapter. This form may be revised from time to time without the necessity of a revision to this chapter.[3]

D. If the proposed use is in conformity with the provisions of this chapter and of all other applicable laws and ordinances, a certificate of occupancy for the use of vacant land or for a change of use of a nonconforming use shall be issued by the Building Inspector within 10 days after receipt of a written application therefor. If a certificate of occupancy is denied, the Building Inspector shall state the reasons therefore in writing.

E. Inspections.

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[3] **Editor's Note: Said certificate is on file in the Borough offices.**

(1) The Construction Official shall issue a certificate of occupancy for a residential dwelling if inspection establishes that.

(a) There are no visible safety problems, such as missing hand or guardrails, or visible safety defects.

(b) There has been no illegal work performed without permits and inspections.

(c) No illegal conversions have been made, i.e., one-family to two-family or three-family homes, etc.

(2) The purpose of this change is to ensure that there are no violations of either the zoning or building codes; specifically to check to see that no illegal conversions of single-family homes to two-family and to check for safety violations.

(3) The fee for such inspection shall be $75 payable to the Borough of Demarest to cover administrative costs of inspection and assurance of the continued certificate of occupancy. In addition, a fee of $35 shall be remitted to the Borough of Demarest Construction Official upon verification of inspections and issuance of a certificate of occupancy.

F. Every application for a certificate of occupancy shall state that the building or the proposed use of a building or land complies with all applicable provisions of this chapter.

G. A certificate of occupancy shall be required for both initial and continued occupancy and use of the building or land to which it applies, as certified.

H. A certificate of occupancy shall be required of all nonconforming uses.

(1) Such certificate shall specify each condition or use not conforming to this chapter.

(2) A new certificate shall be required if there is any change in use or ownership from that specified.

(3) The Building Inspector shall issue such certificate if inspection establishes that no provision of this chapter has been violated.

I. A record of all certificates of occupancy shall be kept in the office of the Building Inspector, and copies shall be furnished on request to any agency of the Borough or to any person having a proprietary or tenancy interest in the building or land affected.

J. Any person, firm or corporation who or which shall violate any of the provisions of this chapter shall, upon conviction, be punishable by a fine not exceeding $1,000, imprisonment for a period not exceeding 90 days and/or a period of community service not exceeding 90 days.

K. The issuance of either a certificate of compliance for residential resale or a continued certificate of occupancy shall not preclude the imposition of penalties upon the subsequent discovery of violations.

§ 175-31. Payment of taxes or local improvement assessments.

Pursuant to the provisions of N.J.S.A. 40:55D-39 and N.J.S.A. 40:55D-65, every application for development submitted to the Planning Board or to the Board of Adjustment shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such application; or, if it is shown that taxes or assessments are delinquent on said property, any approvals or other relief granted by either Board shall be conditioned upon either prompt payment of such taxes or assessments or the making of adequate

provision for the payment thereof in such manner that the municipality will be adequately protected.

§ 175-31.1. Smoke detector certificate upon change of occupancy. [Added 11-16-1998 by Ord. No. 804.]

A. An applicant for a smoke detector certificate upon change of occupancy of a structure used or intended for residential purposes by not more than two households shall pay an application fee of $40.

B. An applicant for a smoke detector certificate in case of change of occupancy of a structure used or intended for use for residential purposes by not more than two households where a reinspection is required shall pay a fee of $40 for each reinspection.

§ 175-31.2. Escrow required for one- and two-family residences. [Added 11-16-1998 by Ord. No. 804.]

A. For new construction of a one- or two-family residence, there shall be an application made to the Zoning Officer. The application shall be accompanied by an escrow deposit in the amount of $500 to cover site inspections by the Borough Engineer. The sum posted hereunder shall remain on deposit with the Borough until the Borough Engineer certifies that all site inspections have been completed and all vouchers for services rendered in connection with such services have been paid in full, after which time any balance remaining shall be refunded. This subsection is solely applicable to new construction on a vacant lot.

