

Borough of Clayton
Gloucester County, New Jersey

The
Unified Development
Ordinance (UDO)

Adopted by the Borough Council

March 12, 1998

Technical Assistance Provided By

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Unified Development Ordinance (UDO)

**Adopted by the
Borough Council of the Borough of Clayton
Gloucester County, New Jersey**

**On March 12, 1998 By Ordinance 3-98
Effective 3/23/98
To Be Known as Chapter 96 of the Clayton Code**

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Tony Saban, Councilman
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The Ordinance replaces, in total, the following Chapters of the Code of the Borough of Clayton

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Article I. General Provisions

§ 1. Title.

This chapter is derived from a comprehensive ordinance regulating and limiting the uses of land and the uses and locations of buildings and structures; regulating and restricting the height and bulk of buildings and structures and determining the area of yards and other open spaces; regulating and restricting the density of population; dividing the Borough of Clayton, Gloucester County, New Jersey into zoning districts for such purposes; adopting a map of said Borough showing boundaries and the classification of such districts; establishing an official map for said municipality; establishing rules, regulations and standards governing the subdivision and development of land within the Borough; establishing a Planning Board which also serves as the Zoning Board of Adjustment; and prescribing penalties for the violation of its provisions.

The short form by which this chapter may be known shall be the Unified Development Ordinance (UDO) of the Borough of Clayton.

§ 2. Authority.

- A. This ordinance is adopted pursuant to N.J.S.A. 40:55D-1 et seq., commonly known as the Municipal Land Use Law, which confers the power to regulate the use of lands within its jurisdiction upon New Jersey municipalities.
- B. This ordinance is also based upon the duly recognized police powers of a municipality and is an exercise of the same.

§ 3. Purpose.

- A. This chapter is adopted in order to promote and protect the public health, safety, and general welfare and in the furtherance of the following specific objectives:
 - 1. Ensuring the coordinated development of the Borough in accordance with its Master Plan.
 - 2. Lessening congestion on the streets and ensuring access to the circulation system.
 - 3. Providing for adequate light and air.

4. Preventing the overcrowding of land and buildings.
5. To promote a desirable visual environment through creative development techniques and good civic design and arrangements.
6. To provide a full range of housing choices to meet the needs of households in all income levels.
7. Avoiding the undue concentration of population.
8. Ensuring the conservation and protection of open space and natural features.
9. Conserving the value of property.

§ **4. Conformity with the Master Plan.**

- A. The Borough Council affirms by its adoption of this chapter that it has received and reviewed the Land Use and Housing Elements of the Borough of Clayton Master Plan, as duly adopted by the Borough Planning Board, and that this chapter is substantially consistent with the recommendations and provisions of those elements.
- B. The statement of goals, objectives, principles, assumptions, policies and standards contained in the Borough of Clayton Master Plan is adopted by reference and shall be considered applicable to this chapter.
- C. All future amendments to this chapter shall be made only after a review of the Land Use and Housing Elements of the Master Plan and in conformity with its statement of goals, objectives, principles, assumptions, policies and standards.

Article II. Language Interpretation and Definitions

§ 5. Language interpretations.

- A. For the purposes of this chapter, certain words shall have the meaning assigned to them as follows. The following definitions are intended to interpret and clarify word usage in the Borough of Clayton Unified Development Ordinance and not necessarily intended to be used to interpret or clarify word usage in other portions of the Code of the Borough of Clayton. When words are used in the Unified Development Ordinance but are not defined herein, then definitions used in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., as applicable, shall control and be utilized to interpret and clarify word usage.
1. Words in the present tense include the future. The singular form of a word includes the plural form and the plural form of a word includes the singular form.
 2. The word "building" includes "structure" and any part thereof.
 3. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," "constructed for," "altered for," "converted for," "rented for," "leased for," or "occupied for".
 4. The word "person" includes an individual, corporation, partnership, incorporated association, or any similar legal entity.
 5. The words "includes" or "including" shall not limit the term to the specified examples, but is intended to extend their meaning to all other instances of like kind and character.
 6. The words "shall" and "will" are mandatory and not discretionary, and the word "may" is permissive.
 7. The feminine gender includes the masculine gender and vice versa.

§ 6. Definitions.

The following words and phrases shall have the meaning given in this section when applied to the entire chapter.

Access- A way or means of approach to provide physical entrance to a property.

Accessory Building or Structure- A building or structure which is detached from a principal building or structure on the same lot and which is customarily incidental and subordinate to the principal building or structure. Any accessory building attached to the principal building shall be considered part of the principal building.

Accessory Use- A use of land or a building or portion thereof customarily incidental and subordinate to the principal use of the land or building, located on the same lot with the principal use.

Acre- 43,560 square feet.

Addition, Structural- A structure added to the original structure at some time after the completion of the original structure. Any additions to the supporting members of a building, such as walls, columns, beams, girders, posts or tiers.

Adjacent Property- A lot or parcel of land which shares all or part of a common lot line with another lot or parcel of land provided, however, that lots which are separated by a public street shall not be considered adjacent.

Administrative Officer- An official of Borough of Clayton who is appointed by the Borough Council for the purpose of enforcing this chapter.

Aesthetic Improvement Cut- The removal, to the minimum extent possible, of the smallest and poorest trees so as to permit land development while retaining the maximum number of larger and healthier trees.

Agriculture- The production, keeping or maintenance; for sale, lease, or personal use; of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

Air Pollution- The presence of contaminants in the atmosphere in concentrations that preclude its normal dispersive ability and that interfere directly or indirectly with a person's health, safety or comfort or with the full use and enjoyment of their property.

Aisle- The traveled way by which cars enter and depart parking spaces.

Alley- A public or private street primarily designed to serve as secondary access to the side or rear of a property whose frontage is on another street.

Alteration, Structural- Any change in either the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimensions or configurations of the roof or exterior walls.

Anchor Tenant- The major store or stores within a shopping center. For the purpose of this chapter, a store which occupies at least twenty percent (20%) of the gross square footage of the entire shopping center shall be considered an anchor tenant.

Applicant- The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land, and who is submitting an application under this chapter.

Application for Development- The application form and all accompanying documents required by this chapter for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance, or direction of the issuance of any permit required herein, or any and all approvals otherwise required under the Municipal Land Use Law, N.J.S.A. 40:55D- 1 et seq.

Assisted living residence - A facility which is licensed by the Department of Health, in accordance with N.J.A.C. 8:36 to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed, to four or more adult persons unrelated to the proprietor. Apartment units offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette, and a lockable door on to unit entrance

Average Daily Traffic (ADT)- The mean number of cars per day that pass over a given point.

Awning- A roof-like projection from the wall of a building, usually made of cloth, canvas, or similar material, which provides shade or decorative accent to a window or door.

Automobile- A self-propelled free moving vehicle, with four (4) or more wheels, primarily for conveyance on a street or roadway.

Automobile Sales- The use of any building, land area or other premise for the display and sale of new or used automobiles, panel trucks or vans, trailers, or recreation vehicles and including any warranty repair work and other repair service conducted as an accessory use on vehicles for sale or previously sold by the facility.

Automobile Service Station- Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sale of vehicular fuels; and including as an accessory use the sale and installation of lubricants, tires, batteries and similar accessories.

Automobile Wash- Any building or premises or portions thereof used for washing automobiles.

Basement- A space having one-half or more of its floor-to-ceiling height below the average level of the adjoining ground and with a floor-to-ceiling height of not less than six and one-half (6.5) feet.

Berm- A mound of earth, at least three (3) feet in height, which is used to shield and screen areas from view or to control the direction of water

Bicycle Lane- A lane at the edge of a roadway which is reserved and designed for the use of bicycles.

Bicycle Path- A pathway designed to be used by bicyclists.

Boarder- An individual other than a member of the family occupying the dwelling unit or a part thereof who, for a consideration, is furnished sleeping accommodations and may be furnished meals or other services as part of the consideration.

Boarding House- A dwelling or part thereof, in which lodging is provided by the owner or operator to two (2) or more boarders.

Borough Engineer- See Municipal Engineer.

Borough Planner- See Municipal Planner.

Buffer- A landscaped strip of land used to visually separate one use from another or from a street. Buffers also serve to shield or block noise, lights, and other nuisances.

Building- A combination of materials to form a construction adapted to permanent, temporary, or continuous occupancy and having a roof.

Building Coverage- The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot, divided by the entire area of the lot.

Building Height- The vertical distance of a building measured from the average elevation of the finished grade within twenty (20) feet of the structure to the highest point of the roof.

Building Setback Line- A line drawn parallel to a street line or lot line and drawn through the point of a building nearest to the street line or lot line. The term "required setback" means a line that is established a horizontal distance from the street line or lot line and beyond which a building or part of a building is not permitted to extend toward the street line or lot line.

Business Services- Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment service; management and consulting services; protective services; equipment rental and leasing; commercial research; development and testing; reproduction services; and personal supply services.

"c" Variance- A variance prescribed by N.J.S.A. 40:55D-70c.

Caliper- The diameter of a tree trunk measured in inches, six (6) inches above ground level for trees four (4) inches in diameter or less, and measured twelve (12) inches above ground level for trees greater than four (4) inches in diameter. The tree diameter is also $7/22$ of the circumference, measured at the points on the tree noted above.

Canopy- A roof-like cover, open to the elements on all four sides, e.g. a cover which is used to protect outdoor equipment such as gasoline pumps.

Cartway- That area of a street within which vehicles are permitted, including travel lanes and parking areas but not including curbs, sidewalks or swales.

Cellular Communications - the use of electronic devices for the provision of wireless messaging or data transmission services, provided by a system typically including the following components, communication devices (telephones, pagers or portable computers, etc.), a cell site/radio link or antenna (sometimes including lattice or monopole tower) and a switching office. Personal communications services (PCS) shall also be considered cellular communications.

Cemetery- Property used for the interring of the dead.

Change of use- Any use which is not substantially the same as the previous use of a building or land.

Channel- The bed and banks of a natural stream which convey the constant or intermittent flow of the stream.

Channelization- The straightening and deepening of channels and/or the surfacing thereof to permit water to move rapidly and/or directly.

Child Care Center - Any home or facility, by whatever name known, which is maintained for the care, development or supervision of six or more children under 13 years of age who attend for less than 24 hours a day. For a facility that is located in a sponsor's home, the New Jersey Department of Human Services shall not count the children residing in the sponsor's home in determining whether the facility is serving the minimum number of children that would require it to be licensed as a center.

Church- A building or groups of buildings which by design and construction are primarily intended for the conducting of organized religious services.

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

Classification- The determination as to whether a plan is a minor or major subdivision and/or site plan.

Clear Cutting- The removal of the majority of standing trees on a lot or portion of a lot.

Clinic- An establishment where patients are admitted for examination and treatment by one (1) or more physicians, dentists, psychologists or social workers and where patients are not usually lodged overnight.

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

College- An educational institution authorized by the state to award associate, baccalaureate or higher degrees.

Commercial Message- Any sign wording, logo, figure, symbol, color, illumination, fixture, projection, or other representation that directly or indirectly, names, advertises, or calls attention to a business product, service, or other commercial activity.

Commercial Use- Any activity carried out for pecuniary gain.

Commercial Vehicle- Any motor vehicle licensed by the state as a commercial vehicle.

Common Open Space- An open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and

owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

Community Association- An homeowners association organized to own, maintain and operate common facilities and open space and to enhance and protect their common interests.

Community Facility- A building, structure, recreational device, service system, or other facility generally available to and/or operated for the benefit of residents, whether public or private; including but not limited to swimming pools, tennis courts, bicycle paths, sewage treatment plants, drainage ways, municipal buildings, schools, and similar facilities.

Community Residence For Persons With Head Injuries - A community residential facility licensed pursuant to P.L. 1977, c.448 (C.30:11-B-1 et seq.) providing food, shelter and personal guidance, under such supervision as required, to not more than 15 persons with head injuries, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to : group homes, halfway houses, supervised apartment living arrangements, and hostels.

Community Residence for the Developmentally Disabled- Any community residential facility licensed pursuant to N.J.S.A. 30:11B-1 et seq., providing food, shelter, and personal guidance, under such supervision as required, to not more than fifteen (15) developmentally disabled or mentally ill persons, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, half-way houses, intermediate care facilities, supervised apartment living arrangements, and hostels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act" N.J.S.A. 26:2H-1 et seq. In the case of such community residence housing mentally ill persons, such a residence shall have been approved for a purchase of service contract or an affiliation agreement pursuant to such procedures as shall be established by regulation of the Division of Mental Health and Hospitals of the New Jersey Department of Human Services. See Developmentally Disabled Person and Mentally Ill Person.

Community Shelter For Victims of Domestic Violence- Any shelter approved for a purchase of service contract and certified pursuant to standards and procedures established by the New Jersey Department of Human Services, pursuant to N.J.S.A 30:40-1-14, providing food, shelter, medical care, legal assistance, personal guidance, and other services to not more than fifteen (15) persons who have been the victims of domestic violence, including any children of such victims, who temporarily require shelter and assistance in order to protect their physical or psychological welfare.

Completeness- A determination as to whether an application contains all information required by this chapter and contained on the applicable submission checklist provided to the applicant.

Concept Plan- An informal presentation and attendant documentation of a proposed subdivision or site plan which is without legal standing but which is intended to allow the applicant to receive suggestions from the Planning Board and/or Development Review Committee.

Conditional Use- A use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as contained in this chapter, and upon the issuance of an authorization therefor by the Planning Board.

Condominium- A building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

Condominium Association- The community association which administers and maintains the common property and common elements of a condominium.

Contiguous- Next to, abutting, or touching and having a boundary, or portion thereof, which is coterminous.

Continuing Care Facilities- A residential use which combines both dwelling units and a licensed, 24-hour-a-day nursing care facility for the benefit of residents. A continuing care facility may also include common dining facilities, recreational activities, and other accessory uses for the exclusive benefit of its residents.

Convalescent Home- See Nursing Home.

Conventional Development- Development other than planned or cluster development.

Corner Lot- See Lot, Corner.

Council- The Borough Council of the Borough of Clayton, said organization being the elected governing body of the municipality.

County Planning Board- The Planning Board of the County of Gloucester.

Coverage- See Lot Coverage or Building Coverage.

Crown- The branches and foliage of a tree; the upper portion of a tree.

Cul-de-sac- The turnaround at the end of a dead-end street.

Curb- A stone, bituminous or Portland cement concrete, or wood, etc. border usually marking the edge of the roadway or paved area.

"d" Variance- A variance prescribed by N.J.S.A. 40:55D-70d.

Days- Calendar days, including weekends and holidays.

Day Care Center- A licensed, principal use for the purpose of providing custodial care of persons, for a period not to exceed eighteen (18) hours within a single day in return for the payment of tuition, fees, or other compensation. Day care may include care of either children or adults who are unable to care for themselves because of diminished capabilities. See also the definition of Family Day Care Home.

Deciduous- Plants that drop their leaves before becoming dormant in winter.

Dedication- Gift or donation of property by the owner to another party.

Density- The permitted number of dwelling units per gross acre of land to be developed.

Design Flood- the relative size or magnitude of a flood, expressed as a design discharge in cubic feet per second, which is developed from hydrologic criteria, represents a major flood of reasonable expectancy, reflects both flood experience and flood potential and is the basis of the delineation of the floodway and flood hazard area and the water surface elevations thereof in the flood plain reports.

Design Flood Profile (Floodway Or Flood Hazard Area) - The elevations of the water surface of the floodway design flood and the flood hazard area design flood as shown on the flood map included in the flood plain report.

Design Standards- The standards contained herein which set forth the specifications of required improvements.

Detention Basin (Pond)- A constructed or natural water collector facility designed to collect surface and/or sub-surface water in order to impede its flow and to release the same gradually, at a rate not greater than that prior to development of the property, into natural or constructed outlets.

Developer- The legal or beneficial owner or owners of a lot or of any land included in a proposed development including the holder of an option or contract to purchase, or other persons having enforceable proprietary interests in such land.

Development- The division of a parcel of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation, landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to the Municipal Land Use Law or this chapter.

Developmentally Disabled Person- A person who is developmentally disabled as defined by N.J.S.A. 30:11B-2.

Direct Illumination- A means of lighting a sign or other object by means of a light source located within or directly on the object to be lit.

District- A part, zone or geographic area within the municipality within which certain zoning or development regulations apply.

Disturbance Zone- That portion of a lot covered by existing or proposed buildings or structures and within a certain permitted distance around the same as noted in § ___.

Drainage- The removal of surface water or groundwater from land by drains, grading, or other means.

Drainage and Utility Rights-of-Way- The lands required for the installation and maintenance of stormwater and sanitary sewers, water pipes or drainage ways and other utilities.

Drainageway- Any natural or artificial watercourse, trench, ditch, swale or similar depression into which surface water flows.

Drip Line- The perimeter line on the ground measured from the outermost edge of the vertical plane established by the branches of a tree.

Driveway- A private roadway providing access for vehicles to a parking space, garage, dwelling or other structure.

Drop Manhole- A manhole provided for inspection and maintenance of sewers where an incoming sewer is higher than the outgoing sewer.

Duplex- See Dwelling, Two-Family.

Dwelling- A structure, or an entirely self-contained portion thereof, which is designed for and occupied principally as a place of residence for one (1) housekeeping unit. A dwelling must be suitable for year-round occupancy and must contain facilities for

cooking, sleeping, bathing, and human sanitation which are for the exclusive use of the occupants of the dwelling.

Dwelling, Garden Apartment- A dwelling unit which is designed for, and occupied exclusively as, the residence of one (1) housekeeping unit. Garden apartments may have other dwellings intended for occupancy by one (1) housekeeping unit above or below, or adjacent to them within the same building. When sold as condominium units, garden apartments can be referred to as condominium flats or "condo flats".

Dwelling, Multi-family- A building which contains more than two (2) dwellings, each of which is intended for occupancy by one (1) housekeeping unit.

Dwelling, Single Family Detached- A dwelling which is designed for, and occupied exclusively as, the residence of one (1) housekeeping unit; and which is not attached to any other dwelling.

Dwelling, Single Family Semi-Detached- A dwelling which is designed for, and occupied exclusively as, the residence of one (1) housekeeping unit; and which is attached by means of a common wall to one (1) other dwelling intended for occupancy by one (1) housekeeping unit.

Dwelling, Townhouse - A dwelling which is designed for, and occupied exclusively as, the residence of one (1) housekeeping unit. Townhouse dwellings may not have any other dwellings above or below them within the same building and are attached by means of one (1) or more common fire walls to two (2) or more other dwellings in the same building.

Dwelling, Two-Family- A structure on a single lot which contains two (2) dwelling units, each of which is designed for, and occupied exclusively as, the residence of one (1) housekeeping unit; and which is totally separated from the other by an unpierced wall extending from the ground to the roof or by an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

Easement- A grant of one (1) or more of the property rights by the property owner to and/or for use by the public, a corporation or another person or entity.

Eating and Drinking Places- Retail establishments selling food and drink for consumption on the premises, including lunch counters and refreshment stands selling prepared food and drink for immediate consumption.

Elevation- (1.) A vertical distance above or below a fixed reference level, or (2.) a flat scale drawing of the front, rear, or side of a building.

Encroachment- Any building, structure or obstruction in, or on, a delineated floodway, right-of-way, or adjacent land.

Environmental Assessment- A written report which analyzes the effect of a development upon the environment.

Environmental Commission- The Borough of Clayton Environmental Commission.

Environmental Constraints- Features, natural resources, or land characteristics that are sensitive to improvements and which may require conservation measures or the application of creative development techniques to prevent degradation of the environment, or which may limit the amount of development which is possible.

Erosion- The detachment and movement of soil or rock fragments by water, wind, ice, and gravity.

Evergreen- Plants which have green leaves all year long.

Existing Use- The use of a lot or structure at the time of the enactment of a zoning ordinance.

Facade- The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

Family- One (1) or more individuals occupying a dwelling unit and living as one (1) housekeeping unit.

Family Day Care Home - The private residence of a family day care provider which is registered by the New Jersey Division of Youth and Family Services or an organization with which the Division contracts for family day care as a family day care home, pursuant to the "Family Day Care Provider Registration Act," P.L. 1987, c. 27 (C. 30:5B-16 et seq.). A family day care home is an accessory use, shall be considered a home occupation and shall not be subject to more stringent restrictions than exist or apply to all other home occupations in the particular residential zone in which it is located. The child care services regularly provided in a family day care home serve no less than three (3) nor more than five (5) children for a period of time of no less than fifteen (15) hours per week nor more than eighteen (18) hours within a single day. The limitation on the number of children for whom day care service is provided shall not include children who are (a.) legally related to the service provider or (b.) who are being cared for as part of a cooperative agreement between parents for the care of their children by one (1) or more of the parents where no payment for the care is being provided. See also the definition of Child Care Centers and Day Care Centers.

Fence- An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

Final Approval- The official action of the Planning Board taken on a preliminarily approved subdivision or site plan, after all conditions and requirements have been met, and the required improvements have been installed or guarantees properly posted for their installation, or approval has been conditioned upon the posting of such guarantees.

Finished Elevation- The completed elevation of the land surface of a site after final grading.

Flood Fringe Area- That portion of the flood plain outside of the floodway .

Flood Hazard Area - The floodway and additional portions of the flood plain that are subject to flood flow at lesser depths and lower velocities than the floodway, that are inundated by the flood hazard area design flood and that are delineated in the flood plain reports.

Flood Maps - The map identified in § 33 and all subsequent maps and reports that may be prepared from time to time are an integral part of this chapter. In the absence of any other flood maps, the delineation of flood plains as described in §33 shall be conclusive.

Flood Plain- The stream channel and the relatively flat area adjoining the channel of a natural stream or river which has been or may be covered by floodwater. The flood plain is made up of the floodway and the flood fringe.

Floodway- The channel of a natural stream or river and portions of the flood plain adjoining the channel which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream or river, in accordance with Federal Emergency Management Agency (FEMA) regulations.

Floor Area, Gross (GFA)- The sum of the gross horizontal areas of all floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two (2) buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six and one-half (6.5) feet.

Floor Area, Net (NFA)- The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

Floor Area Ratio- The sum of the area of all floors of buildings or structures compared to the total area of the site.

Footcandle- The unit used to measure lumens (the density of light) per square foot.
[Footcandle = lumens/area].

Frontage- That side of a lot abutting on a street; the front lot line.

Front Lot Line- See Lot Line, Front.

Front Yard- See Yard, Front.

Funeral Home- A building licensed and used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

Garage- A building or structure, or part thereof, used or intended to be used for the parking and storage of vehicles.

Garden Apartment- See Dwelling, Garden Apartment.

Gasoline Station- See Automobile Service Station.

Glare- The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Government Agency- Any department, commission, independent agency or instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, Borough, authority, district or other governmental unit.

Grade- The degree of rise or descent of a sloping surface. See Slope.

Gross Floor Area- See Floor Area, Gross.

Gross Leasable Area- The total floor area for which the tenant pays rent and which is designed for the tenant's occupancy and exclusive use. Where specific data is unavailable, this shall be assumed to be ninety percent (90%) of the gross floor area.

Ground Cover- Grasses or other plants grown to keep soil from eroding.

Gutter- A shallow channel usually set along a curb or the pavement edge of a road for the collection and transport of runoff.

Health Care Facility- A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general

hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary, or other home for sheltered health care, or central health services facility serving one (1) or more such institutions but excluding institutions that provide healing solely by prayer.

Height- See Building Height.

Heliport- An area, either at ground level or elevated on a structure, licensed or approved for the landing and takeoff of helicopters, and including auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

Historic Site- Any real property, man-made structure, natural object or configuration or any portion or group of the foregoing which have been formally designated in the master plan, or state or national registers of historic places as being of historical, archaeological, cultural, scenic or architectural significance.

Home Occupation- A lawful occupation constituting, either partially or fully, the livelihood of a person, which is conducted in that person's principal residence as an accessory use. Home occupations are permitted conditionally only when they conform to the appropriate specific standards of this chapter. Family day care homes shall be considered home occupations and accessory uses which are not subject to conditional use approval.

Homeowners Association- An association, other than a condominium association, which is organized in a development in which individual owners share common interests in open space and facilities. See Community Association.

Hospital- A health care facility providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities.

Hotel- A commercial facility offering transient lodging accommodations to the general public and providing additional services such as restaurants, meeting rooms, and recreation facilities. See Boarding House and Inn.

Housekeeping Unit- One (1) or more persons living together in one (1) dwelling unit on a non-seasonal basis and sharing living, sleeping, cooking and sanitary facilities on a non-profit basis.

Impervious Surface- Any material which reduces the absorption of storm water into previously undeveloped land. These include buildings, driveways, streets, sidewalks, and similar surfaces.

Impervious Coverage- The area of all portions of the lot which are covered by impervious surfaces, divided by the entire area of the lot.

Inclusionary Development- A residential development in which a proportion of all units are reserved for low income households as defined by the New Jersey Council on Affordable Housing and in which an equal proportion of units are reserved for moderate income households as defined by the New Jersey Council on Affordable Housing.

Indirect Illumination- A means of lighting a sign or other object by means of a light source which is located beyond the object to be lit but which is directed or reflected upon it.

Industrial Park- A tract of land that has been planned, developed and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, and aesthetics.

Industrial Property- Any lot or parcel of land containing an industrial use or building of such uses as may be defined in this chapter.

Industry- Those fields of economic activity including forestry, fishing, hunting and trapping; mining; construction; manufacturing; transportation, communication, electric, gas, and sanitary services; and wholesale trade.

Infrastructure- Facilities and services for the support of industrial, commercial, institutional and residential activities including water, sewerage, streets, communications, utilities, public facilities such as schools, parks, fire houses, and libraries.

Inn- A commercial facility usually limited to the housing and feeding of transients.

Institutional Use - A non-profit or quasi-public use or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purpose.

Island- In street design, a raised area, usually curbed, which is placed to guide traffic, separate lanes, or used for landscaping, signage, or lighting.

Interested Party- In a criminal or quasi-criminal proceeding, any citizen of the State of New Jersey; or, in a civil proceeding, any person, whether residing within or outside the municipality, whose right to use, acquire, or enjoy property is or may be affected by any action taken under this chapter, or whose rights to use, acquire, or enjoy property under

this chapter, or any other law of this Municipality, State, or of the United States have been denied, violated, or infringed by an action or a failure to act under this chapter.

Intersection- Where two (2) or more roads cross at grade.

Junk- Scrap, waste, reclaimable material or debris as defined by the Junkyard Ordinance, in the Code of Borough of Clayton.

Junkyard- Any area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of junk.

Land- Ground, soil or earth including structures on, above or below the surface.

Land Use- A description of how land is occupied or utilized.

Land Use Plan- That portion of the Borough of Clayton Master Plan which shows the existing and proposed location, extent and intensity of development of land to be used now or in the future for varying types of residential, commercial, industrial, institutional and other public and private purposes or combination of purposes.

Landfill- See Sanitary Landfill.

Landscape- The addition or retention of lawns, trees, plants, and other natural and decorative features to the land.

Landscape Architect- An individual certified as a Landscape Architect by the State of New Jersey.

Loading Space- An off-street space or berth used for the temporary loading or unloading of commercial vehicles.

Lot- A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed, or built upon as a unit.

Lot Area- The total area within the property lines of a lot, exclusive of any area within a street right-of-way.

Lot, Corner- A lot or parcel of land abutting upon two (2) or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees. Each corner lot shall have two (2) front yards, one (1) side yard and one (1) rear yard.

Lot Depth- The distance measured from the front lot line to the rear lot line. The minimum lot depth shall apply over no less than eighty percent (80%) of the required lot width.

Lot Frontage- The length of the front lot line measured at the street right-of-way line.

Lot Line, Front- The lot line separating a lot from a street right-of-way.

Lot Line, Rear- The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

Lot Line, Side- Any lot line other than a front or rear lot line.

Lot, Minimum Area of- The smallest lot area established by this chapter on which a use or structure may be located in a particular district.

Lot Width- The horizontal distance between the side lines of a lot measured an equal distance from the front lot line at the minimum required building setback line.

Magnet Store- The largest retail establishment in a shopping center which draws customers and thereby generates business for surrounding stores. See Anchor Tenant.

Maintenance Guarantee- Any security acceptable to the governing body to insure the maintenance of duly approved improvements installed by the developer after the final inspection of the improvements and in accordance with this chapter.

Major Site Plan- Any site plan not classified as a minor site plan.

Major Subdivision- Any subdivision not classified as a minor subdivision.

Mall- (1.) A shaded walk or public promenade; or (2.) A shopping center where stores front on both sides of a pedestrian way which may be enclosed or open.

Manufacturing- Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

Marquee- A roof-like structure projecting over the door of a theater or other building.

Master Plan- A comprehensive long-range plan of the Borough of Clayton intended to guide the growth and development of the Borough which includes analyses, recommendations and proposals for the community's population, economy, housing, transportation, community facilities and land use and which shall have been adopted by the Planning Board.

Median- That portion of a divided highway separating the traveled ways of traffic proceeding in opposite directions.

Mentally Ill Person- A person who is afflicted with a mental illness as defined in N.J.S.A. 30:4-23, but shall not include a person who has been committed after having been found not guilty of a criminal offense by reason of insanity or having been found unfit to be tried on a criminal charge.

Minor Site Plan- Any development plan which is limited to the proposed construction of any permitted accessory use(s), such as a sign, home occupation or off-street parking area, or any development plan consisting of an expansion of, or an addition to, an existing conforming structure and use not exempted from site plan review by this chapter and not accounting for more than fifteen percent (15%) additional building coverage and not exceeding ten thousand (10,000) cubic feet of enclosed and roofed area, provided that such development plan does not involve the installation of any new road improvements or the expansion of any off-tract improvement for water, sewer, drainage, streets, or similar improvement otherwise required, and does not adversely affect the development of an adjoining property or properties.

Minor Subdivision- A subdivision of land for the creation of not more than four (4) lots [three (3) new lots and the remaining parcel], provided that such subdivision does not involve: (a.) a planned development; (b.) any new street, or the provision of any off-tract improvement otherwise required for water, sewer, drainage, or a similar purpose; and (c.) contains the information reasonably required in order to make an informed determination as to whether the requirements established by this chapter for approval of a minor subdivision have been met. The limit as to the maximum number of lots in a minor subdivision shall include all lots created from the same tract or tracts within the previous five (5) years, which shall be certified to by the applicant.

Motel - See Hotel.

Mulch- A layer of wood chips, dry leaves, straw, hay, or other material placed on the surface of the soil around plants to retain moisture, prevent weeds from growing, hold the soil in place, and to aid plant growth.

Multifamily housing development- For the purposes of establishing facilities for the collection or storage of source separated recyclable materials in new multifamily housing developments, "multifamily housing development" means a building containing three (3) or more dwelling units occupied or intended to be occupied by persons living independently of each other, or a group of such buildings.

Municipal Agency- The Planning Board or Borough Council or any other agency created by or responsible to the municipality when acting pursuant to N.J.S.A. 40:55D-1 et seq.

Municipal Engineer- A professional engineer, licensed by the State of New Jersey, and appointed by the Borough Manager to represent the Borough's engineering interests. See Planning Board Engineer.

Municipal Planner- A professional planner, licensed by the State of New Jersey, and appointed by the Borough Manager to represent the Borough's planning interests. See Planning Board Planner.

Neighborhood- An area of the community with characteristics that distinguish it from other community areas and which may include distinct ethnic or economic characteristics, schools, or social clubs, or boundaries defined by physical barriers such as major highways and railroads or natural features such as rivers.

New Car Agency- See Automobile Sales.

Noise- Any undesired audible sound, as defined by the Code of the Borough of Clayton.

Non-conforming Building or Structure- A building or structure the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to this chapter, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the chapter.

Non-conforming Lot- A lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of this chapter, but which fails to conform to the present requirements of this chapter by reason of such adoption, revision or amendment.

Non-conforming Sign- Any sign which was lawful prior to the adoption, revision or amendment of this chapter, but which fails to conform to the present requirements of this chapter by reason of such adoption, revision or amendment.

Non-conforming Use- A use or activity which was lawful prior to the adoption, revision or amendment to this chapter, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of this chapter.

Non-specimen Tree- Any tree with a diameter less than twenty-four (24) inches, but at least eight (8) inches.

Nuisance- An interference with the enjoyment and use of property.

Nursery- Land or greenhouses used to raise flowers, shrubs and plants for sale.

Nursery School- See Day Care Center.

Nursing Home- An extended or intermediate health care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

Occupancy or Occupied- The residing of an individual or individuals overnight in a dwelling unit, or the installation, storage or use of equipment, merchandise or machinery in any public, commercial or industrial building.

Occupant- The individual or individuals in actual possession of a premises.

Occupation- Gainful employment in which an individual engages to earn compensation for the necessities of life.

Office- A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government.

Office Building- A building used primarily for conducting the affairs of a business, profession, service, industry or government or like activity, that may include ancillary services for office workers such as a restaurant, coffee shop, newspaper or candy stand.

Office Park- A development on a tract of land that contains a number of separate office buildings, supporting uses and open space and which is designed, planned, constructed and managed on an integrated and coordinated basis.

Off-site- Located outside the lot lines of the lot in question but within the property (of which the lot is a part) which is the subject of a development application or contiguous portion of a street or right-of-way.

Off-tract- Not located on the property which is the subject of a development application nor on a contiguous portion of a street or right-of-way.

On-site- Located on the lot in question.

On-tract- Located on a property which is the subject of a development application or on a contiguous portion of a street or right-of-way.

Open Space- Any parcel or area of land or water essentially unimproved and set aside, dedicated, and designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such areas may be improved with only those buildings, structures,

streets and off-street parking and other improvements that are designed to be incidental to the natural openness of the land.

Open Space, Common- Land within or related to a development, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the development and may include such complementary structures and improvements as are necessary and appropriate.

Ordinance- A municipally adopted law or regulation.

Outbuilding- A separate accessory building or structure not physically connected to the principal building.

Outdoor Storage- The keeping, in an unroofed area of any goods, junk, material, merchandise, or unregistered vehicles in the same place for more than twenty-four (24) hours.

Overhang- (1.) The part of a roof or wall which extends beyond the facade of a lower wall; or, (2.) the portion of a vehicle extending beyond the wheel stops or curb.

Parapet- The extension of the main walls of a building above the roof level.

Parcel- A lot or tract of land.

Parking Area- Any public or private land area designed and used for parking motor vehicles including parking lots, garages, private driveways and legally designated areas of public streets.

Parking Lot- An off-street, ground level area, usually surfaced and improved, for the temporary storage of motor vehicles. See Garage; Parking Area.

Parking Space, Off-Street- A temporary storage area for a motor vehicle that is directly accessible to an access aisle, and which is not located on a dedicated street right-of-way. An area either within a structure or in the open exclusive of driveways, access drives and fire lanes, except that nothing shall prohibit private driveways for dwelling units from being considered off-street parking areas, provided that no portion of such public driveway within the right-of-way line of the street intersected by such driveway shall be considered an off-street parking space.

Pavement- (1) Brick, stone, bituminous or portland cement concrete, etc. placed on the surface of the land; (2) That part of a street having an improved surface.

Perc or Percolation Test- A rough test designed to determine the ability of ground to absorb water, which has been used to test the suitability of a soil for the use and design of a septic system.

Performance Guarantee - Any security that may be accepted by a municipality as a guarantee that improvements required as part of an application for development will be satisfactorily completed.

Permeability- A rating of the ability of a substance to allow water to pass through the openings or intersects.

Permit- Any permit in writing as issued by a designated Borough official or by a county, state, or federal agency, or any other applicable permit.

Permitted Use- Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Pervious Surface- Any material that permits passage of stormwater through the material.

Person- A corporation, company, association, society, firm, partnership, or joint stock company, as well as an individual, and all political subdivisions or any agency or instrumentality thereof.

Person With Head Injury - Any person who has sustained an injury, illness or traumatic changes to the skull, the brain contents or its coverings which results in a temporary or permanent physiobiological decrease of mental, cognitive, behavioral, social or physical functioning which causes partial or total disability.

Personal Communications Services - Communication services encompassing a wide range of wireless mobile technologies, chiefly cellular, paging, cordless voice, personal communications networks, mobile data, wireless PBX, specialized mobile radio and satellite-based systems.

Personal Services- Establishments primarily engaged in providing services involving the care of a person or his or her agent.

Place of Religious Worship- A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

Planning Board- The duly designated planning board of the Borough of Clayton.

Planning Board Engineer- A professional engineer, licensed by the State of New Jersey, and appointed by the Borough Planning Board to represent its engineering interests. See Municipal Engineer.

Planning Board Planner- A professional planner, licensed by the State of New Jersey, and appointed by the Borough Planning Board to represent its planning interests. See Municipal Planner.

Plat- A map or maps of a subdivision or site plan.

Porch- A roofed open area, which may be screened, usually attached to or part of and with direct access to or from a building.

Potable Water- Water suitable for drinking purposes.

Preliminary Approval- The conferral of certain rights prior to final approval after specific elements of a development plan have been agreed upon by the Planning Board and the applicant.

Preliminary Floor Plans and Elevations- Architectural drawings prepared during early and introductory stages of the design of a project, illustrating in a schematic form its scope, scale, and relationship to its site and immediate environs.

Preliminary Subdivision or Site Plan- A plan indicating the proposed layout of a development and related information that is submitted for preliminary subdivision or site plan approval.

Principal Building- A building in which is conducted the principal use of the lot on which it is located.

Principal Use- The main purpose for which a lot or building is used.

Professional Office- The office of a member of a recognized profession and/or an administrative or executive office including, but not limited to, architecture, medicine, dentistry, engineering, law, planning, accounting, insurance, and real estate.

Property Line- See Lot Line.

Recreation, Active- Leisure time activities, usually of a more formal nature and performed with others, often requiring equipment and taking place at prescribed places, sites or specialized fields.

Recreation Facility - A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities.

Recreation, Passive- Any leisure time activity not considered active, including such activities as walking and bird watching.

Recreational Vehicle- A vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

Recycling Area- Space allocated for the collection and storage of source separated recyclable materials.

Research Laboratory- An establishment or other facility for carrying on investigation in the natural, physical or social sciences, or engineering and development as an extension of an investigation with the objective of creating end products.

Resource Extraction Operation- The removal of natural resources by means of mining, drilling, or other extractive techniques from the surface or subsurface of the land. For the purposes of this chapter, natural resources shall include sand, gravel, minerals, or any other inorganic material but shall exclude materials regulated by the New Jersey Board of Public Utilities.

Restaurant- An establishment where food and drink is prepared, served and consumed primarily within the principal building.

Restaurant, Fast Food - An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off premises.

Restaurant, Drive-In - A building or portion thereof where food and/or beverages are sold in a form ready for consumption and where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the building, often in a motor vehicle on the site.

Resubdivision- See Subdivision.

Retail Services- Establishments providing services or entertainment, as opposed to products, to the general public.

Retail Trade- Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Retaining Wall- A structure erected between lands of different elevation to protect structures and/or to prevent the erosion of earth from the upper slope.

Retention Basin (Pond)- A constructed or natural water collector used for the permanent storage of runoff with no outlet provided.

Rezone- To change the zoning classification of particular lots or parcels of land.

Right-of-way- A strip of land acquired by reservation, dedication, forced dedication, proscription or condemnation and intended to be occupied or occupied by a road, sidewalk, railroad, electric transmission line, oil or gas pipeline, water line, sanitary storm sewer or other similar use.

Sanitary Landfill- A site for solid waste disposal.

Satellite Dish Antenna- A structure designed and intended for the reception of radio and television communications which are relayed by means of an earth satellite.

Scenic Area- The natural features of an open area which are visually significant, or geologically or botanically unique.

Scenic Easement- An easement the purpose of which is to limit development in order to preserve a view or scenic area.

School- Any building or part thereof which is designed, constructed or used for education or instruction in any branch of knowledge.

School, Elementary- Any school licensed by the State and which meets State requirements for elementary education.

School, Private- Any building or group of buildings the use of which meets State requirements for primary, secondary or higher education and which use does not secure the major part of its funding from any governmental agency.

School, Secondary- Any school licensed by the State and which is authorized to award diplomas for secondary education.

School, Vocational- A secondary or higher education facility primarily teaching usable skills that prepare students for jobs in a trade and meeting the state requirements as a vocational facility.

Screening- A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation.

Sedimentation- The deposition of soil that has been transported from its site of origin by water, ice, wind, gravity, or other natural means as a product of erosion.

Selective Cutting- The removal of larger trees on an individual basis while leaving trees of a lesser size.

Self-Service Storage Facility- A structure containing separate storage spaces of varying sizes, leased or rented as individual storage units.

Semi-Detached Dwelling- See Dwelling, Semi-Detached.

Service Station- See Automobile Service Station.

Services- Establishments primarily engaged in providing services for individuals, business and government establishments and other organizations.

Sewage - All effluent carried by sewers whether it is sanitary sewage, industrial wastes or storm water runoff.