B. In connection with an addition to a one- or two-family residence where soil will be disturbed, applications shall be made to the Zoning Officer. The application shall be accompanied by an escrow deposit in the amount of

$150 for construction of 750 square feet or less plus $50 for each additional 250 square feet. The sum posted hereunder shall remain on deposit with the Borough until the Borough Engineer certifies that all site inspections have been completed and all vouchers for services rendered in connection with such services have been paid in full, after which time any balance remaining shall be refunded upon issuance of a certificate of occupancy.

(Cont'd on page 17543)

§ 175-32. Violations and penalties. [Amended 7-15-1991 by Ord. No. 703]

Any owner, lessee or other person or persons who permit, take part or assist in any violation of any provision of this chapter shall, upon conviction for each and every violation 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, in the discretion of the Judge imposing the same. When such violation shall continue for more than one day, each day of the continuation of said offense shall be considered as a separate violation of this chapter. No provision of this section shall be construed to prevent the Borough of Demarest from taking injunctive proceedings in the Superior Court of New Jersey or to any other court for the proper enforcement of this chapter and the prevention of continuance of violations of the same.

§ 175-33. Fees. [Amended 4-15-1996 by Ord. No. 774]

The applicant shall deposit with the Borough of Demarest the following nonrefundable moneys to pay expenses concerning variances and conditional uses:

A. Variance pursuant to N.J.S.A. 40:55D-70d: $150.

B. Variance pursuant to N.J.S.A. 40:55D-70c: $100.

C. Variance pursuant to N.J.S.A. 40:55D-70a or b: $75.

D. Conditional use: $50.

§ 175-34. Development fees for affordable housing. [Added 8-20-2001 by Ord. No. 841]

A. Purpose. In Holmdel Builder's Ass'n v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory

development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., and the State Constitution subject to the Council On Affordable Housing's (COAH) developing rules. The purpose of this section is to establish standards for the collection, maintenance and expenditure of development fees pursuant to COAH's rules. Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees.

B. Residential development.

(1) In accordance with N.J.A.C. 5:93-8.10(a) of COAH's substantive rules, all new development of residential dwelling units within the Borough of Demarest, not exempt from the collection of development fees in accordance with the provisions specified in § 175-34D of this section hereinbelow, shall pay a fee to the Borough of Demarest equal to 0.5% of the equalized assessed value of the residential construction.

(2) Notwithstanding the provisions of § 175-34 B(1) hereinabove, if a "d" variance is granted pursuant to N.J.S.A. 40:55D-70d(5) for more residential units than otherwise permitted by right under the existing zoning, then the additional residential units realized as a result of the "d" variance approval shall pay a bonus development fee to the Borough of Demarest equal to 6% of the equalized assessed value of the residential development, rather than the 0.5% development fee otherwise required for the residential units permitted by right. However, if the zoning of a site has changed during the immediate two years prior to the filing of the "d" variance application, then the base density for the purposes of calculating the bonus development fee

shall be the highest density permitted by right during the two-year time period.

C. Nonresidential development.

(1) In accordance with N.J.A.C. 5:93-8.11(a) of COAH's substantive rules, all new development of nonresidential buildings within the Borough of Demarest, not exempt from the collection of development fees in accordance with the provisions specified in § 175-34D of this section hereinbelow, shall pay a fee to the Borough of Demarest equal to 1% of the equalized assessed value of the nonresidential construction.

(2) Notwithstanding the provisions of § 175-34C(1) hereinabove, if a "d" variance is granted pursuant to N.J.S.A. 40:55D-70d(4) for additional floor area than otherwise permitted by right under the existing zoning, then the additional floor area realized as a result of the "d" variance approval shall pay a bonus development fee to the Borough of Demarest equal to 6% of the equalized assessed value of the nonresidential development, rather than the 1.0% development fee otherwise required for the nonresidential floor area permitted by right. However, if the zoning of a site has changed during the immediate two years prior to the filing of the "d" variance application, then the base floor area for the purposes of calculating the bonus development fee shall be the highest floor area permitted by right during the two-year time period.

D. Eligible exactions, ineligible exactions and exemptions.

(1) All residential dwelling units within any inclusionary development containing the construction of low- and moderate-income affordable housing units shall be exempt from paying development fees.

(2) Development fees shall not be collected for the expansion of an existing residential dwelling unit

and/or for the construction of an accessory structure.

(3) Development fees shall not be collected for the expansion of an existing nonresidential building and/or for the construction of an accessory structure.