Sewerage- The entire system of sewage collection, treatment and disposal.

Shopping Center- A group of commercial establishments planned, constructed and managed as a total entity and which include on-site customer and employee parking, loading areas, common design features, and semi-enclosed or enclosed customer walkways adjacent to the establishments. For the purposes of this ordinance, shopping centers shall contain a minimum of 100,000 square feet of gross leasable area.

Side Yard- See Yard, Side.

Sidewalk- A paved or surfaced area, paralleling and usually separated from the street, used as a pedestrian walkway.

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

Sign- Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figure, design, symbols, fixtures, colors, illumination or projected images.

Sign, Animated or Moving- Any sign or part of a sign which changes physical position by any movement or rotation or which gives the visual impression of such movement or rotation.

Sign Area- The area of a sign which is computed by multiplying the greatest height of the sign face by the greatest width of the sign face. The sign area shall include the advertising surface and any framing, trim or molding, but shall not include the supporting structure. See Signable Facade Area.

Sign, Awning- A sign that is mounted or painted on, or attached to an awning that is otherwise permitted by this chapter.

Sign, Banner- A graphic or sign which has its letters or design applied to cloth, canvas, or other flexible material which is durable and weather resistant.

Sign, Billboard- A sign which contains a commercial message and which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

Sign, Canopy- A sign that is mounted or painted on, or attached to a canopy that is otherwise permitted by this chapter.

Sign, Changeable Copy- A sign that is designed so that the message on the sign can be easily and periodically altered.

Sign, Directional- Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as "one-way," "entrance," and "exit".

Sign, Facade- See Sign, Wall.

Sign, Freestanding- Any non-movable sign not affixed to a building.

Sign, Identification- A sign giving the nature, logo, trademark or other identifying symbol; address; or any combination of the name, symbol and address of a building, business, development or establishment on the premises where it is located.

Sign, Illuminated- A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed towards the sign. See Direct Illumination and Indirect Illumination.

Sign, Marquee- A sign that is mounted, or painted on, or attached to a marquee that is otherwise permitted by this chapter.

Sign, Off-Premise- See Sign, Billboard.

Sign, Political- A temporary sign announcing or supporting political candidates or issues in connection with any national, state or local election.

Sign, Projecting- A sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building.

Sign, Real Estate- A sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located.

Sign, Residential- A sign located in a district zoned for residential purposes that does not contain any commercial message except for goods or services legally offered on the premises on which the sign is located.

Sign, Roof- Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

Sign, Temporary- A sign constructed of paper, cloth, canvas, plastic or other lightweight material intended to be displayed for a short period of time, normally less than thirty (30) days.

Sign, Time and Temperature- A sign or a portion of a sign whose sole purpose is to indicate the time and/or temperature.

Sign, Vehicle- A sign affixed or painted on a vehicle or trailer and parked at a specific location for a period of four (4) or more days so that its primary purpose is as a commercial message.

Sign, Wall- A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and which does not project more than twelve (12) inches from such building or structure.

Sign, Window- A sign that is applied or attached to the exterior or interior of a window or located in such manner within a building that it can be seen from the exterior of the structure through a window.

Signable Facade Area- The rectangular, continuous area on the wall of a building which extends from the top line of windows and doors on one floor and the bottom line of the windows, roof, or cornice above it and which is uninterrupted by architectural details or openings.

Single-Family Dwelling- See Dwelling, Single-Family.

Site- Any plot or parcel of land or combination of contiguous lots or parcels of land.

Site Plan- A development plan of one (1) or more lots on which is shown: (1.) the existing and proposed conditions of the lot, including but not limited to topography, vegetation, drainage, flood plains, marshes, and waterways; (2.) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures, signs, lighting, and screening devices; and (3.) any other information that may be reasonably required in order to make an informed determination concerning the adequacy of the plan in accordance with the requirements of this chapter. See Major and Minor Site Plan.

Sketch Plan- See Concept Plan.

Slope- The degree of deviation of a surface from the horizontal, usually expressed in percent, degrees or ratio. See Grade.

Specimen Tree- A tree with a diameter of twenty-four (24") inches or greater; or a unique, rare, or otherwise specifically selected plant or tree which most typically represents a whole class or group, specifically in shape, form, historical importance, or any other characteristics which may be designated as such by the Borough.

Street- Any street, avenue, boulevard, road, parkway, viaduct, drive or other way: (1.) which is an existing state, county, or municipal roadway; or (2.) which is shown upon a plat approved pursuant to law, or (3.) which is approved by other official action as provided by the Municipal Land Use Law, or (4.) 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 such street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, paving areas and other areas within the street lines.

Street, Collector- A street which collects traffic from local streets and connects with minor and major arterials.

Street, Cul-De-Sac- A street with a single common ingress and egress and with a turnaround at the end.

Street, Dead End- A street with a single common ingress and egress and without a turnaround at the end.

Street, Line- The edge of the existing or future right-of-way, whichever may result in the widest right-of-way, as shown on the adopted Master Plan or Official Map, forming the dividing line between the street and a lot.

Street, Local- A street designed to provide vehicular access to abutting property and to discourage through traffic.

Street, Major Arterial- A street with access control, channelized intersections, restricted parking, and which collects and distributes traffic to and from minor arterials.

Street, Minor Arterial- A street with signals at important intersections and stop signs on the side streets, and which collects and distributes traffic to and from collector streets.

Structure- A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water. Fences which are not used for the purposes of corralling or otherwise containing livestock or poultry shall not be considered to be a structure as defined by this chapter.

Subdivision- 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: (1.) divisions of land found by the Planning Board or an appointed subcommittee thereof, to be for agricultural purposes where all resulting parcels are five (5) acres or larger in size; (2.) divisions of property by testamentary or intestate provisions; (3.) divisions of property upon court order, including but not limited to, judgments of foreclosure; (4.) consolidation of existing lots by deed or other recorded instrument; and (5.) the conveyance of one (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 this chapter and are shown and designated as separate lots, tracts, or parcels on the municipal tax map. The term subdivision shall also include the term resubdivision. See Major and Minor Subdivision.

Supermarket- A retail establishment exceeding 20,000 square feet in area, primarily selling groceries as well as other convenience and household goods.

Swimming Pool- A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen (18) inches below the level of the surrounding land, or an above-surface pool, having a depth of more than eighteen (18) inches, designed, used and maintained for swimming and bathing.

Tenant- An occupant of land or premises who occupies, uses, and enjoys real property for a fixed time, usually through a lease arrangement with the property owner and with the owner's consent.

Theater- A building or part of a building devoted to showing motion pictures, or for dramatic, musical or live performances.

Thinning- The removal of undesirable, competitive, diseased or damaged trees so as to cultivate and improve the development of remaining trees on the lot.

Topography- The configuration (relief) of the surface of a portion of the earth showing natural and artificial features thereon; including, but not limited to, contours, structures, hydrography, and vegetation.

Tot Lot- An improved and equipped play area for small children usually up to elementary school age.

Tract- An area, parcel, site, piece of land, or property which is the subject of a development application.

Trailer- A structure on wheels, capable of being towed or hauled by another vehicle, which is further defined by Chapter 72 of the Code of the Borough of Clayton.

Trade School- See School, Vocational.

Tree- Any woody perennial plant usually having one (1) main stem or trunk and a more or less definitely formed crown, and which has the potential based on its genus and species to grow to a height of ten (10) feet or more.

Tree Diameter- The width of a tree, equal to 7/22 of the circumference, measured four and a half (4.5) feet above the ground.

Tree Mass- A group of trees represented by a line depicting a common drip line.

Tree Protection Zone- That portion of a lot outside of the disturbance zone.

Tree Removal- The cutting down of a tree, the transplanting of a tree to a site other than that under development, or the infliction of damage to a tree which is of such severity as to

show evidence within a period of two (2) years of irreparable harm leading to the ultimate death of a tree. Examples of said serious damage include, but are not limited to: damage inflicted to the root system by machinery, storage of materials, and soil compaction; changing the natural grade above or below the root system and around the trunk; damage inflicted on the tree permitting fungus infection or pest infestation; excessive pruning; excessive thinning; paving with concrete, asphalt, or other impervious material within such proximity as to be harmful to the tree.

Tree Root Area - The area under a tree extending from the trunk to the drip line.

Trip- A single, one-way vehicle movement to or from a property or study area.

Use- The purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied or maintained.

Use, Accessory- See Accessory Use.

Use, Conditional- See Conditional Use.

Use, Existing- See Existing Use.

Use Variance- See Variance, Use.

Utility Services- Establishments engaged in the generation, transmission and/or distribution of electricity, gas or steam, including water and irrigation systems and sanitary systems used for the collection and disposal of garbage, sewage and other wastes.

Variance- A departure from the terms of this chapter authorized by the appropriate municipal agency in accordance with the N.J.S.A. 40:55D-1 et seq.

Variance, Use- See "d" variance.

Vehicle, Motor- A self-propelled device used for transportation of people or goods over land surfaces and licensed as a motor vehicle.

Wall- (1.) The vertical exterior surface of a building; or (2) the vertical interior surfaces which divide a building's space into rooms.

Warehouse- A building used primarily for the storage of goods and materials.

Water Course- Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite

direction or course, either continuously or intermittently, and has a definite channel, bed and banks.

Wetlands- An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation; provided, however, that the delineation of the wetland shall use a three parameter approach involving hydrology, soils, and vegetation which shall be acceptable to the New Jersey Department of Environmental Protection or the U.S. Army Corps of Engineers, whichever shall have primary jurisdiction.

Wrecking Establishment- A facility where the salvage from demolished structures is stored out of doors and is available for resale or reuse.

Yard- An open space that lies between the principal or accessory building or buildings and the nearest lot line. Such yard shall be unoccupied and unobstructed from the ground upward except as may be specifically provided in this chapter.

Yard, Front- An open space extending the full width of the lot between any building and the street line, and measured perpendicular to the street line. Such front yard shall be unoccupied and unobstructed from the ground upward except as may be specifically provided in this chapter. In the case of a corner lot, each yard with frontage on a street shall be considered a front yard.

Yard, Rear- A space extending the full width of the lot between the principal building and the rear lot line, and measured perpendicular to the rear lot line. Such rear yard shall be unoccupied and unobstructed from the ground upward except as may be specifically provided in this chapter. In the case of a corner lot, only one rear yard shall be provided and the applicant may choose which yard is to be considered the rear yard.

Yard, Side- A space extending from the front yard to the rear yard between the principal building and the side lot line, and measured perpendicular to side lot line. Such side yard shall be unoccupied and unobstructed from the ground upward except as may be specifically provided in this chapter. In the case of a corner lot, not more than one (1) side yard shall be provided and the applicant may choose which yard is to be considered the side yard.

Zone- A specifically delineated area or district in a municipality within which regulations and requirements uniformly govern the use, placement, spacing and size of land and buildings.

Zoning- The dividing of a municipality into districts and the establishment of regulations governing the use, placement, spacing and size of land and buildings.

Zoning Map- The map or maps which are a part of the zoning ordinance and delineate the boundaries of zone districts.

Zoning Officer- The municipal official designated to enforce the provisions of this chapter.

Article III. Zoning Districts

§ 7. Effect and establishment of zoning districts.

A. Effect of this chapter.

1. This chapter shall be applicable to the regulation of the use of all land and structures within the Borough of Clayton.
 - a. The provisions of this chapter shall be held to be the minimum requirements (or the maximum, when so specified). Where this chapter imposes a greater restriction than is imposed and required by other provisions of law or by other rules, regulations or resolutions, the provisions of this chapter shall control. Where other laws, rules, regulations or resolutions require greater restrictions than are imposed by this chapter, the provisions of such laws, rules, regulations or resolutions shall control.
 - b. The standards established by this chapter shall be applied uniformly within each zoning district to each class or kind of structure or land. Only uses which are specifically provided for by the regulations of any district shall be permitted in that district unless authorized by the Planning Board pursuant to this chapter.
 - c. Upon the effective date of this chapter, no building shall hereafter be used, erected, altered, converted, enlarged, added to, moved or reduced, nor shall any lands be subdivided, developed, or redeveloped in any manner except in conformity with the standards provided herein, as applied to the zoning district in which the building or land is located.
 - d. Upon the effective date of this chapter, all buildings and land which are not in full conformity with this chapter, as applied to the zoning district in which the building or land is located, shall be deemed to be non-conforming and shall be subject to the provisions of this chapter.

B. Establishment of zoning districts and zoning map.

1. The following zoning districts are hereby created and all land within the Borough of Clayton shall be placed in one of these districts by designation on a zoning map, as described below.
 - a. A: Agricultural/Low Density Residential District.
 - b. R-A: Low Medium Density Residential District.

- c. R-AB: Medium Density Residential District.
- d. R-B: Medium High Density Residential District.
- e. R-C: High Density Residential District.
- f. PA: Planned Apartment District.
- g. APA: Adult Planned Apartment District
- h. CB: Central Business District.
- i. CO: Commercial/Office District.
- j. HB: Highway Business District
- k. HB-1: Highway Business District -1
- l. HB-2: Highway Business District -2
- m. HIO: Highway Industrial/Office District.
- n. RIO-1: Restricted Industrial/Office District-1.
- o. RIO-2: Restricted Industrial/Office District-2.
- p. I: Industrial District
- q. CF/I: Community Facilities/Institutional District.
- r. FPC: Flood Plain Conservation District

2. Zoning map.

The boundaries of these zoning districts are established on a map entitled "The Borough of Clayton Zoning Map," dated January 21, 1998 and adopted, which accompanies this chapter and which is reaffirmed and incorporated herein.

C. Interpretation of boundaries.

- 1. The boundaries between zoning districts are, unless otherwise indicated, either the center lines of streets or railroad rights-of-way, municipal boundary lines, property

lines existing at the time of the zoning map adoption or amendment, or lines parallel or perpendicular thereto. Distances not specifically indicated shall be determined by the scale of the map.

2. Where a district boundary line divides a lot existing at the time of adoption of this chapter, the regulations applicable to the least restrictive district shall extend over the portion of the lot in the more restrictive district for a distance of not more than fifty (50) feet.

§ 8. A Agricultural/Low Density Residential District.

A. Intent.

The intent of this District is to promote the development of appropriately zoned land within the Borough for single family detached dwellings at a low density and to permit other compatible uses in accord with the spirit of this chapter. This district is designed for areas which do not have water and sewer utilities available and which include environmentally sensitive lands.

B. Uses.

1. Principal permitted uses on the land and in the buildings.
 - a. The following principal uses shall be permitted by right:
 - 1). Single family detached dwellings.
 - 2). Agricultural or farm use, for other than pigs or poultry, and provided that the minimum lot area for this use shall be two (2) acres. No structure used to contain livestock, other than pigs or poultry, shall be located within one hundred (100) feet from any street or property line.
 - 3). Public playgrounds, woodland, wildlife preserve, natural resource conservation area and parks.
 - 4). Municipal building or municipal use.
 - 5). Community residences for the developmentally disabled for up to fifteen (15) persons.
 - 6). Community shelters for victims of domestic violence and community residences for persons with head injuries serving not more than six (6) persons, pursuant to N.J.S.A. 40:55D-66.1.

- b. The following principal uses are permitted conditionally upon a determination by the Planning Board that the use can be provided in a manner that will minimize the impact upon adjacent properties, will be compatible with the surrounding neighborhood, will not unduly burden adjacent areas with increases in traffic, noise, threats to public health and safety, and will conform with such additional standards as provided in Article IV.
 - 1). An agricultural use intended for the keeping of pigs or poultry, provided that:
 - a). The minimum lot area for this use shall be fifty (50) acres.
 - b). No structure used to contain pigs or poultry shall be located within one thousand (1,000) feet from any street or property line.
 - 2). A church, synagogue, or similar place of religious worship.
 - 3). A cemetery or memorial park, provided that the lot area shall not be less than two (2) acres.
 - 4). Community residences for the developmentally disabled and community shelters for victims of domestic violence serving more than six (6) persons and not more than fifteen (15) persons, pursuant to N.J.S.A. 40:55D-66.2.
 - 5). Home occupations.
 - 6). Satellite dishes greater than thirty-nine (39) inches in diameter.
2. Accessory uses.
 - a. The following accessory uses shall be permitted by right:
 - 1). Family day care home.
 - 2). Signs. (See §40. for standards.)
 - 3). Fences and walls. (See § 56. for standards.)
 - 4). Off-street parking and private garages. (See §30. for standards.)
 - 5). Private residential recreational facilities. (See § 46. for standards.)

- 6). Private residential sheds.
- 7). Gardening and tilling of the soil for personal use.
- 8). The erection of television antennas, including a satellite dish less than thirty-nine 39 inches in diameter, and radio antennas, intended for personal use, provided that it does not exceed the height limitation of the District . No more than two (2) antennas shall be permitted per lot.
- 9). The storage of personal, non-commercial boats and recreational vehicles, provided that they are not used for the purposes of habitation and are not stored within the designated front yard area.
- 10). The use of a dwelling for a home office without the necessity of obtaining a Zoning Permit and subject to the following:
 - I. The office shall not occupy more than 500 square feet nor more than 12.5% of the gross floor area (GFA) of the detached dwelling, whichever is less, excluding the area of garages, unfinished portions of basements and attics in the calculation of gross floor area.
 - II. The office area shall not have direct access to the outside via a door, but shall be an existing room or area within the detached dwelling unit which is integrated within the overall floor plan of the dwelling.
 - III. The office area shall not contain any kitchen or bathroom facilities which are separate from the remainder of the detached dwelling unit.
 - IV. The office area shall have only typical office equipment limited to computers, telefax machines, telephones and copying machines.
 - V. No supplies or furnishings shall be permitted other than typical office supplies and furnishings.
 - VI. No evidence of the office area shall be shown to the outside of the detached dwelling unit, e.g. signs are prohibited.
 - VII. No persons shall be permitted on the property regarding the office area other than people making deliveries or service calls as otherwise might occur on a property developed with a detached dwelling units.

C. Bulk standards.

1. Minimum lot area - One acre.

2. Minimum street frontage - Sixty (60) feet.
 3. Minimum lot width - One hundred fifty (150) feet.
 4. Minimum lot depth - One hundred fifty (150) feet.
 5. Minimum front yard setback - Fifty (50) feet.
 6. Minimum side yard setback, Twenty (20) feet.
 7. Minimum aggregate side yard setback (both yards) - Fifty (50) feet.
 8. Minimum rear yard setback - Twenty-five (25) feet, except that where reverse frontage lots are proposed, the yard depth shall be increased to fifty (50) feet.
 8. Maximum permitted building coverage - Fifteen percent (15%).
 9. Maximum permitted impervious coverage - Twenty-five percent (25%).
 10. Maximum permitted building height - Thirty-five (35) feet.
 11. Accessory structures shall not be located in a front yard nor within five (5) feet of a side or rear property line.
- D. Trees should be provided as required in § 33.

§ 9. R-A Low Medium Density Residential District.

A. Intent.

The intent of this District is to promote the development of appropriately zoned land within the Borough for single family detached dwellings at a low medium density and to permit other compatible uses in accord with the spirit of this chapter.

B. Uses.

All principal and accessory uses as permitted by right and conditionally in the A Agricultural Zoning District, with the following exception(s):

1. Agricultural uses intended for the keeping of pigs or poultry are prohibited.

2. An assisted living residence, convalescent home, sanitarium or continuing care facility is permitted as a conditional use in accordance with Article IV.

C. Bulk standards.

1. Lots with public sewer and water:
 - a. Minimum lot area - Twenty thousand (20,000) square feet
 - b. Minimum street frontage - Sixty (60) feet.
 - c. Minimum lot width at the building line - One hundred (100) feet
 - d. Minimum lot depth - One hundred twenty-five (125) feet.
 - e. Minimum front yard setback - Fifty (50) feet
 - f. Minimum individual side yard setback - Fifteen (15) feet.
 - g. Minimum aggregate side yard setback (both yards) - Forty (40) feet.
 - h. Minimum rear yard setback- Twenty-five (25) feet, except that where reverse frontage lots are proposed, the yard depth shall be increased to fifty (50) feet.
 - i. Maximum permitted building coverage - Twenty percent (20%).
 - j. Maximum permitted impervious coverage - Thirty percent (30%).
 - k. Maximum permitted building height - Thirty-five (35) feet.
 - l. Accessory structures shall not be located in a front yard nor within five (5) feet of a side or rear property line.
2. Lots without public sewer and water must comply with the bulk standards provided for the A District.

D. Trees should be provided as required in §33.

§ 10. R-AB Medium Density Residential District.