(4) Any residential dwelling unit that is constructed to replace a dwelling unit which was destroyed by fire or other act of nature shall be exempt from paying development fees if, and only if, the new dwelling unit has been constructed within the periphery of the same foundation upon which the destroyed dwelling unit was located.

E. Collection of fees. The Borough of Demarest shall collect development fees for affordable housing in accordance with the following:

(1) The Zoning Officer of the Borough of Demarest shall notify the Borough's Construction Code Official whenever either a preliminary or final approval is granted to any development which is subject to the collection of a development fee.

(2) Developers shall pay 50% of the required development fee to the Borough's Construction Code Official at the time of the issuance of the construction permit therefor. The equalized assessed value and the required development fee shall be estimated by the Borough's Tax Assessor prior to the issuance of the Construction Permit, with the understanding that the estimate of the equalized assessed value is not intended to establish the equalized assessed value for tax purposes.

(3) Developers shall pay the remainder of the development fee to the Borough's Construction Code Official at the time of the issuance of a certificate of occupancy. The Borough's Tax Assessor shall reestimate the equalized assessed

value and the required development fee at the time of the issuance of the certificate of occupancy, again with the understanding that the estimate of the equalized assessed value is not intended to establish the equalized assessed value for tax purposes. The developer shall be responsible for paying the difference between the development fee calculated at the time of the issuance of the certificate of occupancy and the amount paid at the time of the issuance of the construction permit.

(4) Thereafter, when the final equalized value is determined by the Borough's Tax Assessor for tax purposes, the Construction Code Official shall be so noticed by the Borough's Tax Assessor and, if additional fees are due, the developer shall be so noticed by the Construction Code Official. Within 10 days from receipt of the notice, the developer shall pay to the Borough's Construction Code Official any additional development fee as may be required; i.e., the difference between the development fee as previously calculated based upon the estimates of the equalized value and the development fee as calculated based upon the equalized assessed value as finally determined.

(a) The failure of the developer to make timely payment of any required additional development fee shall entitle the Borough to file, without further notice to the developer, a lien against the subject development; and

(b) In the event the Borough shall file such a lien, the Borough may add to the aforesaid additional development fee amount reasonable attorney fees necessary to file and discharge said lien, together with any and all costs incurred to file and discharge said lien.

(5) The Construction Code Official shall forward all collected development fees to Demarest Borough's

Chief Financial Officer who shall deposit such fees into the established housing trust fund.

F. Housing trust fund. All development fees shall be deposited by the Chief Financial Officer of the Borough of Demarest into a separate designated interest-bearing housing trust fund.

(1) No money shall be expended from the housing trust fund unless the expenditure conforms to the terms of the spending plan summary included in § 175-34G of this section hereinbelow;

(2) The development fees placed in the housing trust fund shall be deemed "dedicated revenues" as such term is defined in N.J.S.A. 40A:4-36; and

(3) In establishing the housing trust fund, the Borough Council shall provide whatever express written authorization that may be required by the bank utilized by the Borough of Demarest in order to permit COAH to itself direct the disbursement of development fees should it be determined by COAH that there is not compliance by the Borough of Demarest with the requirements specified in N.J.A.C. 5:93-8.17 of the substantive rules of the COAH.

G. Spending plan summary.

(1) Subject to the approval of the Borough Council, who shall adopt a resolution of approval of trust fund expenditure to be forwarded to the Chief Financial Officer who shall issue the funds to be expended, the Borough of Demarest shall use the revenue collected from development fees for any activity approved by COAH which addresses the fair share housing obligation of the Borough of Demarest, including, but not limited to the following:

(a) Rehabilitation of units;

(b) New construction of affordable units, including accessory apartments;

(c) Regional contribution agreements;

(d) Purchase of land for low- and moderate-income housing;

(e) Improvement of land to be used for low- and moderate-income housing;

(f) Extension and/or improvements of roads and infrastructure to low- and moderate-income housing sites;

(g) Assistance designed to render housing units to be more affordable; and

(h) Administration to the implementation of the housing plan element and fair share plan of the Borough of Demarest.

(2) Funds shall not be expended to reimburse the Borough of Demarest for past housing activities.

(3) At least 30% of the revenues collected from the development fees shall be devoted to render housing units more affordable, provided and in accordance with the following:

(a) Examples of such activities include, but are not limited to, downpayment assistance, low-interest loans, and rental assistance;

(b) The requirement may be waived in whole or in part when the Borough of Demarest demonstrates to COAH or to the Superior Court, as applicable, the ability to address the requirement of affordability assistance from another source; and

(c) Development fees collected to finance a regional contribution agreement (RCA), a

rehabilitation program or a new construction project shall be exempt from this requirement.

(4) No more than 20% of the revenues collected from the development fees shall be expended on administration, including, but not limited to, the salaries and benefits for the Borough of Demarest employees or consultant fees necessary to develop or implement a rehabilitation program, a new construction program, a regional contribution agreement, a housing element, and/or an affirmative marketing program. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the monitoring requirements of COAH. Development fees shall not be used to defray the costs of existing staff.

H. Monitoring. The Borough Council or its designee shall complete and return to COAH or to the Superior Court, as applicable, all monitoring forms related to the collection of development fees, the expenditures of the revenues, and the implementation of the spending plan summary (see § 175-34G hereinabove). Additionally, the Borough Council or its designee shall file quarterly financial reports and annual program implementation and auditing reports with COAH or with the Superior Court, as applicable, on forms designed by COAH.

ARTICLE IX
Affordable Housing District
[Added 8-20-2001 by Ord. No. 840]

§ 175-35. Affordable housing district designation.

The 8.44 acres shown on a plan entitled "Preliminary Site Plan – 48 units Alpine Country Club Condominiums" prepared by Michael J. Hubschman, P.E., P.P., dated December 12, 2000, a copy of which is on file in the

Borough Clerk's office is designated as Affordable Housing District (AH District).

§ 175-36. Permitted uses in AH District; definitions.

In the AH District, the following are permitted of right

A. Residential townhouses, attached single family dwelling units and apartment flats.

B. For purposes of this article:

(1) A "townhouse" is a one-family dwelling unit in a row of at least two such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.

(2) An "attached single-family dwelling unit" is a one-family dwelling unit attached to one or more one-family dwellings by common vertical walls.

(3) An "apartment flat" is a one-family dwelling unit on one floor of a building containing three or more such flats.

§ 175-37. Density.

The density in the AH District shall be a total of 48 dwelling units.

§ 175-38. Low- and moderate-income housing.

Four of the 48 units shall be age restricted low- and moderate-income dwelling units. "Age restricted" shall mean housing for older persons as used and defined in 42.U.S.C.A. § 3607. Low-income housing means housing affordable according to Federal Department of Housing and Urban Development occupied or reserved for occupancy by

households with a gross household income equal to 50% or less of the median gross household income for households of the same size within the Northeast housing region and which is subject to affordability controls promulgated by the Council on Affordable Housing. Moderate-income housing means housing affordable according to Federal Department of Housing and Urban Development occupied or reserved for occupancy by households with a gross household income in excess of 50% but less than 80% of the median gross household income for households of the same size within the Northeast housing region and which is subject to affordability controls promulgated by the Council on affordable housing.

§ 175-39. Bedroom distribution.

The age restricted dwelling units required by § 175-38 shall utilize bedroom distribution in accordance with N.J.A.C. 5:93-7.3(b).

§ 175-40. Rent and sale prices.

The maximum rent and/or sale prices of the age restricted dwelling units required by § 175-38 shall be determined pursuant to N.J.A.C. 5:93-7.4.

§ 175-41. Distribution of low- and moderate-income units.

At least two of the four age restricted units shall be affordable to low-income households.

§ 175-42. Setbacks.

A. All units in the AH District shall be set back not less than 45 feet from any residential property, excepting that the setback from the rear property line of any

residential property fronting on Hardenburgh Avenue shall be not less than 70 feet.

B. All improvements in the AH District shall be set back not less than 70 feet from the rear property line of any residential property fronting on Hardenburgh Avenue excepting:

(1) Hammerhead vehicle turnaround and driveway areas may be constructed within said setback but not less than 50 feet from the rear property line of any residential property fronting on Hardenburgh Avenue.

(2) Retaining wells, berms, and landscaping.