A. Intent.

The intent of this District is to promote the development of appropriately zoned land within the Borough for single family detached dwellings at a medium density and to permit other compatible uses in accord with the spirit of this chapter.

B. Uses.

1. Principal permitted uses on the land and in the buildings.

a. The following principal uses shall be permitted by right:

- 1). Single family detached dwellings.
- 2). Municipal uses including but not limited to parks, recreation, conservation, utilities, buildings and structures.
- 3). Public educational institution.
- 4). Community residences for the developmentally disabled for up to fifteen (15) persons
- 5). Community shelters for victims of domestic violence and community residences for persons with head injuries serving not more than six (6) persons, pursuant to N.J.S.A. 40:55D-66.1.
- 6). Family day care homes

b. The following principal uses are permitted conditionally upon a determination by the Planning Board that the use can be provided in a manner that will minimize the impact upon adjacent properties, will be compatible with the surrounding neighborhood, will not unduly burden adjacent areas with increases in traffic, noise, threats to public health and safety, and will conform with such additional standards as provided in Article IV. All uses must be provided with public water and sewer services.

- 1). A church, synagogue, or similar place of religious worship.
- 2). An assisted living residence, convalescent home, sanatorium or continuing care facility.

- 3). Community shelters for victims of domestic violence serving more than six (6) persons and not more than fifteen (15) persons, pursuant to N.J.S.A. 40:55D-66.2.
 - 4). Home occupations.
2. Accessory uses as permitted by right in the R-A District.

C. Bulk standards.

1. Lots with public sewer and water:
 - a. Minimum lot area - Fourteen thousand (14,000) square feet.
 - b. Minimum street frontage - Fifty-five (55) feet.
 - c. Minimum lot width at the building line - Eighty (80) feet.
 - d. Minimum lot depth - One hundred (100) feet.
 - e. Minimum front yard setback - Forty feet(40) except for reverse frontage lots which may be reduced to thirty (30) feet on the principal street.
 - f. Minimum individual side yard setback - Ten (10) feet.
 - g. Minimum rear yard setback - Twenty-five (25) feet, except that where reverse frontage lots are proposed, the yard depth shall be increased to fifty (50) feet.
 - h. Maximum permitted building coverage - Thirty percent (30%).
 - j. Maximum permitted impervious coverage - Forty percent (40%).
 - k. Maximum permitted building height - Thirty-five (35) feet.
 - l. Accessory structures shall not be located in a front yard nor within five (5) feet of a side or rear property line.
2. Lots without public sewer and water must comply with the bulk standards provided for the A District.

D. Trees should be provided as required in § 33.

§ 11. R-B Medium High Density Residential District.

A. Intent.

The intent of this District is to promote the development of appropriately zoned land within the Borough for single family dwellings at medium high densities and to permit other compatible uses in accord with the spirit of this chapter. Due to the smaller lot sizes permitted, additional standards are provided to buffer R-B uses from adjoining commercial and industrial uses.

B. Uses.

1. All principal and accessory uses as permitted by right and conditionally in the R-AB Zoning District.

C. Bulk and design standards.

1. Lots with public sewer and water:

a. Single family detached dwellings.

- 1). Minimum lot area - Nine thousand (9,000) square feet.
- 2). Minimum street frontage - Fifty-five (55) feet.
- 3). Minimum lot width at the building line - Eighty (80) feet.
- 4). Minimum lot depth - One hundred (100) feet.
- 5). Minimum front yard setback - Thirty (30) feet, provided that the front yard on the long side of a corner lot maybe reduced to a depth of not less than twenty (20) feet.
- 6). Minimum individual side yard setback - Eight (8) feet.
- 7). Minimum aggregate side yard setback (both yards) - Twenty (20) feet.
- 8). Minimum rear yard setback - Twenty-five (25) feet, except that where reverse frontage lots are proposed, the yard depth shall be increased to fifty (50) feet.
- 9). Maximum permitted building coverage - Thirty percent (30%).

- 10). Maximum permitted impervious coverage - Forty percent (40%).
 - 11). Maximum permitted building height - Thirty-five (35) feet.
 - 12). Accessory structures shall not be located in a front yard nor within five (5) feet of a side or rear property line.
2. Lots without public sewer and water must comply with the bulk standards provided for the A District.
 3. Lots adjacent to commercially or industrially zoned land shall be provided with the following buffers:
 - a. Adjacent to commercially or industrially zoned land in neighboring municipalities: one-hundred (100) feet.
 - B. Adjacent to commercially or industrially zoned land in Clayton: fifty (50) feet.
 - D. Trees should be provided as required in § 33.

§ 12. **R-C High Density Residential District.**

A. Intent.

The intent of this District is to promote the development of appropriately zoned lands within the Borough for single-family and single-family semi-detached dwellings and other compatible uses in accord with the spirit of this chapter. These areas are located in the older sections of the Borough with predominantly smaller lots.

C. Uses.

1. All principal and accessory uses as permitted by right and conditionally in the R-AB Zoning District.

D. Bulk and design standards.

1. Lots with public sewer and water:
 - a. Single family detached and semi-detached dwellings.

- 1). Minimum lot area - Six thousand (6,000) square feet per unit.
 - 2). Minimum street frontage - Thirty (30) feet.
 - 3). Minimum lot width at the building line - Fifty (50) feet for detached dwellings and forty (40) feet for semi-detached dwellings.
 - 4). Minimum lot depth - One hundred (100) feet.
 - 5). Minimum front yard setback - Twenty-five (25) feet, provided that the front yard on the long side of a corner lot may be reduced to a depth of not less than ten (10) feet.
 - 6). Minimum individual side yard setback - Six (6) feet.
 - 7). Minimum aggregate side yard setback (both yards) - Sixteen (16) feet.
 - 8). Minimum rear yard setback - Twenty-five (25) feet, except that where reverse frontage lots are proposed, the yard depth shall be increased to fifty (50) feet.
 - 9). Maximum permitted building coverage - Thirty percent (30%).
 - 10). Maximum permitted impervious coverage - Forty percent (40%).
 - 11). Maximum permitted building height - Thirty-five (35) feet.
 - 12). Accessory structures shall not be located in a front yard nor within five (5) feet of a side or rear property line.
2. Lots without public sewer and water must comply with the bulk standards provided for the A District.
- D. Trees should be provided as required in § 33.

§ **13. PA Planned Apartment Residential District.**

A. Intent.

The intent of this District is to provide standards for the development and redevelopment of appropriately zoned lands within the Borough for townhouses and garden apartments, and other compatible uses in accord with the spirit of this chapter. The district is intended to primarily serve areas already zoned for this type of development.

B. Low and moderate income housing requirements.

All townhouse and garden apartment developments in this District shall be inclusionary developments providing for housing units affordable to low and moderate income households as provided for by § 41.

C. Uses.

1. Principal uses permitted.

a. Townhouses.

b. Garden apartments or condominium flats.

2. Accessory uses permitted.

a. Off-street parking and private garages. (See § 30. for standards.)

b. Utility sheds for owner occupied units only. In rental projects, the owner may provide an alternative for utility sheds in a single and unified area.

c. Signs. (See § 40. for standards.)

d. Fences and walls. (See § 56. for standards.)

e. Recreational facilities.

f. Indoor common laundry facilities for garden apartments.

g. Model units or sales offices within the project shall be allowed but only during the period necessary for the sale or rental of units with the project. Such uses shall not be considered a business use.

D. Bulk and design standards.

1. Garden apartments, condominium flats and/or townhouse developments:

a. Minimum tract size - Ten (10) acres.

b. Maximum density per acre and affordable unit set-asides vary in accordance with the following table:

	Sales Units		Rental Units	
Unit type	Density	Set-aside %	Density	Set-aside %
Townhouse	6	20	7	11
Garden Apart.or Condo Flat	8	15	10	12

- c. If the Borough's requirement for the provision of low and moderate income housing is satisfied by any one or a number of approved projects, the Planning Board, at its discretion, may relieve the subsequent developers of the requirement to provide a set-aside for affordable units. Should the Board grant such relief, the density limitations in this District shall be equal to those established for sale units, i.e. 6 units per acre for townhouses and 8 units per acre for garden apartments.
- d. Maximum building coverage - Thirty percent (30%).
- e. Maximum impervious surface coverage - Fifty percent (50%).
- f. Maximum building height - Thirty-five (35) feet.
- g. Minimum distance between structures as follows:
 - I. From the front or back of any building to any other front or back of a building: Fifty (50) feet.
 - II. From the side of any building to any front or back of a building: Thirty-five (35) feet.
 - III. From the side of any building to any other side of a building: Twenty-six (26) feet.
- h. Minimum building setback from public streets bordering the property and property lines - One hundred (100) feet. This set-back may be reduced to no less than fifty (50) feet for lots adjoining property in a non-residential district, another multifamily district or if the Board finds that the character of adjoining residential lots provides sufficient separation between dwellings, e.g. lots over 300' in depth with dwelling located more than 150' from the common property line.

- i. Minimum building setback from internal public streets - Twenty (25) feet from the right of way line.
- j. Minimum building setback from internal non-public streets - Twenty (25) feet from the curb line.
- k. Minimum distance from building to parking - Twenty-five (25) feet.
- l. Utility sheds or other accessory structures may not be located in the front yard and may not be located closer than five (5) feet from any side or rear property line.
- m. All off-street parking facilities shall be on the same site as the building and located within one hundred fifty (150) feet of the nearest entrance of the building they are intended to serve. Parking spaces shall be provided in areas designed specifically for parking and there shall be no parallel parking along interior private streets unless the street width is constructed to Borough standards.
- n. Buildings containing apartment flats shall be arranged in groups or clusters and not in long rows parallel to street lines. The total length of any one (1) structure shall not exceed two hundred (200) feet.
- o. Variations in setback, materials and design shall be encouraged.
- p. More than one (1) building per lot shall be permitted, provided the minimum tract size requirement is met. However, if fee simple townhouses units are proposed, each unit shall have a minimum lot area of two thousand five hundred (2,500) square feet.
- q. A landscaped buffer, twenty-five (25) feet in width, shall be provided along all public streets and adjacent to all property lines.
- r. Buildings shall be designed in a common architectural style.
- s. Sufficient area and equipment shall be provided within each building for the laundering and artificial drying of the laundry of the occupants of each building.
- t. All dwelling units within a structure shall be connected to approved and functioning public water and sanitary sewer systems prior to the issuance of certificates of occupancy.

- E. Common open space requirements. (See § 34. for standards.)
- F. Landscaped buffers and interior parking lot landscaping shall be provided as is required in § 33.
- G. Collection or storage of recyclable materials in multifamily housing shall be provided as required in § 60.
- H. Design and amenity requirements
 - 1. Architectural considerations. In order to encourage an attractive building arrangement, variations in the setback or alignment of buildings erected on the same frontage or attached to other buildings shall be provided, parallel arrangement of buildings shall be avoided and desirable variations in such things as the facade, construction and roof lines of apartment buildings and single-family attached units or townhouses shall be encouraged. Individuality in buildings shall be achieved also by the use of various external materials, colors, landscape elements and other design details. Exterior walls shall not be made of exposed cinder block.
 - 2. Laundry facilities. Adequate laundry facilities consisting of automatic washing and clothes-drying machines in a laundry room shall be provided, or a washer and dryer shall be installed in each dwelling unit.
 - 3. Storage space. A minimum of three hundred (300) cubic feet of fire-resistant separate storage space shall be provided for each dwelling unit. This storage space should be convenient to outside ground level and appropriate for storage of bicycles, trunks and items of dead storage.
 - 4. Open space calculation. It shall be assumed that each building contains twenty-five (25) feet of front yard, twenty-five (25) feet of rear yard and thirteen (13) feet of side yards on each side. These yards shall be noted for purposes of the open space calculation regardless of the actual yard areas given in plans where units are sold fee simple or by condominium or rented. Such yard areas shall not be used for meeting the requirements of minimum open space.
 - 5. Lighting shall be provide in accordance with § 32.
- I. Unnecessary Cost Generation
 - 1. All projects are to be planned and developed in accordance these standards. However, for those projects or portions of projects which provide affordable housing, the Board will work in close conjunction with the applicant to eliminate

unnecessary cost generating features. The goal will be to eliminate development standards that are not essential to protect the public welfare and to expedite (or "fast track") the approval. The Board shall be guided by the Substantive Rules of the New Jersey Council on Affordable Housing, as amended, and the New Jersey Residential Site Improvement Standards, as amended.

§ 14. **APA Adult Planned Apartment Residential District.**

A. Intent.

The intent of this District is to provide standards for the development and redevelopment of appropriately zoned lands within the Borough for townhouses and garden apartments, and other compatible uses in accord with the spirit of this chapter. The district is intended to primarily serve areas already zoned for this type of development. APA Districts are designed to make special provision for low lot coverage, low density apartment development in limited areas of a predominantly single-family residential environment, where apartment development is considered appropriate by virtue of such criteria as direct access to major traffic or inter-community streets, proximity to public transportation, availability of public sewer and water facilities, adequacy of or provision for adult recreation and other community facilities, environmental amenity and safety.

B. Age and occupancy requirements

- (1) The following age and occupancy requirements shall apply to all dwelling units in an APA Development:
 - a. Permanent residents must be at least fifty - five (55) years of age, except that a spouse under fifty - five (55) years may occupy a unit together with his or her spouse who is at least fifty - five (55) years of age. Permanent residents are defined as people who live in the units more than thirty (30) days in any twelve month period or more than five (5) consecutive days at any time.
 - b. A maximum of one (1) child age eighteen (18) or older, may also reside as a permanent resident with his or her parent or parents.
 - c. In no event, however, shall there be no more than three (3) permanent residents in any one unit.
- (2) Applicants for APA developments must present documentation verifying that the proposed development and its associated or accessory uses, facilities and services meet the requirements of the applicable Federal laws and regulations governing

housing for older persons which allow exemptions from prohibitions against discrimination because of familial status.

C. Uses.

1. Principal uses permitted.
 - a. Townhouses.
 - b. Garden apartments or condominium flats.
2. Accessory uses permitted.
 - a. Off-street parking and private garages. (See § 30. for standards.)
 - b. Utility sheds for owner occupied units only. In rental projects, the owner may provide an alternative for utility sheds in a single and unified area.
 - c. Signs. (See § 40 . for standards.)
 - d. Fences and walls. (See § 56 . for standards.)
 - e. Recreational facilities.
 - f. Indoor common laundry facilities for garden apartments.
 - g. Model units or sales offices within the project shall be allowed but only during the period necessary for the sale or rental of units with the project. Such uses shall not be considered a business use.

D. Bulk and design standards.

1. Garden apartments, condominium flats and/or townhouse developments:
 - a. Minimum tract size - Ten (10) acres.
 - b. Maximum density for townhouses shall be eight (8) units per acre measured strictly within that portion of the project designed for townhouses, while the maximum density for garden apartments shall be ten (10) units per acre measured strictly within that portion of the project designed for garden apartments.
 - c. Maximum building coverage - Thirty percent (30%).

- d. Maximum impervious surface coverage - Fifty percent (50%).
- e. Maximum building height - Thirty-five (35) feet.
- f. Minimum distance between structures as follows:
 - I. From the front or back of any building to any other front or back of a building: Fifty (50) feet.
 - II. From the side of any building to any front or back of a building: Thirty-five (35) feet.
 - III. From the side of any building to any other side of a building: Twenty-six (26) feet.
- g. Minimum building setback from public streets bordering the property and property lines - Fifty (50) feet.
- h. Minimum building setback from internal public streets - Twenty (25) feet from the right of way line.
- i. Minimum building setback from internal non-public streets - Twenty (25) feet from the curb line.
- j. Minimum distance from building to parking - Twenty-five (25) feet.
- k. Utility sheds or other accessory structures may not be located in the front yard and may not be located closer than five (5) feet from any side or rear property line.
- l. All off-street parking facilities shall be on the same site as the building and located within one hundred fifty (150) feet of the nearest entrance of the building they are intended to serve. Parking spaces shall be provided in areas designed specifically for parking and there shall be no parallel parking along interior private streets unless the street width is constructed to Borough standards.
- m. Buildings containing apartment flats shall be arranged in groups or clusters and not in long rows parallel to street lines. The total length of any one (1) structure shall not exceed two hundred (200) feet.
- n. Variations in setback, materials and design shall be encouraged.

- o. More than one (1) building per lot shall be permitted, provided the minimum tract size requirement is met. However, if fee simple townhouses units are proposed, each unit shall have a minimum lot area of two thousand five hundred (2,500) square feet.
 - p. A landscaped buffer, twenty-five (25) feet in width, shall be provided along all public streets and adjacent to all property lines.
 - q. Buildings shall be designed in a common architectural style.
 - r. Sufficient area and equipment shall be provided within each building for the laundering and artificial drying of the laundry of the occupants of each building.
 - s. All dwelling units within a structure shall be connected to approved and functioning public water and sanitary sewer systems prior to the issuance of certificates of occupancy.
- E. Common open space requirements. (See § 34. for standards.)
- F. Landscaped buffers and interior parking lot landscaping shall be provided as is required in § 33 .
- G. Collection or storage of recyclable materials in multifamily housing shall be provided as required in § 33.
- H. Design and amenity requirements
- a. Architectural considerations. In order to encourage an attractive building arrangement, variations in the setback or alignment of buildings erected on the same frontage or attached to other buildings shall be provided, parallel arrangement of buildings shall be avoided and desirable variations in such things as the facade, construction and roof lines of apartment buildings and single-family attached units or townhouses shall be encouraged. Individuality in buildings shall be achieved also by the use of various external materials, colors, landscape elements and other design details. Exterior walls shall not be made of exposed cinder block.
 - a. Laundry facilities. Adequate laundry facilities consisting of automatic washing and clothes-drying machines in a laundry room shall be provided, or a washer and dryer shall be installed in each dwelling unit.

- b. Storage space. A minimum of three hundred (300) cubic feet of fire-resistant separate storage space shall be provided for each dwelling unit. This storage space should be convenient to outside ground level and appropriate for storage of bicycles, trunks and items of dead storage.
- c. Opens space calculation. It shall be assumed that each building contains twenty-five (25) feet of front yard, twenty-five (25) feet of rear yard and thirteen (13) feet of side yards on each side. These yards shall be noted for purposes of the open space calculation regardless of the actual yard areas given in plans where units are sold fee simple or by condominium or rented. Such yard areas shall not be used for meeting the requirements of minimum open space.
- d. Lighting shall be provide in accordance with § 32 .

§ 15. **CB Central Business Commercial District.**

A. Intent.

The intent of the CB Central Business Commercial District is to promote the development and redevelopment of the existing business area within the center of the Borough which contains a mix of retail, office, service, entertainment and civic uses. Recognized as an area in need of revitalization, the CB District remains a community focal point intended to serve the Borough and the immediate environs. This area, critical to the identity of the community, is densely developed and needs complimentary and coordinated development to meet the needs of business, consumers and residents. Regulations will be designed to control points of ingress and egress and to provide for common access and drives both to minimize the visual and traffic impacts of development and to improve the conditions for pedestrians.

B. Uses.

- 1. Principal permitted uses on the land and in the buildings.
 - a. Apartments, only as part of a commercial use and not located on the first floor.
 - b. Stores for the sale of retail goods.
 - c. General business and professional offices, including medical offices.

- d. Facilities of financial and related service organizations including banks, stock brokers, realtors, insurance agencies, and similar facilities.
 - e. Shops specializing in personal or business services, including dry cleaning and copying centers and excluding the repair of large items which can not be hand carried and large printing operations, e.g. newspaper or other publishing or printing.
 - f. Day care centers.
 - g. Eating and drinking establishments but not including fast-food or drive-in restaurants.
 - h. Institutional uses including a church, synagogue, or similar place of religious worship.
 - i. Custom handicraft making and selling.
 - j. Mortuary.
2. Accessory uses permitted.
- a. Home occupations
 - b. Off-street parking lots. However, no off-street parking shall be permitted in any part of the front yard. (See § 30. for additional standards.)
 - c. Drive-in windows for permitted uses in accordance with § 31, C. , provided that the design of exiting driveways may not bring exit movements onto a State highway.
 - d. Signs. (See § 40. for standards.)
 - e. Fences and walls. (See § 56. for standards.)
 - f. The erection of a television antennas, including a satellite dish less than seventy-eight (78) inches in diameter, and radio antennas, provided that it does not exceed the height limitation of the District. No more than two (2) antennas shall be permitted per lot.
- C. Bulk standards.
- 1. Minimum lot area, six thousand (6,000) square feet.