§ 175-43. Landscaping; berms.

In connection with any development in the AH District:

A. Within 50 feet of the rear property lines of the residential properties fronting on Hardenburgh Avenue there shall be constructed a berm not less than three feet in height.

B. Within 50 feet of the rear property lines of residential properties fronting on Hardenburgh Avenue and Anderson Avenue, there shall be planted evergreens and other landscaping not less than eight feet in height.

§ 175-44. Streetlighting.

In connection with any development in the AH District, there shall be installed low-level coverage lamp-type lighting so as to create a gas-light fixture effect.

§ 175-45. Height.

The dwelling units shall not exceed three stories and 30 feet in height from the average elevation of the proposed

finished grade all around the dwelling units to the highest point of the roof measured to the horizontal line halfway between the cave and the ridge of the roof, but in no event shall the ridge of the roof exceed 35 feet in height.

§ 175-46. Affordable housing provisions. [Added 8-20-2001 by Ord. No. 847]

A. Purpose.

(1) The purpose of this section is to comply with the substantive rules of the New Jersey Council On Affordable Housing (COAH) regarding the Borough of Demarest and its efforts to satisfy its Mt. Laurel II housing obligations.

(2) This section of the Code of the Borough of Demarest sets forth regulations regarding low- and moderate-income housing units in the Borough of Demarest that are consistent with the provisions of N.J.A.C. 5:93 et seq. as effective on June 6, 1994, and as amended thereafter. These rules are pursuant to the Fair Housing Act of 1985 and the Borough of Demarest's constitutional obligation to provide for its fair share of low- and moderate-income housing.

B. Definitions. Any term pertaining to affordable housing referenced in this section is intended to have the meaning as defined in the New Jersey Fair Housing Act (N.J.S.A. 52:270-301 et seq.) or the Procedural Rules Of The New Jersey Council On Affordable Housing (N.J.A.C. 5:91) or the Substantive Rules of the New Jersey Council on Affordable Housing (N.J.A.C. 5:92 or N.J.A.C. 5:93), as appropriate.

C. Inclusionary developments.

(1) The Borough of Demarest's new construction or inclusionary component shall be divided equally

between low- and moderate-income households as per N.J.A.C. 5:93-2.20.

(2) Except for inclusionary developments constructed pursuant to low-income tax credit regulations:

(a) At least 1/2 of all units within each "inclusionary" development shall be affordable to low-income households; and

(b) At least 1/2 of all rental units shall be affordable to low-income households; and

(c) At least 1/3 of all units in each bedroom distribution pursuant to N.J.A.C. 5:93-7.3 shall be affordable to low-income households.

(3) Inclusionary developments that are not restricted to age-restricted housing units shall be structured in conjunction with realistic market demands so that:

(a) The combination of efficiency and one-bedroom units is at least 10% and no greater than 20% of the total low- and moderate-income units; and

(b) At least 30% of all low- and moderate-income units are two bedroom units; and

(c) At least 20% of all low- and moderate-income units are three bedroom units; and

(d) Low- and moderate-income units that are age-restricted may utilize a modified bedroom distribution. At a minimum, the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development.

(4) In conjunction with realistic market information, the following criteria shall be used in determining maximum rents and sale prices:

(a) Efficiency units shall be affordable to 1.0 person households; and

(b) One bedroom units shall be affordable to 1.5 person households; and

(c) Two bedroom units shall be affordable to 3.0 person households; and

(d) Three bedroom units shall be affordable to 4.5 person households; and

(e) Median income by household size shall be established by a regional weighted average of the uncapped Section 8 income limits published by the federal Department of Housing and Urban Development (HUD) as per N.J.A.C. 5:93-7.4(b); and

(f) The maximum sales price of low- and moderate-income units within each "inclusionary" development shall be affordable to households earning no more than 70% of median income. In averaging an affordability range of 55% for the sales units, moderate-income sales units shall be made available for at least two different prices and low-income sales units also shall be made available for at least two different prices; and

(g) For both owner-occupied and rental units, the low- and moderate-income units shall utilize the same heating source as the market units within an inclusionary development; and

(h) Low-income units shall be reserved for households with a gross household income less than or equal to 50% of the median income approved by COAH; moderate-income units shall be reserved for households with a gross household income less than 80% of the median

income approved by COAH as per N.J.A.C. 5:93-7.4(g); and

(i) The regulations outlined in N.J.A.C. 5:93-9.15 and 5:93-9.16 shall be applicable both for purchased and rental units.

(5) For rental units, the following conditions shall apply:

(a) Developers may establish one rent for a low-income unit and one rent for a moderate-income unit for each bedroom distribution; and

(b) Gross rents, including an allowance for tenant-paid utilities, shall be established so as not to exceed 30% of the gross monthly income of the appropriate household size as per N.J.A.C. 5:93-7.4(f). The tenant-paid utility allowance shall be consistent with the utility allowance approved by HUD for use in New Jersey; and

(c) The maximum rents of low- and moderate-income units within each inclusionary development shall be affordable to households earning nor more than 60% of median income. In averaging an affordability range of 52% for rental units, developers and/or municipal sponsors of rental units may establish one rent for a low-income unit and one rent for a moderate-income unit for each bedroom distribution.

(6) For sale units, the following conditions shall apply:

(a) The initial price of a low- and moderate-income owner-occupied for-sale housing unit shall be established so that after a downpayment of 5%, the monthly principal, interest, homeowner and private mortgage insurance, property taxes (based on the restricted value of the low- and moderate-income unit) and condominium or

homeowner association fees do not exceed 28% of the eligible gross monthly income; and

(b) Master deeds of inclusionary developments shall regulate condominium or homeowner association fees or special assessments of low- and moderate-income purchasers at 75% of those paid by market purchasers. This seventy-five-percent percentage is consistent with the requirement of N.J.A.C. 5:93-7A(e). Once established within the master deed, the seventy-five-percent percentage shall not be amended without prior approval from COAH; and

(c) The Borough of Demarest shall follow the general provisions concerning uniform deed restriction liens and enforcement through certificates of occupancy or reoccupancy on sale units as per N.J.A.C. 5:93-9.3; and

(d) The Borough of Demarest shall require a certificate of reoccupancy for any occupancy of a low- or moderate-income sales unit resulting from a resale as per N.J.A.C. 5:93-9.3(c); and

(e) Municipal, state, nonprofit and seller options regarding sale units shall be consistent with N.J.A.C. 5:93-9.5 through 5:93-9.8. Municipal rejection of repayment options for sale units shall be consistent with N.J.A.C. 5:93-9.9; and

(f) The continued application of options to create, rehabilitate or maintain low- and moderate-income sale units shall be consistent with N.J.A.C. 5:93-9.10; and

(g) Eligible capital improvements prior to the expiration of controls on sale units shall be consistent with N.J.A.C. 5:93-9.11; and

(h) The regulations detailed in N.J.A.C. 5:93-9.12 through 5:93-9.14 shall be applicable to low- and moderate-income units that are for sale units.

(7) For inclusionary developments, the following conditions shall apply:

(a) Low- and moderate-income units within an inclusionary development shall be built in accordance with N.J.A.C. 5:93-5.6(d) as follows:

Percentage of Low-/Moderate-Income Units Completed	Percentage Market Housing Units Completed
0%	25%
10%	25%, plus 1 unit
50%	50%
75%	75%
100%	90%
	100%

(b) The design of an inclusionary development shall integrate the low- and moderate-income units with the market units in accordance with N.J.A.C. 5:93-5.6(f).

(8) Development fees for affordable housing ordinance provisions have been prepared and adopted in accordance with N.J.A.C. 5:93-8.10 through 5:93-8.16 and appear as §175-34 of these "Zoning Chapter" provisions.

(9) To provide assurances that low- and moderate-income units are created with controls on affordability over time and that low- and moderate-income households occupy these units, the Borough of Demarest shall designate an administrative agency, to be named by resolution, which shall have the responsibility of ensuring the affordability of sales and rental units. The

administrative agency shall be responsible for those activities detailed in N.J.A.C. 5:93-9.1(a).