2. Street frontage and yard requirements.
 - a. Minimum lot width at building line - Fifty (50) feet.
 - b. Minimum street frontage - Fifty (50) feet.
 - c. Minimum lot depth - One hundred (100) feet.
 - d. Minimum front yard -
 - 1). All existing structures, completed or under construction, as per the effective date of this ordinance shall maintain the existing front yard setback unless the Board finds, with the assistance of the Economic Development Committee, that a proposed facade or addition replicates the architectural style and quality of the immediate area. The review shall include consideration of building materials and colors, proportions of facades devoted to glass, attention to historical details and fixtures, e.g. lighting fixtures, and signage, There is no minimum setback for compatible proposals.
 - 2). Structures built after the effective date of this Ordinance shall have a minimum front yard set back of ten (10) feet from the street line unless the Board finds, with the assistance of the Economic Development Committee, that a proposed facade replicates the architectural style and quality of the immediate area. The review shall include consideration of building materials and colors, proportions of facades devoted to glass, attention to historical details and fixtures, e.g. lighting, and signage, There is no minimum setback for compatible proposals.
 - e. Minimum side yards - Five (5) feet.
 - f. Minimum rear yard - Twenty-five (25) feet.
3. Maximum building height - Thirty-five (35) feet.
4. Maximum building coverage - Fifty percent (50%).
5. Maximum impervious site coverage - Eighty (80%)percent

D. Parking Lot Design

1. Front yard parking prohibited. All on-site parking requirements shall be provided for and occur behind or to the side of all buildings. No parking shall be allowed between any street bordering the lot and the front building line or lines. Said ground-level parking lots are not permitted to be under or within existing or proposed structures.
2. Side yard parking must not be closer to the front property line than the front wall of the existing or proposed primary structure, or twenty feet (20'), whichever is greater. Such parking must be screened from the street using walls, fences, earth mounds, permanent evergreen landscaping or a combination thereof.
3. All on site parking shall be separated from adjoining lots within a residential zone by a landscaped area at least ten (10) feet in width. This area may be reduced to no less than five (5) feet if a solid fence or wall is provided to buffer the parked vehicles. Whenever a fence or wall is used, a minimum two foot strip outside the fencing shall be landscaped with clusters of trees and shrubs with a maximum spacing between clusters of fifteen (15) feet.
4. Except when adjoining property owners cooperate by providing interconnected parking lots, all parking areas shall be three (3) feet or more from property lines other than as provided in paragraph 3 above. This strip shall be landscaped to provide visual relief across adjoining parking areas but is not designed to provide total screening as is required against residential properties in residential zones.
5. All landscaping, screening, and buffers shall be further subject to the provisions of § 33.

§ 16. CO Commercial/Office District.

A. Intent.

The intent of the CO Commercial/Office District is to promote the development and redevelopment of a portion of the existing commercial area adjacent to the central business area of the Borough which contains a mix of office, service and civic uses. The CO District is less intensely developed and is characterized by larger properties and deeper front yard set-backs. It is the intention of the Ordinance to maintain the character of this area by prohibiting retail sales and highway oriented uses. Lots must be larger and deeper front yards will be maintained.

B. Uses.

1. Principal permitted uses on the land and in the buildings.
 - a. Single family detached dwellings.
 - b. Apartments, only as part of a commercial use and not located on the first floor.
 - c. General business and professional offices, including medical offices.
 - d. Facilities of financial and related service organizations including banks, stock brokers, realtors, insurance agencies, and similar facilities.
 - e. Business services, including copying centers.
 - f. Day care centers.
 - g. Eating and drinking establishments but not including fast-food or drive-in restaurants.
 - h. Institutional uses including a church, synagogue, or similar place of religious worship
 - i. Mortuary.
2. Accessory uses permitted.
 - a. Home occupation.

- b. Off-street parking lots. However, no off-street parking shall be permitted in any part of the front yard for non-residential developments. (See § 30. for additional standards.)
- c. Drive-in windows for permitted uses in accordance with § 31
- d. Signs. (See § 40. for standards.)
- e. Fences and walls. (See § 56. for standards.)
- f. The erection of a television antennas, including a satellite dish less than seventy-eight (78) inches in diameter, and radio antennas, provided that it does not exceed the height limitation of the District. No more than two (2) antennas shall be permitted per lot.

C. Bulk standards.

- 1. Minimum lot area, Fifteen thousand (15,000) square feet.
- 2. Street frontage and yard requirements.
 - a. Minimum lot width at building line - Seventy (70) feet.
 - b. Minimum street frontage - Seventy (70) feet.
 - c. Minimum lot depth - One hundred (100) feet.
 - d. Minimum front yard -
 - 1). New buildings, Fifty (50) feet;
 - 2). All existing structures, completed or under construction, as per the effective date of this ordinance shall maintain the existing front yard setback unless the Board finds, with the assistance of the Economic Development Committee, that a proposed facade or addition replicates the architectural style and quality of the immediate area. The review shall include consideration of building materials and colors, proportions of facades devoted to glass, attention to historical details and fixtures, e.g. lighting fixtures, and signage, Compatible architectural structures have a minimum set-back of forty feet (40).
 - a. Minimum side yards - Ten (10) feet.

- b. Minimum rear yard - Twenty-five (25) feet.
3. Maximum building height - Thirty-five (35) feet.
4. Maximum building coverage - Forty percent (40%).
5. Maximum impervious site coverage - Seventy (70%) percent.

D. Parking Lot Design

1. Front yard parking prohibited. All on-site parking requirements shall be provided for and occur behind or to the side of all buildings. No parking shall be allowed between any street bordering the lot and the front building line or lines. Said ground-level parking lots are not permitted to be under or within existing or proposed structures.
2. Side yard parking must not be closer to the front property line than the front wall of the existing or proposed primary structure. Such parking must be screened from the street using walls, fences, earth mounds, permanent evergreen landscaping or a combination thereof.
3. All on site parking shall be separated from adjoining lots within a residential zone by a landscaped area at least ten (10) feet in width. This area may be reduced to no less than five (5) feet if a solid fence or wall is provided to buffer the parked vehicles. Whenever a fence or wall is used, a minimum two foot strip outside the fencing shall be landscaped with clusters of trees and shrubs with a maximum spacing between clusters of fifteen (15) feet.
4. Except when adjoining property owners cooperate by providing interconnected parking lots, all parking areas shall be three (3) feet or more from property lines other than as provided in paragraph 3 above. This strip shall be landscaped to provide visual relief across adjoining parking areas but is not designed to provide total screening as is required against residential properties in residential zones.
5. All landscaping, screening, and buffers shall be further subject to the provisions of § 33.

§ 17. **HB Highway Business Commercial District.**

A. Intent.

The intent of the HB Highway Business Commercial District is to promote the development and redevelopment of the vacant land and developed properties outside of the central commercial areas of the Borough. It is intended to promote the development of larger tracts of land and to encourage the consolidation of smaller parcels. The District will permit a mix of commercial uses and will include highway oriented and drive-in uses. The complimentary and coordinated development of adjacent properties shall be encouraged through regulation designed to control points of ingress and egress, provide for common access and drives and shared parking. Design standards will be targeted at minimizing the visual and traffic impacts of development and to improve the conditions for pedestrians. Selected areas indicated as HB-1 and HB-2 Districts are intended to accommodate automobile sales and service uses as conditional uses.

B. Uses.

1. Principal permitted uses on the land and in the buildings in HB, HB-1 and HB-2 Districts.
 - a. The following principal uses shall be permitted by right:
 - 1). All non-residential principal uses permitted by right in the CB and CO Districts.
 - 2). Hotels or motels
 - 3). Medical clinic with offices for the practice of medicine by more than one (1) doctor and/or medical group for the examination of and/or treatment of persons as out-patients and the laboratories incidental thereto.
 - 4). Movie theaters, performing arts facilities, and community centers.
 - 5). Shopping Center.
 - 6). Supermarket, when located in a Shopping Center.
 - 7). Recreation, exercise and health clubs and facilities when owned and operated by a non-governmental agency including, but not limited to, buildings for bowling alleys, indoor court games such as racquetball, handball, squash, tennis, basketball and other facilities related thereto including indoor swimming and sauna facilities.

- 8). Public Park and Ride facilities.
 - 9). Garden center stores and facilities.
- b. The following principal uses or accessory are permitted conditionally upon a determination by the Planning Board that the use can be provided in a manner that will minimize the impact upon adjacent properties, will be compatible with the surrounding neighborhood, will not unduly burden adjacent areas with increases in traffic, noise, threats to public health and safety, and will conform with such additional standards as provided in Article IV. All uses must be provided with public water and sewer services.
- 1). Fast-food or drive-in restaurants, only as part of a shopping center, provided that access and egress provided from within the shopping center, i.e. access and egress movements directly from the public streets to the restaurant site are prohibited.
 - 2). Automobile sales in the HB-1 District only.
 - 3). Service stations in HB-2 District only.
 - 3). Towers and/or antennas designed for cellular communications, personal communications services or other communication technologies
2. Accessory uses permitted.
- a. Off-street parking lots.
 - b. Drive-in windows for permitted uses in accordance with § 31 , provided that the design of exiting driveways may not permit exit movements onto State highways.
 - c. Signs. (See § 40. for standards.)
 - d. Fences and walls. (See § 56 . for standards.)
 - e. The erection of a television antennas, including a satellite dish less than seventy-eight (78) inches in diameter, and radio antennas, provided that it does not exceed the height limitation of the District. No more than two (2) antennas shall be permitted per lot.

C. Bulk standards.

1. Minimum lot area;
 - a. Use or uses, not including retail sales, 30,000 S.F.
 - b. Use or uses, including retail sales, 60,000 S.F.
2. Street frontage and yard requirements.
 - a. Minimum lot width at building line - Two hundred (200) feet for lots with retail uses, One hundred and Fifty (150) feet for all others.
 - b. Minimum street frontage - Two hundred (200) feet for lots with retail uses, One hundred and Fifty (150) feet for all others.
 - c. Minimum lot depth - Two hundred (200) feet.
 - d. Minimum front yard - One hundred (100) feet.
 - e. Minimum side yards - Fifty (50) feet.
 - f. Minimum rear yard - Seventy-five (75) feet.
3. Maximum building height - Thirty-five (35) feet.
4. Maximum building coverage - Fifty percent (50%).
5. Maximum impervious site coverage - Eighty (80%)percent
6. Maximum floor area: Retail stores shall have a gross leasable area no greater than sixty-thousand (60,000) square feet.

D. Buffers and landscaping.

1. Landscaped buffers should be provided as follows:
 - a. Adjacent to any street line - Fifty (50) feet for multiple use properties or shopping centers or lots equal to or larger than 60,000 S.F.; twenty-five (25) feet for single use properties or lots smaller than 60,000 S.F.
 - b. Adjacent to a residential district - Fifty (50) feet.
 - c. Adjacent to a non-residential district - Twenty (20) feet.

2. Buffer plantings and interior parking lot landscaping should be provided as specified in § 33 .
- E. General design requirements, as required by § 39 .
- F. Shopping centers, and retail users larger than 25,000 s.f. shall be designed using the following additional standards:
1. Architectural Character
 - a. Visual interest. Facades shall provide a visual interest consistent with the Borough of Clayton's identity, character and scale.
 - b. Facades greater than 100 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of a least 3% of the length of the facade and extending at least 20 percent of the length of the facade. No uninterrupted length of any facade shall exceed 100 horizontal feet.
 - c. Ground floor facades shall have arcades, display windows, entry area, awnings or other such features along no less than 60 percent of the horizontal length.
 - d. Building facades must include a repeating pattern that shall include changes in color, texture and material modules. At least one of the elements shall repeat horizontally. All elements shall repeat at intervals of no more than thirty (30) feet, either horizontally or vertically.
 - e. Roof Lines. Variations in roof lines must be used to add interest to, and reduce the massive scale of large buildings. Roofs shall have no less than two of the following features:
 - 1). Parapets concealing flat roofs and rooftop equipment such as HVAC units from public view. The average height of such parapets shall not exceed 15% of the height of the supporting wall and such parapets shall not at any point exceed one-third of the height of the supporting wall. Such parapets shall feature three dimensional cornice treatment.
 - 2). Overhanging eaves, extending no less than three (3) feet past the supporting walls.
 - 3). sloping roof that do not exceed the average height of the supporting walls, with an average slope greater than or equal to 1 foot of vertical rise for

- a. Parking fields may be located within one hundred (100) feet of the primary street upon which a shopping center abuts for no more than fifty (50) per cent of the frontage along the primary street, except for parking specifically designed to serve separate buildings or pad sites located between the principal structure and the street.

§ 18. HIO Highway Industrial/Office District.

A. Intent.

The intent of the Highway Industrial/Office District is to promote the development of appropriate areas within the Borough which will provide opportunities for the use of buildings for larger uses including office buildings, light manufacturing, office/warehousing uses known as "flex space" and research facilities.

B. Uses.

1. Principal permitted uses on the land and in the buildings.

- a. The following principal uses and no others shall be permitted provided that the use does not create any noise, vibration, smoke, dust, odor, heat, glare, or other objectionable effect in excess of the performance standards for industrial developments as required in § 38 .
 - 1). Scientific or industrial research, testing or experimental laboratory, or product development.
 - 2). Printing, publishing, lithographing, binding, or similar processes.
 - 3). Assembly and light manufacturing.
 - 4). Warehousing and distribution in combination with other uses, but not including a truck terminal.
 - 5). Mail order merchandise facility.
 - 6). Motion picture film production, television or radio studio, cable television studio, satellite ground station.
 - 7). General business offices, banks, and offices of financial institutions.

- 8). Beverage distribution.
 - 9). Data processing and information processing centers.
 - 10). Wholesale greenhouse, nursery and wholesale florist.
 - 11). Towers and/or antennas designed for cellular communications, personal communications services or other communication technologies.
2. Accessory uses permitted.
- a. Off-street parking lots and structures. (See § 30 . for standards.)
 - b. Garages to house delivery trucks and other commercial vehicles. (Unenclosed storage of trucks and trailers are not permitted).
 - c. Signs. (See § 40 . for standards.)
 - d. Fences and walls. (See § 56 . for standards.)
 - e. The warehousing of materials permitted in association with a permitted principal use.
 - f. Outdoor storage, permitted conditionally upon a determination by the Planning Board that the use can be provided in a manner that will minimize the impact upon adjacent properties and will conform with such additional standards as provided in Article IV.
 - g. The erection of television antennas, including a satellite dish less than seventy-eight (78) inches in diameter, and radio antennas, provided that it does not exceed the height limitation of the District. No more than two (2) antennas shall be permitted per lot.
 - h. Heliports, as a conditional use in accordance with Article IV.

C. Bulk standards.

1. Minimum lot area - Three (3) acres.
2. Minimum lot width at building line - Two hundred (200) feet.

3. Minimum lot depth - Two hundred fifty (250) feet.
 4. Minimum front yard - One-hundred (100) feet.
 5. Minimum side yards, each.
 - a. The minimum building setback from a non-residentially zoned lot - Twenty-five (25) feet.
 - b. The minimum building setback from a residentially zoned lot - Fifty (50) feet.
 6. Minimum rear yard.
 - a. The minimum building setback from a non-residentially zoned lot - Twenty-five (25) feet.
 - b. The minimum building setback from a residentially zoned lot - Fifty (50) feet.
 7. Maximum building height - Thirty-five (35) feet.
 8. Maximum building coverage (includes all principal and accessory buildings) - Thirty-five percent (35%).
 9. Maximum impervious coverage - Eighty percent (80%).
 11. Accessory structures shall be subject to all the same locational requirements as principal buildings.
- D. Buffers and landscaping.
1. Landscaped buffers shall be provided as follows:
 - a. Adjacent to any street line - Fifty (50) feet.
 - b. Adjacent to a residential district - Fifty (50) feet.
 - c. Adjacent to a non-residential district - Ten (10) feet.
 2. Buffer plantings and interior parking lot landscaping should be provided as specified in § 33.
- E. General design requirements, as required in § 39 .

- F. Sites within eleven hundred (1,100) feet of the Borough's municipal well site on North Delsea Drive shall also be developed in accordance with § 35A of this ordinance.

§ 19. RIO-1 Restricted Industrial/Office-1 District.

A. Intent.

The intent of the RIO-1 Restricted Industrial/Office-1 District is to provide clean, less intense, industrial and office uses in proximity to existing and proposed residential areas. Standards are aimed at minimizing the visual and traffic impact and aiding in the transition from the more intense to the less intense uses. The RIO-1 District is intended to encourage development of moderate industrial parcels and industrial parks with non-polluting industrial and related uses.

B. Uses.

1. Principal permitted uses on the land and in the buildings.

- a. The following principal uses and no others shall be permitted provided that the use does not create any noise, vibration, smoke, dust, odor, heat, glare, or other objectionable effect in excess of the performance standards for industrial developments as required in § 38.
- 1). Scientific or industrial research, testing or experimental laboratory, or product development.
 - 2). Printing, publishing, lithographing, binding, or similar processes.
 - 3). Assembly and light manufacturing.
 - 4). Warehousing and distribution in combination with other uses, but not including a truck terminal.
 - 5). Mail order merchandise facility, but not including retail sales.
 - 6). Motion picture film production, television or radio studio, cable television studio, satellite ground station.
 - 7). Data processing and information processing centers.
 - 8). Wholesale greenhouse, nursery and wholesale florist.

- 9). Self-service storage facilities as conditional uses in accordance with Article IV.
2. Accessory uses permitted.
 - a. Off-street parking lots and structures. (See § 30. for standards.)
 - b. Garages to house delivery trucks and other commercial vehicles. (Unenclosed storage of trucks and trailers are not permitted).
 - c. Signs. (See § 40. for standards.)
 - d. Fences and walls. (See § 56. for standards.)
 - e. The warehousing of materials permitted in association with a permitted principal use.
 - f. Outdoor storage, permitted conditionally upon a determination by the Planning Board that the use can be provided in a manner that will minimize the impact upon adjacent properties and will conform with such additional standards as provided in Article IV.
 - g. Towers and/or antennas designed for cellular communications, personal communications services or other communication technologies are permitted conditionally in accordance with Article IV.
 - h. The erection of a television antennas, including a satellite dish less than seventy-eight (78) inches in diameter, and radio antennas, provided that it does not exceed the height limitation of the District. No more than two (2) antennas shall be permitted per lot.
- C. Bulk standards.
1. Minimum lot area - Two (2) acres.
 2. Minimum lot width at building line - One hundred and fifty (150) feet.
 3. Minimum lot depth - Two hundred fifty (250) feet.
 4. Minimum front yard - One-hundred (100) feet.

5. Minimum side yards, each.
 - a. The minimum building setback from a non-residentially zoned lot - Twenty-five (25) feet.
 - b. The minimum building setback from a residentially zoned lot - Fifty (50) feet.
6. Minimum rear yard.
 - a. The minimum building setback from a non-residentially zoned lot - Twenty-five (25) feet.
 - b. The minimum building setback from a residentially zoned lot - Fifty (50) feet.
7. Maximum building height - Thirty-five (35) feet.
8. Maximum building coverage (includes all principal and accessory buildings) - Thirty-five percent (35%).
9. Maximum impervious coverage - Eighty percent (80%).
11. Accessory structures shall be subject to all the same locational requirements as principal buildings.

D. Buffers and landscaping.

1. Landscaped buffers shall be provided as follows:
 - a. Adjacent to any street line - Fifty (50) feet.
 - b. Adjacent to a residential district - Fifty (50) feet.
 - c. Adjacent to a non-residential district - Ten (10) feet.
2. Buffer plantings and interior parking lot landscaping should be provided as specified in §33.

E. General design requirements, as required in § 39.

§ 20. RIO-2 Restricted Industrial/Office-2 District

A. Intent.

The intent of the RIO-2 Restricted Industrial/Office-2 District is to provide clean, less intense, industrial and office uses in proximity to existing and proposed residential areas. Standards are aimed at minimizing the visual and traffic impact and aiding in the transition from the more intense to the less intense uses. The RIO-2 District is intended to encourage development of smaller industrial parcels with non-polluting industrial and related uses

B. Uses.

1. Principal permitted uses on the land and in the buildings.

- a. The following principal uses and no others shall be permitted provided that the use does not create any noise, vibration, smoke, dust, odor, heat, glare, or other objectionable effect in excess of the performance standards for industrial developments as required in § 38.
 - 1). Scientific or industrial research, testing or experimental laboratory, or product development.
 - 2). Printing, publishing, lithographing, binding, or similar processes.
 - 3). Assembly and light manufacturing.
 - 4). Warehousing and distribution in combination with other uses, but not including a truck terminal.
 - 5). Mail order merchandise facility, but not including retail sales.
 - 6). Motion picture film production, television or radio studio, cable television studio, satellite ground station.
 - 7). Data processing and information processing centers.
 - 8). Wholesale greenhouse, nursery and wholesale florist.
 - 9). Self-service storage facilities as conditional uses in accordance with Article IV.