(a) In addition, the administrative agency shall be responsible for utilizing the verification and certification procedures outlined in N.J.A.C. 5:93-9.1(b) in placing households in low- and moderate-income units; and

(b) Newly constructed low- and moderate-income sales units shall remain affordable to low- and moderate-income households for at least 30 years, and the administrative agency shall require all conveyances of newly constructed units to contain the deed restriction and mortgage lien adopted by COAH and referred to as "Technical Appendix E" as found in N.J.A.C. 5:93; and

(c) Housing units created through the conversion of a nonresidential structure shall be considered a new housing unit and shall be subject to thirty year controls on affordability. The administrative agency shall require COAH's appropriate deed restriction and mortgage lien.

(10) The following durations of affordability controls shall apply to rehabilitated units:

(a) Rehabilitated owner-occupied single-family housing units that are improved to code standard will be subject to affordability controls for at least six years; and

(b) Rehabilitated renter-occupied housing units that are improved to code standard shall be subject to affordability controls for at least 10 years.

(11) The following durations of affordability controls shall apply to rental units:

(a) Newly constructed low- and moderate-income rental units shall remain affordable to low- and

moderate-income households for at least 30 years. The administrative agency shall require the deed restriction and lien and deed of easement referred to as "Technical Appendix H" as found in N.J.A.C. 5:93; and

(b) Affordability controls on accessory apartments shall be for a period of at least 10 years, except if the apartment is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.15, then the controls on affordability shall extend for 30 years in accordance with N.J.A.C. 5:93-5.9); and

(c) Alternate living arrangements shall be controlled in a manner suitable to COAH that provides assurances that such a facility will house low- and moderate-income households for at least 10 years, except that if the alternative living arrangement is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.15, then the controls on affordability shall extend for 30 years in accordance with N.J.A.C. 5:93-5.8).

(12) Section 14(b) of the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., incorporates the need to eliminate unnecessary cost generating features from the Borough of Demarest's land use ordinances. Accordingly, the Borough of Demarest shall eliminate development standards that are not essential to protect the public welfare and to expedite or fast track municipal approvals/denials on inclusionary development applications. The Borough of Demarest shall adhere to the components of N.J.A.C. 5:93-10.1 through 5:93-10.3.

Limiting Schedule, District
Borough of Demarest

Limiting Schedule, District
Borough of Demarest

District	Area								Bulk					
	Minimum Lot Dimensions[A]			Minimum Yard Dimensions[E]										
	Frontage (feet)	Depth (feet)	Area (square feet)	Front Yard Depth or Setback (feet)	Side Yard Width: Abutting a Street (feet)	Side Yard Width: Abutting a Lot (feet)	Rear Yard Depth (feet)	Rear Yard Width (feet)	Maximum Number of Families per Building	Maximum Building Coverage (percentage of square feet per lot) (all buildings, accessory uses and structures)[1]	Maximum Height of Building[D]: Stories	Maximum Height of Building[D]: Feet	Maximum Livable Floor Area[F,1]: 1-story	Maximum Livable Floor Area[F,1]: 2-story	Maximum Impervious Surface Area[1]
Residence (A)	200	200	40,000	50[B]	50	25	50	A	1	15%	–	24/30	22.5%		30%
Residence (BB)	150	150	30,000	50[B]	50	25	50	A	1	15%	–	24/30	22.5%		30%
Residence (B)	150	150	22,500	50[B]	50	20	40	A	1	15%	–	24/30	22.5%		30%
Residence (C)	100	100	15,000	35[B]	35	15	30	A	1	20%	–	24/30	30%		30%
Residence (D)	100	100	10,000	25[B]	25	10	30	A	1	20%	–	24/30	30%		30%
Golf Course (G)															
Single-family residential golf course[G]	200	200	40,000	50[B]	50	25	50	A	1	15%	–	24/30	22.5%		30%
Golf course with club facilities[G]	–	–	–	–	–	–	–	–	–	–	–	–	–		–
Community Business I (CB-I)				–	–	15[C]	30	–	None	50%	2	30	None		90%

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NOTES:

[A] For other than rectangular lots, a rear yard width is required that is equal to the frontage requirement in the district, such width to be measured between points on each side line which are distant from the frontage line the number of feet specified as the minimum lot depth requirement in the district, such side line points to be measured at right angles to the frontage line. This requirement applies to all residence districts.