2. Accessory uses permitted.
 - a. Off-street parking lots and structures. (See § 30. for standards.)
 - b. Garages to house delivery trucks and other commercial vehicles. (Unenclosed storage of trucks and trailers are not permitted).
 - c. Signs. (See § 40. for standards.)
 - d. Fences and walls. (See § 56. for standards.)
 - e. The warehousing of materials permitted in association with a permitted principal use.
 - f. Outdoor storage, permitted conditionally upon a determination by the Planning Board that the use can be provided in a manner that will minimize the impact upon adjacent properties and will conform with such additional standards as provided in Article IV.
 - g. Towers and/or antennas designed for cellular communications, personal communications services or other communication technologies are permitted conditionally in accordance with Article IV.
 - h. The erection of a television antennas, including a satellite dish less than seventy-eight (78) inches in diameter, and radio antennas, provided that it does not exceed the height limitation of the District. No more than two (2) antennas shall be permitted per lot.

C. Bulk standards.

1. Minimum lot area - One and one-half (1.5) acres.
2. Minimum lot width at building line - One hundred and fifty (150) feet.
3. Minimum lot depth - Two hundred and fifty (250) feet.
4. Minimum front yard - One-hundred (100) feet.
5. Minimum side yards, each.
 - a. The minimum building setback from a non-residentially zoned lot - Twenty-five (25) feet.

- b. The minimum building setback from a residentially zoned lot - Fifty (50) feet.
6. Minimum rear yard.
 - a. The minimum building setback from a non-residentially zoned lot - Twenty-five (25) feet.
 - b. The minimum building setback from a residentially zoned lot - Fifty (50) feet.
7. Maximum building height - Thirty-five (35) feet.
8. Maximum building coverage (includes all principal and accessory buildings) - Thirty-five percent (35%).
9. Maximum impervious coverage - Eighty percent (80%).
11. Accessory structures shall be subject to all the same locational requirements as principal buildings.

D. Buffers and landscaping.

1. Landscaped buffers shall be provided as follows:
 - a. Adjacent to any street line - Twenty-five (25) feet.
 - b. Adjacent to a residential district - Fifty (50) feet.
 - c. Adjacent to a non-residential district - Ten (10) feet.
2. Buffer plantings and interior parking lot landscaping should be provided as specified in § 33.

E. General design requirements, as required in § 39.

§ 21. I Industrial District.

A. Intent.

The intent of the Industrial District is to promote the development of appropriate areas within the Borough which will provide opportunities for the use of buildings for a full range of large and small industrial uses on individual parcels or in industrial parks. While

many diverse uses are intended, only non-polluting industrial uses and related uses will be permitted.

B. Uses.

1. The following principal uses and no others shall be permitted provided that the use does not create any noise, vibration, smoke, dust, odor, heat, glare, or other objectionable effect in excess of the performance standards for industrial developments as required in § 38.
 - a. Scientific or industrial research, testing or experimental laboratory, or product development.
 - b. General business or governmental offices.
 - c. Repair and service of home, business, and/or industrial appliances, equipment, or instruments.
 - d. Assembly and light manufacturing.
 - e. Warehouse, storage, packing and crating, and distribution facilities.
 - f. Data processing, printing, publishing, book binding, engraving, lithographing, reproducing, photo finishing, film processing, radio, television, or cinema studio, or similar establishment.
 - g. Cold storage, frozen food, and food processing.
 - h. Laundry, cleaning, and dyeing plant.
 - i. General service or contractor's shop including carpenter and cabinet making shop, roofing shop, plumbing shop, furniture repair, light metal working, electrical shop, and similar establishments.
 - j. Automobile repair, body work, and painting.
 - k. Mail order merchandise business provided no retail sales to the general public occur on-site.
 - l. Commercial greenhouse, nursery, and wholesale florist.
 - m. Self-service storage facilities, as conditional uses in accordance with Article IV.

- n. The storage, parking and/or garaging of motor vehicles and associated trailers which are currently licensed by the State of New Jersey for use on public streets provided, however, that in no case shall this provision be interpreted to permit the operation of an automotive junk yard.
 - o. Towers and/or antennas designed for cellular communications, personal communications services or other communication technologies are permitted conditionally in accordance with Article IV.
2. Accessory uses permitted.
- a. Off-street parking lots and structures. (See § 30. for standards.)
 - b. Structures to house delivery trucks and other commercial vehicles.
 - c. Signs. (See § 40. for standards.)
 - d. Fences and walls. (See § 56. for standards.)
 - e. Outdoor storage, permitted conditionally upon a determination by the Planning Board that the use can be provided in a manner that will minimize the impact upon adjacent properties and will conform with such additional standards as provided in Article IV.
 - f. The erection of a television antennas, including a satellite dish less than seventy-eight (78) inches in diameter, and radio antennas, provided that it does not exceed the height limitation of the District. No more than two (2) antennas shall be permitted per lot.

C. Bulk standards.

- 1. Minimum lot area - One (1) acre.
- 2. Minimum lot width at building line - One hundred and fifty (150) feet.
- 3. Minimum lot depth - Two hundred (200) feet.
- 4. Minimum front yard - Fifty (50) feet.
- 5. Minimum side yards, each.

- a. The minimum building setback from a non-residentially zoned lot - Fifteen (15) feet.
 - b. The minimum building setback from a residentially zoned lot - Fifty (50) feet.
6. Minimum rear yard.
- a. The minimum building setback from a non-residentially zoned lot - Twenty-five (25) feet.
 - b. The minimum building setback from a residentially zoned lot - Fifty (50) feet.
7. Maximum building height - Thirty-five (35) feet.
8. Maximum building coverage (includes all principal and accessory buildings) - Forty percent (40%).
9. Maximum impervious coverage - Eighty percent (80%).
11. Accessory structures shall be subject to all the same locational requirements as principal buildings.
- D. Buffers and landscaping.
1. Landscaped buffers shall be provided as follows:
 - a. Adjacent to any street line - Twenty-five (25) feet.
 - b. Adjacent to a residential district - Fifty (50) feet.
 - c. Adjacent to a non-residential district - Ten (10) feet.
 2. Buffer plantings and interior parking lot landscaping should be provided as specified in § 33.
- E. General design requirements, as required in § 39.
- F. Sites within eleven hundred (1,100) feet of the Borough's municipal well site on North Delsea Drive shall also be developed in accordance with § 35A of this ordinance.

§ 22. CF/I Community Facility/Institutional District .

A. Intent.

The intent of the CF/I Community Facility/Institutional District is to provide regulations for public and quasi-public or institutional land uses and to insure their compatibility with surrounding land uses. Included in this designation, are open space and/or recreation sites under the jurisdiction of various levels of government and non-profit organizations.

B. Uses.

1. Principal permitted uses on the land and in the buildings.

a. Uses by right.

- 1). Governmental use or building, other than those enumerated as conditional uses below including but not limited to a municipal administrative or public safety facility, community center, library, or park.
- 2). Private or public elementary, secondary or nursery school accredited by the State Department of Education.
- 2). Public playgrounds, woodland, wildlife preserve, natural resource conservation area and parks.
- 3). Conservation area, park or recreational facility under the jurisdiction of a non-profit organization.

b. The following principal uses are permitted conditionally upon a determination by the Planning Board that the use can be provided in a manner that will minimize the impact upon adjacent properties, will be compatible with the surrounding neighborhood, will not unduly burden adjacent areas with increases in traffic, noise, threats to public health and safety, and will conform with such additional standards as provided in Article IV.

- 1). Convalescent home, nursing home, or similar health facility.
- 2). Church, synagogue, chapel, convent, or similar place of worship, including a rectory or parish house.

- 4). Cemetery and crematorium, provided however that crematorium chimneys shall not be located within five hundred (500) feet of any street or residential property line.
 - 5). Private recreational use of a primarily outdoor character, such as swim clubs, tennis clubs, country clubs, or similar facilities.
 - 6). Child Care Center
-
2. Accessory uses permitted.
 - a. Off-street parking lots and structures. (See § 30. for standards.)
 - b. Play fields or recreational facilities.
 - c. Signs. (See § 40. for standards.)
 - d. Fences and walls. (See § 56. for standards.)
 - e. Dormitory.
 - f. Offices of staff doctors.
 - g. Living accommodations for watchmen, caretakers, or the staff or employees of a permitted institution.
-
- C. Bulk standards.
1. Minimum lot size - Two (2) acres.
 2. Minimum street frontage - Three hundred (300) feet.
 3. Minimum lot width - Three hundred (300) feet.
 4. Minimum front yard - Fifty (50) feet.
 5. Minimum side yard (each).
 - a. The minimum building setback from a non-residentially zoned lot - Twenty-five (25) feet.

- b. The minimum building setback from a residentially zoned lot - Fifty (50) feet.
6. Minimum rear yard.
 - a. The minimum building setback from a non-residentially zoned lot - Fifty (50) feet.
 - b. The minimum building setback from a residentially zoned lot - Seventy-five (75) feet.
7. Maximum building height - Thirty-five (35) feet
9. Maximum building coverage (includes all principal and accessory buildings located on a site) - Thirty-five percent (35%).
10. Maximum impervious coverage - Eighty percent (80%).
11. Accessory structures shall be subject to all the same locational requirements as principal buildings and shall not have a ground floor area in excess of five percent (5%) of the area of the site.

D. Future use of institutional land.

1. Because of the unique and varied character of uses permitted in the Institutional District, either by right or by conditional approval, it may not be appropriate to allow one institutional use to automatically replace another institutional use upon its abandonment or discontinuance. For the purposes of this section, the replacement of any use with another which is not of the exact character of the previous use shall be considered a change of use.
2. In the event of the non-use, abandonment, or change in the use of any institutionally zoned land, the Planning Board, on its own motion or upon an application for a zoning change, shall consider the site and make a recommendation to the Borough Council as to an appropriate zoning map amendment for the site in question.

E. Buffers and landscaping.

1. Landscaped buffers shall be provided as follows:
 - a. Adjacent to any street line - Twenty-five (25) feet.
 - b. Adjacent to a residential district - Thirty-five (35) feet.

- c. Adjacent to a non-residential district - Twenty (20) feet.
 2. Buffer plantings and interior parking lot landscaping should be provided as specified in § 33.
- F. General design requirements, as required in § 39.

§ 23. Flood Plain Conservation District.

A. Intent.

It is hereby found that certain streams, creeks and waterways of the Borough are subject to recurring flooding, that such flooding damages and endangers life and public and private property and facilities, that this condition is aggravated by developments and encroachments in the flood plain and that the most appropriate method of alleviating such condition is through regulation of such developments and encroachments. It is therefore determined that the special and paramount public interest in the flood plain justifies the regulation of property located therein as provided in this Article, which is in the exercise of the regulatory power of the municipality, for the protection of the persons and property of its inhabitants and for the preservation of the public health, safety and general welfare.

The intent of this Article shall be to protect areas of the flood plain subject to and necessary for the containment of floodwaters and to permit and encourage the retention of open space land uses which will be so located and utilized as to constitute a harmonious and appropriate aspect of the continuing physical development of the Borough.

B. Specific Objectives

1. To combine with present zoning requirements, certain restrictions made necessary for flood-prone areas to promote the general health, welfare and safety of the borough.
2. To prevent the erection of structures in areas unfit for human usage by reason of danger from flooding.
3. To minimize danger to public health by protecting the quality and quantity of surface and subsurface water supplies adjacent to and underlying flood hazard areas and promoting safe and sanitary drainage.

4. To permit only those uses which can be appropriately located in the flood plain as herein defined and which will not impede the flow or storage of floodwaters or otherwise cause danger to life and property at, above or below their locations along the flood plains.
 5. To provide sufficient drainage courses to carry abnormal flows or stormwater in periods of heavy precipitation.
 6. To reduce the financial burdens imposed on the community, its governmental units and its individuals by frequent and periodic floods and overflow of lands.
 7. To protect adjacent landowners and those both upstream and downstream from damages resulting from development within a flood plain and the consequent obstruction or increase in flow of floodwaters.
 8. To protect the entire borough from individual uses of land which may have an effect upon subsequent expenditures for public works and disaster relief and which may adversely affect the economic well-being of the borough.
 9. To maintain undisturbed the ecological balance between those natural systems elements, including wildlife, vegetation and marine life, which are dependent upon watercourses and water areas.
 10. To protect other municipalities within the same watershed from the impact of improper development and the consequent increased potentials for flooding.
 11. To provide areas for the temporary natural storage of floodwaters.
 12. To require that uses vulnerable to floods, including public facilities, be constructed so as to be protected from flood damage in accordance with the purpose and requirements of the National Flood Insurance Program, P.L. 93-234.
- C. Incorporation of map by reference; flood plain boundaries.
1. This Article consists of this text and the flood plain maps prepared by the Federal Emergency Management Agency, entitled "Borough of Clayton, NJ (Gloucester Co.), Flood Hazard Boundary Map H-01 thru H-04, Effective Date, March 11, 1983". Said maps are on file in the office of the Borough Clerk and are incorporated in this Article by reference as though fully set forth in this text. However, the Planning Board Engineer may modify the one-hundred-year-storm criteria based on specific circumstances.

2. All other streams and waterways in the Borough not included above are deemed to be flood plains. Twenty (20) feet on both sides of streams, as measured from the center line of streams, are presumed to be flood plains in the absence of proof to the contrary.
 3. This Article shall also consist of any and all reports, maps, revisions and amendments of these texts as may be prepared from time to time, provided that such additional documents are in agreement with the Planning Board Engineer, Corps of Engineers, Soil Conservation Service or any agency of the United States government authorized to define flood plain criteria.
 4. In cases of doubt, uncertainty or a dispute as to the exact limits of the flood plain, the floodway or flood hazard area in a proposed development, the applicant's engineer shall submit all of the appropriate flood plain data, topography, hydrology, hydrolics and any other information required by the Planning Board. After receipt of the complete data, the Planning Board Engineer shall, upon the application and with the consent of the landowner, determine the precise location of a flood plain, floodway or flood hazard area limit by close inspection, field survey or other appropriate method and cause the same to be marked on the ground, notifying the landowner, the Building Inspector and the Planning Board of the results thereof. The cost of such engineering shall be borne by the applicant.
- D. Overlay concept; applicable areas; density.
1. The Flood Plain Conservation District shall be deemed an overlay on any zoning district now or hereafter applicable to any lot.
 2. Should the Flood Plain Conservation District be declared inapplicable to any tract, the zoning applicable to such lot shall be deemed to be the district in which it is located without consideration of this Article. In appropriate cases the center line of the streams shall be in the district boundary line.
 3. Should the zoning of any parcel or any part hereof in which the Flood Plain Conservation District is located be changed through any legislative or administrative actions or judicial decision, such change shall have no effect on the Flood Plain Conservation District unless such change was included as part of the original application.
 4. Lands in the flood plain shall not be used to calculate the allowable number of units in a project.

E. Prohibited uses.

1. The following uses shall not be permitted in the Flood Plain Conservation District, except if permitted by the Planning Board upon the submission of acceptable proofs:
 - a. All freestanding structures and buildings and retaining walls, with the exception of flood retention dams, culverts and bridges as approved by the New Jersey Department of Environmental Protection.
 - b. The filling of or removal of topsoil from all flood plain lands, except as approved under the provisions of this Article.
 - c. The relocation of any watercourse without approval by the Planning Board and the Soil Conservation Service, United States Department of Agriculture, thereon and the relocation of any watercourse without the approval of the New Jersey Department of Environmental Protection.
 - d. Sanitary landfills, dumps, junkyards, outdoor storage of vehicles and materials.
 - e. On-site sewage disposal systems.
 - f. Private water supply wells for potable purposes.

F. Permitted uses.

1. The following uses and no others are permitted in the Flood Plain District:
 - a. Cultivation and harvesting crops according to recognized soil conservation practices.
 - b. Pasture and grazing of animals.
 - c. Outdoor plant nursery or orchard.
 - d. Wildlife sanctuary, woodland preserve, arboretum and passive recreation or parks, including hiking, bicycle and bridle trails but not including facilities subject to damage by flooding.
 - e. Game farm, fish hatchery or hunting and fishing reserve for the protection and propagation of wildlife, but not permitting any structures.
 - f. Forestry, lumbering and reforestation according to recognized natural resources conservation practices.

- g. Residential front, side and/or rear yards and uses customarily incidental thereto, except that no structures or dwellings shall be permitted within one hundred (100) feet of the flood plain, except as permitted by the Planning Board upon submittal of acceptable proofs. Inclusion of flood plain lands within the residential lots in order to meet minimum lot area or yard requirements is contingent upon complying with the objectives and standards set forth in the declaration of legislative intent of this Article and with any other pertinent municipal regulations. If such compliance cannot be shown, the land area within the Flood Plain Conservation District shall not be included for purposes of determining lot areas or yard requirements.
- h. Normal accessory use permitted under the applicable zoning district and as further restricted by the standards set forth in this Article.
- i. Recreational use, whether open to the public or restricted to private use, such as parks, camps, picnic areas, fishing areas and sport or boating clubs, not to include enclosed structures, excepting flood proof toilet facilities but permitting piers, docks, floats or unenclosed shelters usually found in developed outdoor recreational areas. Any flood proof toilet facilities provided shall be connected to public water and sewerage systems.
- j. Sewage treatment plant, outlet installations for sewage treatment plants and sewage pumping stations with the approval of the Planning Board Engineer, appropriate sewer authorities and the New Jersey Department of Environmental Protection, when accompanied by documentation as to the necessity for locating within the boundaries of the Flood Plain Conservation District.
- k. Dams, culverts and bridges with the approval of appropriate authorities with jurisdiction such as the Department of Environmental Protection.
- l. Sanitary or storm sewers and impoundment basins, with the approval of the Planning Board Engineer and the New Jersey Department of Environmental Protection.
- m. Utility transmission lines.
- n. Roads, driveways and parking facilities.
- o. Grading or regrading of lands, including the deposit of topsoil and the grading thereof. The application for such a use shall be accompanied by the following:

- 1). Detailed engineering studies indicating the effects on drainage and streams on all adjacent properties as well as the property in question, including the necessary data to determine whether the boundaries of the Flood Plain Conservation District would be affected if the application were granted.
- 2). An application for amending the boundaries of the Flood Plain Conservation District if the boundaries are affected by the grading or regrading of land.
- 3). A plan indicating the deposition of any fill or materials proposed to be deposited by the grading or regrading of land. Such fill or other materials shall be protected against erosion by riprap, vegetative cover or bulk-heading.

G. Flood plain permit application.

1. For any use of land in the Flood Plain Conservation District, except uses existing as of the date of the enactment of this Article, an application for a flood plain permit shall be as follows:
 - a. The applicant shall apply to the Planning Board in accordance with either the site development plan procedures or the subdivision procedures.
 - b. In addition to the information required in the above-noted procedures, the applicant shall also furnish a plan certified by a registered professional engineer showing the following data:
 - 1). Contour lines at intervals of not more than two (2) feet.
 - 2). Exact size, shape, location and elevation of existing and proposed buildings and structures.
 - 3). Flood plain, floodway and flood hazard area limits and development therein.
 - 4). Channel or stream.
 - 5). Proposed fill limits, regrading and elevations.
 - 6). Flood proofing measures.
 - 7). Exact dimensions and acreage of each lot or plot to be built upon or otherwise used.

- 8). The location, layout and elevation of existing and proposed parking areas.
 - 9). Driveway drainage.
 - 10). Sewer and water facilities and connections.
 - 11). Plantings, seedings and signs.
 - 12). Such other information as shall be reasonably required for an evaluation of the effect of the development upon flood control.
- c. The following additional information may be deemed necessary by the Planning Board or Planning Board Engineer for the evaluation of effects of the proposal upon flood flows and floodwater storage and to render a decision on the proposed flood plain use:
- 1). A typical valley cross section showing the channel of the stream, the flood plain adjoining each side of the channel, cross-sectional area to be occupied by the proposed development and high-water information.
 - 2). Plan surface view showing evaluation or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, sanitary facilities and soil types; and other pertinent information.
 - 3). Profile showing the slope of the bottom of the channel of flow line of the stream.
 - 4). Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvements, storage of materials, water supply and sanitary facilities.
 - 5). A plan or document certified by a registered professional engineer that the flood proofing measures are consistent with requirements for the flood protection elevation for the particular area and to include:
 - a). Anchorage to resist flotation and lateral movements.
 - b). Installation of watertight doors, bulkheads and shutters.
 - c). Reinforcements of walls to resist water pressures.