[B] On all streets other than Knickerbocker Road, Hardenburgh Avenue, County Road, Anderson Avenue, Piermont Road and Lenox Avenue, an alternate setback will be required, conforming to the established average setback on the street on which the lot fronts, within the same district and within three hundred (300) feet on each side of the lot along the same side of the street, but not beyond any intersecting streets, established by three (3) or more houses. [Amended 4-15-1996 by Ord. No. 774]

[C] In the Business District, side yard width is required if access to off-street parking and/or loading and unloading facilities in the rear is provided and if transition at district boundary. [Amended 4-17-1989 by Ord. No. 662]

[D] Measured from the average elevation of the proposed finished grade all around the principal building, accessory building or structure. [Amended 4-15-1996 by Ord. No. 774]

[E] In all districts and in connection with all brooks and streams, a mandatory open space, unencumbered by any building or structure, shall be maintained as follows: bordering Tenakill Brook, no footing or foundation of any building or structure shall be closer than fifty (50) feet to the top of the bank of the stream; bordering all other brooks and streams, no footing or foundation of any building or structure shall be closer than twenty-five (25) feet to the top of the bank of the stream. These minimum open space setbacks may be expanded as a result of applications to the New Jersey Department of Environmental Protection for stream encroachment permits. Said permit applications shall be required when the tributary drainage area for the brook or stream exceeds fifty (50) acres. [Amended 4-15-1996 by Ord. No. 774]

[F] Maximum livable floor area is calculated as a percentage of the square footage of the lot to be developed. [Added 4-17-1989 by Ord. No. 662]

[1] [Amended 4-17-1989 by Ord. No. 662]

[2] [Added 4-15-1996 by Ord. No. 774]

Limiting Schedule, Conditional Uses
Borough of Demarest

Limiting Schedule, Conditional Uses[1]
Borough of Demarest

District	Area								Bulk		
	Minimum Lot Dimensions[CU-A]			Minimum Yard Dimensions[CU-E]					Maximum Building Coverage (% of sq. ft.) (all buildings, accessory uses and structures)	Maximum Height[CU-E] (feet)	Maximum Occupied Floor Area (% of sq. ft.) (all areas unless noted)
					Side Yard Width		Rear Yard				
	Frontage (feet)	Depth (feet)	Area (acres)	Minimum Front Yard Depth or Setback (feet)	Abutting a Street (feet)	Abutting a Lot (feet)	Depth or Setback (feet)	Width (feet)			
Houses of Worship (all residential districts)	250	250	2.0	75	75	50	50	[CU-A]	10%	[CU-E]	15
Parks and Playgrounds	See § 175-10B										
OL - Overlay	[CU-F]	[CU-F]	[CU-F]	greater of 50 feet or tower height	greater of 50 feet or tower height	greater of 50 feet or tower height	greater of 50 feet or tower height	[CU-F]	[CU-F]	[CU-G]	[CU-F]

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NOTES:

[CU-A] For other than rectangular lots, a rear yard width is required that is equal to the frontage requirement in the district, such width to be measured between points on each side line which are distant from the frontage line the number of feet specified as the minimum lot depth requirement in the district, such side line points to be measured at right angles to the frontage line. This requirement applies to all residence districts.

[CU-B] Measured from the average elevation of the finished grade all around the building or structure.

[CU-C] In all districts and in connection with all brooks and streams, a mandatory open space, unencumbered by any building or structure, shall be maintained as follows: bordering Tenakill Brook, no footing or foundation of any building or structure shall be closer than 50 feet to the margin or bank of the stream; bordering all other brooks and streams, no footing or foundation of any building or structure shall be closer than 25 feet to the center line of the stream. These regulations shall apply whether the stream is open or piped.

[CU-D] Maximum occupied floor area is calculated as a percentage of the square footage of the lot to be developed.

[CU-E] Note § 175-10A(2) and specific provisions in text for steeples over and above maximum height allowance.

[CU-F] As required in the district in which facility is located (i.e., not OL, but applicable Residence A through D or Community Business I Districts).

[CU-G] One hundred feet if single carrier, 115 feet if two carriers, 130 feet if three carriers, as maximum height. [Amended 8-18-1997 by Ord. No. 792]

[1] [Added 4-15-1996 by Ord. No. 774; amended 7-7-1997 by Ord. No. 791]