- 4). Use of paints, membranes or mortar to reduce seepage of water through walls.
- 5). Additions of mass or weight to structures to resist flotation.
- 6). Installation of pumps to lower water levels in structures.
- 7). Construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters.
- 8). Pumping facilities for subsurface external foundation wall and basement water pressures.
- 9). Construction to resist rupture or collapse caused by water pressure or floating debris.
- 10). Cutoff valves or sewer lines or the elimination of gravity flow basement drains.
- 11). Elevation of structures to reduce the likelihood of flood damage.

H. Standards for reviewing applications.

1. In reviewing applications, the Planning Board shall consider and be guided by the purposes, policies and specific objectives set forth in this Article and, in addition, shall apply the following standards:
 - a. As to development in the floodway, primary consideration shall be given to preserving this area by defining the minimum capacity required for the passage of flood flows without aggravating flood conditions upstream and downstream. Encroachments therein shall therefore be permitted most sparingly and only in cases in which the public interest will be served, such as bridges, roads, utility installations and the like, and the temporary storage of material or equipment in connection with and during the construction thereof, or where the obstruction is minimal, such as surface parking or recreational areas, open fencing and the like, and then, in either case, only in accordance with conditions designed to limit the obstruction to the practicable minimum.
 - b. As to developments in the flood hazard area outside the floodway, primary consideration shall be given to the protection of persons and property involved in the development, and such consideration shall not be avoided by the waiver of the applicant. Normal accessory uses shall be permitted only where the building or structure is not designed or intended as a human dwelling place and will not, by

12/27/01

reason of its size, shape, construction or location, have any adverse effect upon the functioning of the floodway.

§23A. Planned Residential Development District

A. Intent

The intent of this ordinance is to provide suitable opportunity for the development of well-planned residential development that is integrated with recreational facilities and with open space. The planned residential developments provided for in this district shall be primarily intended to serve the needs of older adults, but not all dwelling units need be age-restricted, as provided for herein.

B. Uses

1. Principal and accessory permitted uses on the land and in the buildings:
 - a. All principal and accessory uses as permitted by right in the A Agricultural Zoning District, except for the keeping of pigs or poultry, which are prohibited.
 - b. Planned Residential Developments

C. Development and Design Standards

1. All uses not developed as a Planned Residential Development shall comply with the bulk and design standards of the A Agricultural Zoning District.
2. Planned Residential Developments shall conform to the following standards:

- a. A Planned Residential Development shall be developed and operated under the direction and control of a single owner or agent for the owner.
- b. A minimum of one hundred (100) acres is required, and shall be developed under a unified plan. The Planned Residential Development area may include public roads and rights-of-way that bisect the area.
- c. The Planned Residential Development area shall contain a minimum frontage of two hundred (200) feet on a county or state road.
- d. A traffic impact study shall be required.
- e. Public sewer and public water service shall be provided for all dwellings in the Planned Residential Development.
- f. The design of the Planned Residential Development shall be as follows:
 - 1). Planned Residential Developments are encouraged and required to use innovative design and planning in order to encourage a built environment that reflects the character of a hamlet or village. The architectural styles and themes must allow for a diversity of design styles and dwelling types. The development should consist of harmonious groupings of buildings and other land uses, including the arrangement of circulation, parking and open space, contained in the integral cohesive plan, reflecting sensitivity to the community and the natural resources available.
 - 2). Designs must create recognizable neighborhoods which emphasize pedestrian circulation, attractive civic spaces, squares, greens and parks, with a special sense of neighborhood identity. Environmentally sensitive open space and wildlife habitats must be preserved and protected while allowing and encouraging residents to appreciate these resources with well planned and low-impact access, e.g., trails through stream corridors.
- g. The following age and occupancy requirements apply:
 - 1). Not less than sixty percent (60%) of the dwelling units in a Planned Residential Development shall be restricted to

occupancy by households containing at least one person who shall have attained an age of at least fifty-five (55) years and which have no persons under the age of eighteen (18) years. Age-restricted dwelling units shall comply with all federal and state regulations governing housing for older persons which allow exemptions from prohibitions against discrimination because of familiar status.

- 2). There shall be no age-restriction on the members of households living in the remaining forty percent (40%) of the dwelling units in a Planned Residential Development.
- h. The following uses are permitted in a Planned Residential Development:
- 1). Principal permitted uses on the land and in buildings shall be as follows:
 - a). Single family detached dwelling units.
 - b). Single family semidetached dwelling units.
 - c). Single family attached dwelling units (townhouses).
 - d). Public or private playgrounds, conservation areas, parks and public purpose uses.
 - 2). Accessory uses permitted:
 - a). Recreational, social, educational, health and dining facilities for the exclusive benefit of residents, and community buildings.
 - b). Off-street parking and private garages.
 - c). Signs.
 - d). Gardening for the exclusive benefit of residents.
 - e). Home occupations.
- i. Bulk and Design Standards
- 1). The maximum gross density for the tract shall not exceed two (2) dwelling units per acre of land.

- 2). In order to allow the maximum flexibility in site design, lotting is not required in any development built in the Planned Residential Development, nor is any minimum lot size. However, in cases wherein lots are utilized, the distance between any point on a dwelling and the abutting lot line shall not be less than seven (7) feet, with the following exceptions:
 - a). Along lot lines wherein dwelling units are connected.
 - b). Along lot lines on which any form of zero-lot line single-family detached dwelling unit is coincident. In such cases, a maintenance easement shall be required on any abutting lot, the minimum width of which shall be three (3) feet.
- 3). No dwelling unit within the Planned Residential Development may take access directly from any existing county or state roadway. All dwelling units shall gain access from residential roads, internal access roads, drives, courts, or similar arrangements.
- 4). Location, design and layout of buildings containing dwelling units shall be so designed to ensure open space and privacy between units.
- 5). Building Setbacks
 - a). From the right-of-way line of any internal street in the Community, or in the absence of a right-of-way line, from a line five (5) feet back from the edge of the cartway/curbline - Twenty (20) feet.
 - b). From a common parking area serving residential units (or access road thereto), or from a solid waste collection facility or other service area (if separate from a parking area) - Twenty-five (25) feet.
 - c). From a dwelling unit to an outdoor recreation facility associated with the development but not housed in a building - Thirty (30) feet.
 - d). From the tract boundary, in which no structure or parking facility shall be placed (with the exception of entrance area guard stations, entrance roads, ponds, stormwater basins, or cart paths) - One hundred (100) feet.

6). Separation of Buildings

- a). The minimum horizontal distance between any two residential buildings within the same building group or cluster (oriented toward the same street, cul-de-sac, or courtyard; or those which are oriented toward the same open space area) - Fourteen (14) feet.
- b). The minimum horizontal distance between any two residential buildings not within the same building group or cluster - Thirty-five (35) feet.

7). Maximum permitted building coverage - thirty percent (30%).

8). Maximum permitted impervious coverage - fifty percent (50%).

9). Maximum permitted building height - Thirty-five (35) feet.

10). Building Design

- a). Each building and complex of buildings shall have a compatible architectural theme with appropriate variations in design to provide attractiveness to the development. Such variations in design shall result from the use of landscaping and the orientation of buildings to the natural features of the site and to other buildings, as well as from varying unit widths, using different exterior materials, changing rooflines and roof designs, varying building heights and changing window types, shutters, doors, porches and exterior colors.
- b). No more than six (6) dwelling units shall be contained in any one (1) townhouse structure.
- c). Buildings shall be arranged in groups or clusters and not in long rows parallel to street lines. The total length of any one (1) structure shall not exceed one hundred sixty (160) feet.

11). Parking Areas

- a). All off-street parking facilities shall be on the same site as the building and located within one hundred fifty (150) feet

of the nearest entrance of the building they are intended to serve. Parking spaces shall be provided in areas designed specifically for parking along interior private streets unless the street width is constructed to Borough standards.

- b). The standards for residential units shall be the same as provided in the Residential Site Improvement Standards (N.J.A.C. 5:21-4.14 et seq.)
- c). Parking and loading shall be in accordance with §30, Off-street parking and §31, Off-street loading.
- d). Parking lots shall be landscaped in accordance with §33.B.

12). Open space and recreation requirements shall be in accordance with §34, Common Open Space Standards with the exception that not less than forty percent (40%) of the tract shall be preserved as common open space and/or recreation.

13). Landscape and Buffer Requirements

- a). The entire perimeter of a Planned Residential Development shall be buffered either by existing natural vegetation or a landscaped buffer area a minimum of twenty-five (25) feet in width and in accordance with §33, Landscape, Buffer, and Tree Protection Standards. The natural vegetation may be acceptable if it meets or exceeds the requirements of the landscaped buffer.
- b). Street trees shall be provided in accordance with §33.D.
- c). All other landscaping shall be in accordance with §33, Landscape, Buffer, and Tree Protection Standards.

14). Signs shall be provided in accordance with §40, Signs.

j. Required Recreational Facilities

- 1). Planned Residential Developments shall provide lands and facilities for active recreation that are appropriate to the age of the residents to be served. (Add acreage and facility standards based on number of anticipated residents)
- 2). Nothing herein shall prevent the dedication of recreational lands and facilities to the Borough, subject to acceptance by Borough Council.

Article IV. Conditional Uses

§ 24. Conditional uses.

A. Standards for approval.

Before a construction permit or certificate of occupancy shall be issued for any conditional use as permitted by this chapter, application shall be made to the Planning Board. The review by the Planning Board of a conditional use shall include any required site plan review pursuant to this chapter. Public notice and a hearing shall be required as stipulated by this chapter.

In deciding applications for conditional use, the Planning Board shall consider the following standards in addition to those which may be enumerated in the applicable section of the chapter.

1. The surrounding neighborhood should not be adversely affected by unreasonable impacts generated by the proposed conditional use. In particular, the Board should consider the following impacts:
 - a. Traffic generated by the proposed use should:
 - 1). Not cause a local residential street to reach a level of service of C or worse, if it is not already at level of service C or worse, as defined by the generally accepted method of the Transportation Research Board.
 - 2). Not cause any other street to reach a level of service of D or worse, if it is not already at level of service D or worse, as defined by the generally accepted method of the Transportation Research Board.
 - 3). Not create a hazardous traffic condition as determined by a professional transportation engineer or planner.
 - b. Environmental impact.
 - 1). All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against the hazards of fire and explosion and adequate fire-suppression equipment shall be installed and maintained in an operable condition in accordance with the regulations of the fire marshall's office, construction official and the regulations of applicable local, county, state, and federal agencies.

- 2). No activity shall be permitted which results in an electrical disturbance adversely affecting the operation of any equipment beyond the building in which the disturbance is created.
- 3). There shall be no emission at any point from any chimney or otherwise which can cause damage to human health, to animals or vegetation, or to other forms of property; or which will cause any excessive soiling at any point.
- 4). There shall be no discharge at any point, into any private or public sewerage system, or into any stream, or into the ground of any materials in such a way, or of such temperature, as to contaminate or otherwise cause the emission of hazardous materials except as regulated by applicable local, state, or federal agencies.
- 5). No activity or use shall produce a sound pressure level on adjacent property in excess of the level permitted by the applicable laws of the State of New Jersey, and regulations adopted by the New Jersey Department of Environmental Protection and Energy or their successor department, and as currently enforced by the Gloucester County Health Department or any other duly authorized enforcement agency.
- 6). No activity or operation shall produce at any point along the lot line continuous earthborne vibrations greater than the maximum displacement as permitted in the following table:

<u>Frequency</u> (cycles per second)		<u>Residential District</u> <u>Displacement</u> (in inches)	<u>Non-Residential District</u> <u>Displacement</u> (in inches)
>	≤		
0	10	.0004	.0020
10	20	.0002	.0010
20	30	.0001	.0006
30	40	.0001	.0004
40	50	.0001	.0003
50	-	.0001	.0002

Discrete pulses that do not exceed 100 impulses per minute may not produce more than twice the displacement specified in the table.

- 7). No activity or use shall produce a strong, dazzling light or reflection of same beyond its lot lines. Exterior lighting shall be shielded, buffered and directed so that glare, direct light, or reflection will not be a nuisance to adjoining properties, dwellings, streets, districts, or from adjacent buildings within an industrial park. In no event shall a lighting intensity greater than one twenty-five hundredths (.125) footcandle, measured at grade, be permitted beyond the subject lot lines.
 - 8). No operation shall release materials capable of becoming odorous, either by bacterial decomposition or chemical reaction, that cause or will cause odorous matter or vapor to be generated so as to be readily discernible without instruments from any point along the boundaries of each lot.
 - 9). All fabricating, manufacturing, or assembling activities shall be conducted entirely within enclosed buildings.
2. The Board may consider the effect that the grant of the conditional use would have on the logical extension of public utilities and streets.

§ 25. Conditional use regulations for specific principal and accessory uses.

A. The following regulations are for specific principal and accessory conditional uses as noted below.

1. Assisted living residence, convalescent home or sanitarium, provided that:
 - a. The use occurs on a lot of three (3) acres or more in area.
 - b. Each lot used for this purpose shall have a minimum street frontage and lot width of two hundred (200) feet.
 - c. No structure shall be provided within one-hundred (100) feet of a public street or property line.
 - d. The twenty-five (25) feet closest to the property line or the public street shall be bermed and landscaped so as to screen the use from view.
 - e. The maximum permitted building coverage shall not exceed twenty percent (20%).
 - f. The maximum permitted impervious coverage shall not exceed forty percent (40%).

- g. The maximum height of any structure shall not exceed twenty-five (25) feet.
 - h. Off-street parking shall be provided in a side or rear yard, as required by § 30.
 - i. The facility is licensed by the Department of Health of the State of New Jersey
 - j. The architectural style and scale of the structure shall be consistent with the residential structures in the surrounding area, i.e. the facility should appear like a large single family home.
2. Towers and/or antennas designed for cellular communications, personal communications services or other communication technologies, provided that:
- a. It is the intent of these regulations to permit communication towers and/or antennas in locations in accordance with the following set of preferences, listed in a descending order of priority:
 - 1). Co-location on existing communication towers, including existing towers for similar services.
 - 2). On existing towers or structures used for other purposes, e.g., water towers, other high structures, etc.
 - 3). New towers located in I Industrial districts.
 - 4). New towers located in other non-residential districts.
 - b. If the proposed tower or antenna is part of a system or network of such facilities, a map indicating the location of existing sites used by the applicant and other companies providing the same service, as well as the potential location for additional sites, must be presented for Clayton and for an area within 1 mile of the corporate limits of Clayton.
 - c. If a new tower is needed to serve the requested antenna, the tower shall be so designed as to be capable of holding additional sets of antennas, needed by the applicant or other communication service providers.
 - d. If the applicant is unable to utilize an existing tower location due to insufficient structural capacity, a report verifying same must be prepared and submitted by a professional engineer.

- e. The use occurs on a lot of two (2) acres or more in area, except in the I Industrial District, where there is no minimum lot size.
 - f. Each lot used for this purpose shall have a minimum street frontage and lot width of two hundred (200) feet, except in the I Industrial District, where the minimum street frontage shall be twenty-five (25) feet.
 - g. No tower shall be located within one-hundred and fifty (150) feet of a Residential District or the property line of a residential use and one-hundred (100) feet of a public street or fifty (50) feet of a property line in a non-residential district, except if mounted on an existing structure.
 - h. The maximum permitted gross floor area for any equipment building accessory to a tower or antennas is 2,000 S.F.
 - i. The maximum permitted yard area available for a tower, equipment or service buildings, parking and other essential features of a site and typically located within a fenced area, is 10,000 S.F.
 - j. The maximum height of any structure shall not exceed one-hundred (100) feet.
 - k. Off-street parking shall be provided, as required by § 30 .
 - l. The architectural style and exterior finish of any structure shall be compatible with the uses and structures in the surrounding area.
 - m. For all new facilities, the tower shall be designed to resemble a woody tree with a single trunk and branches on its upper part whenever they are located within two hundred (200) feet of a Residential District.
 - n. The fenced area at the base of the tower, or an appropriate section of an unfenced site shall be buffered from public view in accordance with the buffer standards in § 33.
3. A church, synagogue, or similar place of religious worship, provided that:
- a. The use occurs on a lot of two (2) acres or more in area.
 - b. Each lot used for this purpose shall have a minimum street frontage and lot width of two hundred (200) feet.
 - c. No structure shall be provided within seventy-five (75) feet of a public street or property line.

- d. The maximum permitted building coverage shall not exceed twenty percent (20%).
 - e. The maximum permitted impervious coverage shall not exceed fifty percent (50%).
 - f. The twenty-five (25) feet closest to the property line or the public street shall be bermed and landscaped so as to screen the use from view.
 - g. The maximum height of any structure shall not exceed thirty-five (35) feet except that a steeple may extend to a height of sixty (60) feet.
 - h. Off-street parking shall be provided in a side or rear yard, as required by § 30.
4. A club, lodge, or similar fraternal organization, provided that:
- a. The use occurs on a lot of two (2) acres or more in area.
 - b. Each lot used for this purpose shall have a minimum street frontage and lot width of two hundred (200) feet.
 - c. No structure shall be provided within seventy-five (75) feet of a public street or property line.
 - d. The twenty-five (25) feet closest to the property line or the public street shall be bermed and landscaped so as to screen the use from view.
 - e. The maximum permitted building coverage shall not exceed twenty percent (20%).
 - f. The maximum permitted impervious coverage shall not exceed fifty percent (50%).
 - g. The maximum height of any structure shall not exceed thirty-five (35) feet.
 - h. Off-street parking shall be provided in a side or rear yard, as required by § 30.
5. A cemetery or memorial park, provided that:
- a. The use occurs on a lot of ten (10) acres or more in area, except as modified below.

- b. Each lot used for this purpose shall have a minimum street frontage and lot width of two hundred (200) feet.
 - c. No structure shall be provided within seventy-five (75) feet of a public street or property line, provided however that graves and headstones not exceeding five (5) feet in height may be placed not less than fifty (50) feet from a public street or property line.
 - d. The twenty-five (25) feet closest to the property line or the public street shall be bermed and landscaped so as to screen the use from view.
 - e. The maximum permitted building coverage shall not exceed twenty percent (20%).
 - f. The maximum permitted impervious coverage shall not exceed fifty percent (50%).
 - g. The maximum height of any structure shall not exceed twenty-five (25) feet.
 - h. Off-street parking shall be provided as required by § 30.
 - i. Crematories shall only be permitted on tracts of twenty-five (25) acres or more and shall be designed so that chimneys are not located within five hundred (500) feet of any street or property line.
6. A continuing care facility, provided that:
- a. The continuing care facility must be provided on a tract of land at least twenty (20) acres in area.
 - b. Each lot used for this purpose shall have a minimum street frontage and lot width of three hundred (300) feet.
 - c. The continuing care facility must contain at least fifty percent (50%) single family detached or zero-lot line dwellings. The remaining dwellings may be of any other type otherwise permitted in this chapter.
 - d. The overall density of the continuing care facility may not exceed four (4) dwelling units per acre.
 - e. The bulk standards of the underlying zoning district shall not apply to this use. Instead, the following standards shall be adhered to:

- 1). No structure shall be provided within seventy-five (75) feet of a property line or a public street.
 - 2). The twenty-five (25) feet closest to the property line or the public street shall be bermed and landscaped so as to screen the use from view.
 - 3). No principal structure shall be located within thirty-five (35) feet of another principal structure except that zero-lot line homes may be located within twenty-five (25) feet of each other.
 - 4). The maximum permitted building coverage shall not exceed twenty percent (20%).
 - 5). The maximum permitted impervious coverage shall not exceed thirty-five percent (35%).
 - 6). The maximum height of any structure shall be forty-five (45) feet.
- f. Nursing beds shall be provided on-site and must be licensed by the State of New Jersey. They must be available within three (3) months of the initial occupancy of the continuing care facility and must be reserved for the exclusive use of the residents of the facility no later than five (5) years after the initial occupancy of the development. No more than one (1) nursing bed shall be provided for every five (5) residents, calculated at the rate of one and one-quarter (1.25) residents per dwelling unit.
- g. Every conditional use granted for a continuing care facility shall contain a restriction that the land be deed restricted for that use. In the event that the continuing care use shall cease to exist at some point in the future, the land must be used for another use permitted in the underlying zoning district. The reuse of a continuing care facility for non age-restricted multi-family housing is specifically prohibited.
7. Community residences for the developmentally disabled and community shelters for victims of domestic violence and persons with head injuries, serving more than six (6) persons and not more than fifteen (15) persons, pursuant to N.J.S.A. 40:55D-66.2., provided that:
- a. There are no other similar community residences or shelters within one thousand five hundred (1,500) feet of the proposed community residence or shelter.

- b. It can be shown that the total number of persons other than staff who are or will be living in community residences or shelters within The Borough of Clayton (including the community residence or shelter under consideration), will not exceed one-half of one percent (0.5%) of the Borough's total population.
 - c. There is sufficient off-street parking as required by § 30.
 - d. It can be shown that the site location, existing development pattern of the area, traffic circulation and pedestrian mobility and safety are suitable for the establishment of a community residence or shelter.
 - e. Details are submitted concerning all life safety and emergency facilities and equipment to be provided within the building.
 - f. A community residence or shelter shall have twenty-four (24) hour on-site supervision and security.
8. Day care center, provided that:
- a. The use shall occur on a tract with a minimum area of one (1) acre.
 - b. Each lot used for this purpose shall have a minimum street frontage and lot width of one hundred fifty (150) feet.
 - c. No structure shall be provided within fifty (50) feet of a public street or property line.
 - d. The maximum permitted building coverage shall not exceed twenty percent (20%).
 - e. The maximum permitted impervious coverage shall not exceed fifty percent (50%).
 - f. The twenty-five (25) feet closest to the property line or the public street shall be bermed and landscaped so as to screen the use from view.
 - g. The maximum height of any structure shall not exceed thirty-five (35) feet.
 - h. A minimum interior area of forty (40) square feet per person must be provided for the day care use on the first floor, exclusive of hallways, closets, bathrooms, kitchens, and related areas.

- i. A minimum outdoor play or recreation area of one hundred (100) square feet per person must be provided within a fenced area located within the rear or side yard area.
 - j. The use must be licensed by appropriate state and local officials.
 - k. Care may not be provided for more than eighteen (18) hours within any one (1) day.
 - l. Off-street parking shall be provided as required by § 30.
9. Home occupations, subject to the following conditions. In the case of more than one (1) home occupation per dwelling, these regulations shall apply to the sum of all such uses:
- a. The home occupation may not employ more than one (1) person who is not a member of the household residing in the dwelling.
 - b. The home occupation must be of a nature that will not generally generate traffic caused by clients or customers visiting the dwelling. The retail sale of goods is prohibited.
 - c. The residential exterior appearance of the structure shall not be altered.
 - d. Not more than twenty percent (20%) of the total floor area of the dwelling, including any basement, may be devoted to the home occupation use.
 - e. There shall be no outdoor storage or display of materials, products or equipment.
 - f. One (1) off-street parking space must be provided in addition to those required for the dwelling if a non-resident person is employed in conjunction with the home occupation use. Parking lot design criteria is waived for this use.
 - g. A sign no larger than 2 square feet may be used to identify the use and may not be illuminated. If free-standing, the height of the sign may not exceed four (4) feet and must be set back at least fifteen (15) feet from a street or property line.
 - h. A sealed survey of the subject property may be submitted to demonstrate the use of the property and the adequacy of the parking provided.

10. Satellite dish or microwave antennas, including those larger than permitted by right in the District, provided that:
 - a. The dish or antenna must be placed in a rear yard area. Rooftop installation is specifically prohibited.
 - b. The dish or antenna must be screened by landscaping to a height of no less than four (4) feet along all sides except that a clear passage may be maintained for the minimum width necessary to achieve line-of-sight contact with the satellites to be served.
 - c. No more than one (1) such dish or antenna shall be permitted per lot.

11. Heliports, provided that:
 - a. The heliport is not a principal use.
 - b. The heliport is designed and operated in full compliance with all rules and regulations of applicable state and federal agencies.
 - c. The heliport shall not be located within one thousand (1,000) feet of the boundary line of any residential zoning district or residential dwelling.

12. Self-service storage facilities, provided that the following conditions are met:
 - a. Off-street parking shall be provided at the office at the rate of two (2) spaces per one hundred (100) storage units plus two (2) spaces for the manager's apartment.
 - b. One (1) ten (10) foot wide parking/loading lane shall be provided adjacent to each bay of storage buildings, exclusive of required aisle widths.
 - c. The minimum aisle width, exclusive of parking/travel lanes, shall be fifteen (15) feet for one-way traffic flow and twenty-four (24) feet for two-way traffic flow.
 - d. Self-service storage facilities shall not exceed one (1) story in height.
 - e. Self-service storage facilities shall be designed so that the exterior of the development is composed of solid masonry walls, unbroken by garage doors, or by a decorative fence. Chain link fences are specifically prohibited. No portion of the facility shall be unprotected by either a solid wall or fence.

- f. Each facility will be heavily landscaped to lessen the impact of the severe exterior wall or fence.
 - g. One (1) resident manager's apartment shall be required for on-site supervision.
 - h. The facility shall agree to include in each storage unit lease a prohibition on the storage of toxic, explosive, hazardous, or illegal materials.
13. Private recreational use of a primarily outdoor character, such as swim clubs, tennis clubs, country clubs, or similar facilities.
- a. The use occurs on a lot of two (2) acres or more in area.
 - b. Each lot used for this purpose shall have a minimum street frontage and lot width of three hundred (300) feet.
 - c. No structure shall be provided within seventy-five (75) feet of a public street or property line.
 - d. The maximum permitted building coverage shall not exceed twenty percent (20%).
 - e. The maximum permitted impervious coverage shall not exceed fifty percent (50%).
 - f. The twenty-five (25) feet closest to the property line or the public street shall be bermed and landscaped so as to screen the use from view and act as an effective sound buffer, in accordance with § 33.
 - g. The maximum height of any structure shall not exceed thirty-five (35) feet except that a steeple may extend to a height of sixty (60) feet.
 - h. Off-street parking shall be provided in a side or rear yard, as required by § 30.
 - i. Facilities provided with lighting for nighttime use, e.g. tennis courts, may be located no closer than two hundred (200) feet from an adjoining street or property line and must be designed with landscaping or other screening in addition to that required in f above. The lighting of facilities must be terminated by 11 P.M.
14. Outdoor storage of any kind as an accessory use of a commercial or industrial use, as permitted by the District.

- a. Outside storage shall be located no closer than one hundred (100) feet to any street or, if located in a side yard area along a building, it must be behind the front half (based on the average building depth) of the building, whichever results in a greater setback.
 - b. If outside storage is proposed for the side yard along a building or behind the front yard area of a corner lot, it must be screened with a wall, solid fence or berm to a height no greater than eight (8) feet. This screening must be accompanied by landscaping, which must include a combination of evergreen and deciduous materials designed in conjunction with the overall site landscaping plan.
 - c. Materials stacked within an outside storage area shall not be stacked higher than the height of the screening material or eight (8) feet, whichever is less.
 - d. Outside storage shall be placed at least twenty (20) feet from any property line, except in the rear yard area, where the setback may be reduced to ten (10) feet where the length and use of the lot and the nature of the adjoining uses make the full setback not practical or not necessary.
 - e. Outdoor storage shall not cover more than twenty (20) per cent of the lot.
 - f. Outdoor storage adjacent to a residential district or use shall be screened to the same extent as described in paragraph b. above.
 - g. A request for outside storage must be accompanied by a complete site plan, landscaping plan and cross sections, where appropriate. If planned for an area adjacent to a residential district or use, the plan must indicate the location of all residential structures within two hundred (200) feet of all property lines, and a general description and plan of the existing vegetation along the common boundary line must be provided.
15. Automobile sales, for both new and used vehicles, provided that the use is not carried out on the same lot with or in conjunction with any towing, auto wrecking, auto recycling, junk yard, auto body or general auto repair operation.
- a. The use occurs on a lot with a minimum area of one (1) acre and a minimum street frontage of one hundred and fifty (150) feet.
 - b. Any structure used for the display of vehicles, office functions and incidental preparation of vehicles shall be setback a minimum of one hundred (100) feet from the street and seventy-five (75) feet from a residential use or district and fifty (50) feet from other property lines.

- c. Parking for the inventory of vehicles may be no closer than twenty (20) feet to the street line and residentially zoned or used properties and fifteen (15) feet from side property lines. The parking setback from the rear line shall be a minimum of twenty-five (25) feet.
- d. No repairs of any kind may be performed on the property except for services needed to prepare a vehicle for sale, including, for example, cleaning, washing, inspecting and other incidental maintenance or warranty repair work and other repair service conducted as an accessory use.
- e. All vehicles on the lot must be registered or be in a condition to be registered within seven (7) days.
- f. All yards shall be landscaped and provided with buffer planting in accordance with Section 33. Buffers and landscaping plans along residentially zoned or used lots shall include a solid fence along with landscaping materials.
- g. All lighting must be provided in accordance with Section 32. Lots adjacent to a residential zone or use must be provided with a timing device to reduce the on site lighting to the minimum required for security after 10 P.M.

16. Service stations, provided that:

- a. The use occurs on a lot with a minimum area of twenty-thousand (20,000) square feet and shall have a minimum street frontage of one hundred and fifty (150) feet.
- b. No service station/auto repair shall be located within five hundred (500) feet of any fire house, school, playground church, hospital, public building or institution or within two thousand (2,000) feet from an existing service station.
- c. No structure, except for canopies, shall be provided within seventy-five (75) feet of a public street or property line. Canopies shall have a minimum setback of thirty (30) feet from all property lines.
- d. All appliances, pits, storage areas and trash facilities other than fuel pumps or air pumps shall be within a building. Gasoline filling pumps and air pumps shall be permitted within the required front yard space of a service station but shall be no closer than fifty (50) feet to any present or future street line. Propane filling stations and tanks may not be located in a front yard. All lubrication, repair or similar activities shall be performed in a fully enclosed

- building, and no dismantled parts shall be displayed outside of an enclosed building.
- e. No junked motor vehicle or part thereof or motor vehicle incapable of normal operation upon the highway shall be permitted on the premises of any service station. It shall be deemed prima facie evidence of violation of this chapter if more than three (3) motor vehicles incapable of operation are located at any one (1) time upon the premises not within a closed and roofed building; except, however, that a number not exceeding six (6) motor vehicles may be located upon any service station premises outside of a closed or roofed building for a period of time not to exceed seven (7) days, and provided that the owners of said motor vehicles are awaiting their repair or disposition.
 - e. The twenty-five (25) feet closest to the property line or the public street shall be bermed and landscaped so as to screen the use from view.
 - e. The maximum permitted building coverage shall not exceed twenty percent (20%).
 - f. The maximum permitted impervious coverage shall not exceed forty percent (40%).
 - g. The maximum height of any structure shall not exceed twenty-five (25) feet.
 - h. Off-street parking shall be provided in a side or rear yard, as required by § 30.
 - i. The facility is licensed by the appropriate agency of the State of New Jersey.
 - j. The architectural style and scale of the structure shall be consistent with the residential structures in the surrounding area, i.e. the facility should appear like a large single family home.
 - k. The sale of automobiles shall be prohibited on any property used in conjunction with this section.
16. Fast-food or drive-in restaurants, only as part of a shopping center, provided that access and egress must be provided from within the shopping center, i.e. access and egress movements directly from the public streets to the restaurant site are prohibited.
- a. Minimum lot area, as determined by lease or deed, thirty thousand (30,000) S.F.

- b. The design and architectural features of the building, i.e., facade materials, roofing materials, sign characteristics, and the accompanying improvements, i.e., walls, signs, trash enclosures, etc., shall be the same as, or be compatible with the principal structures in the shopping center.
- d. Parking and loading areas shall be provided in accordance with Sections 30 and 31.
- e. Access to drive-in windows shall be accordance with § 31.
- f. The location of a fast food restaurant on a shopping center site shall not change the landscaping and buffering requirements for a shopping center, including buffer and landscaping along a street.
- g. Buffer plantings and interior parking lot landscaping should be provided as specified in § 33.
- h. Indoor or outdoor recreational facilities or playgrounds included with fast food restaurants shall not be located between the main structure and any street.

Article V. Design and Improvement Standards

§ 26. Purpose.

A subdivision and/or site plan shall be designed and conform to standards that will result in a well-planned community, protect the health and safety of the residents, and provide a desirable living environment without unnecessarily adding to development costs. The following improvements shall be required: streets and circulation, off-street parking and loading, landscaping and common open space, affordable housing, water supply, sanitary sewers, and storm water management.

§ 27. Residential Site Improvement Standards

A. General.

- 1. Any site improvements carried out or intended to be carried out or required to be carried out in connection with any application for residential subdivision, site plan approval, or variance before the Planning Board shall be governed by the New Jersey Residential Site Improvement Standards (N.J.A.C. 5:21), as amended, .

B. Applicability

- 1. The New Jersey Residential Site Improvement Standards (NJRSIS) shall govern any site improvements carried out or intended to be carried out or required to be carried

out in connection with any application for residential subdivision, site plan approval, or variance before any Planning Board created pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.); or in connection with any other residential development approval required or issued by any municipality or agency or instrumentality thereof.

2. Except as is otherwise specifically provided, the NJRSIS shall control all matters concerning the construction, alteration, addition, repair, removal, demolition, maintenance, and use of any site improvements constructed by a developer in connection with residential development. The rules are to be interpreted as the minimum required to ensure public health and safety, and the maximum that may be required in connection with residential development.
3. The NJRSIS shall apply to all site improvement work and appurtenant construction including streets, roads, parking facilities, sidewalks, drainage structures, grading, and utilities which are undertaken by a developer in connection with residential development or use.
 - a. Where both residential and commercial development are planned in a mixed-use development, these rules shall apply to the residential part or parts of such development where such residential part or parts are discrete and separate from planned commercial parts as evidenced by, for example, separate building(s), separate parking, and separate access features.
 - B. These rules shall apply to all utilities created by or deriving their authority from municipal ordinance to operate within a given jurisdiction.
 - c. Choice among options contained in these rules shall be the applicant's unless otherwise specified in these rules.
4. Nothing contained in the NJRSIS shall be construed to limit the powers of any municipality to establish and enforce any requirement concerning:
 - a. Layout, arrangement, and location of improvements, shade trees, landscaping, or reservation of areas for public use, pursuant to N.J.S.A. 40:55D-38;
 - b. Preservation of existing natural resources; arrangement of physical elements for safe and efficient vehicular and pedestrian circulation, by, for example, traffic calming measures as described in "Residential Street Design and Traffic Control," by W. S. Homburger et al. (Institute of Transportation Engineers, 1989), parking, and loading; screening, landscaping, and location of structures;

or conservation of energy and use of renewable resources; pursuant to N.J.S.A. 40:55D-41; or

- c. Use, bulk, height, number of stories, orientation, and size of buildings and other structures; the percentage of lot or development area that may be occupied by structures, lot sizes and dimensions, floor area ratios, or other measures to control development intensity; or the provision of adequate light and air pursuant to N.J.S.A. 40:55-65.
5. The provisions of the NJRSIS shall not preempt or in any way affect the exercise of any authority by the State or any county government with respect to site improvements conferred by any State law or any regulation promulgated thereunder. It is the intent of these rules to be consistent with all other applicable laws, rules and regulations. Where these rules and any other State or county laws, rules or regulations establish differing requirements, then the requirements of these rules shall govern, except where any such differing requirement is more restrictive.
 6. The NJRSIS rules shall not apply to driveways on private property held in fee-simple as individual residential lots outside of the public right-of-way, including common driveways established by easements shared by more than one dwelling unit on private property.
 7. These rules are intended to ensure the public health, safety, and welfare insofar as they are effected by site improvement work, and shall be so construed.

C. Administration, Enforcement and Approval

1. The Planning Board of the Borough of Clayton shall ensure that the plans and plats for any residential development subject to review under this chapter comply with the requirements of the NJRSIS before issuing a preliminary or final approval.
2. All materials, equipment, and devices approved by the Planning Board pursuant to N.J.A.C. 5:21-1.7 of the NJRSIS shall be constructed and installed in accordance with such approval.
3. The standards referenced in the NJRSIS and listed in N.J.A.C. 5:21-8 shall be considered a part of the requirements the NJRSIS to the prescribed extent of each reference. Where deficiencies occur between provisions of the NJRSIS and referenced standards, the provisions of the NJRSIS shall apply, except as provided in N.J.A.C. 5:21-1.5(e).

D. Violations

1. Where any site improvement is required to meet any part of the NJRSIS pursuant to the requirements of any ordinance adopted pursuant to N.J.S.A. 40:55 D-37, Subdivision and Site Plan Review and Approval, or N.J.S.A. 40:55 D-62, Zoning, then any failure of any person to construct such site improvements in accordance with the requirements of the NJRSIS shall constitute a violation of the Municipal Land Use Law (N.J.S.A. 40:55 D-1 et seq.). Any person responsible for such failure shall be subject to such penalties and enforcement procedures as are provided by that law and by any valid ordinance adopted pursuant thereto which may be initiated by the administrative officer designated by the ordinance (N.J.S.A. 40:55D-18).
2. In addition to any remedy provided by (a) above, any failure to comply with the requirements of the NJRSIS, where compliance is required, shall constitute a failure to meet the conditions of the Construction Permit and/or Certificate of Occupancy issued pursuant to the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.). Notification from the Planning Board or from the municipal engineer acting on behalf of the Planning Board that any of the requirements of these rules that are conditions of the Construction Permit and/or Certificate of Occupancy have not been met shall subject any person responsible for such failure to the remedies provided under the State Uniform Construction Code Act.

F. Operative Date

1. The NJRSIS shall be operative on June 3, 1997. All requirements of the ordinances or rules of the Borough of Clayton in effect on that date which establish rules or requirements for any matter within the scope of the NJRSIS shall be deemed to have been repealed and of no further force or effect.
2. Any project for which preliminary subdivision or site plan approval has been given prior to June 3, 1997 shall continue to be subject to this chapter.
3. Any project for which application is made after June 3, 1997 shall be governed by the NJRSIS.
4. These rules shall not be construed as requiring the revision or amendment of any application for site plan or subdivision approval which is pending on June 3, 1997. Such pending applications may, however, be amended provided that any such amendments shall meet the requirements of the NJRSIS.
 1. For any project for which a completed application has been submitted on or before the operative date of the NJRSIS, but which has not yet received preliminary

approval, the applicant shall have the option of amending the application in its entirety to comply with the NJRSIS or of requesting that the municipality continue to review the application under the Clayton ordinances in effect at the time of application.

G. Planning Board Exceptions From the Requirements

1. The Planning Board may grant such de minimis exceptions from the requirements of the NJRSIS as may be reasonable and within the general purpose and intent of the standards if the literal enforcement of one or more provisions of the standards is impracticable or will exact undue hardship because of peculiar conditions pertaining to the development in question.
2. An application for an exception pursuant to this section shall be filed in writing with the Planning Board and shall include:
 - a. A statement of the requirements of the standards from which an exception is sought.
 - b. A statement of the manner by which strict compliance with said provisions would result in practical difficulties; and
 - c. A statement of the nature and extent of such practical difficulties.
3. Exceptions shall become a part of the construction documents and shall be retained by the Planning Board .
4. Within 30 days of granting a de minimis exception request, the Planning Board agreeing to an exception pursuant to this section shall send a copy of the document(s) constituting the de minimis exception resolution and/or document to the New Jersey Department of Community Affairs, Division of Codes and Standards, 101 South Broad Street, CN 802, Trenton, NJ 08625-0802. Such notice shall be clearly marked "Site Improvement Exception(s)."
5. An application for an exception may also be made by an officer or agency of the Borough of Clayton.
6. Examples of de minimis exceptions include, but are not limited to, the following:
 - a. Reducing the minimum number of parking spaces and the minimum size of parking stalls;

- b. Reducing the minimum geometrics of street design, such as curb radii, horizontal and vertical curves, intersection angles, centerline radii, and others;
 - c. Reducing cartway width; and
 - d. Any changes in standards necessary to implement traffic calming devices.
7. The Planning Board's granting of a request for a de minimis exception shall be based on a finding that the requested exception meets the following criteria:
- a. It is consistent with the intent of the Site Improvement Act,
 - b. It is reasonable, limited, and not unduly burdensome,
 - c. It meets the needs of public health and safety, and
 - d. It takes into account existing infrastructure and possible surrounding future development.

H. Waiver of Standards by the Commissioner of the Department of Community Affairs

- a. A municipality or developer may, in connection with a specific development, request a waiver of any site improvement standard adopted in the NJRSIS in accordance with N.J.S.A. 40:55D-40.4(c). A waiver request may also be made jointly by a municipality and a developer.
- b. A request for a waiver of standards shall be processed in accordance with N.J.A.C. 5:21-3.2 through 3.4.

§ 28. Non-Residential Development and Other Standards

- A. Any site improvements carried out or intended to be carried out or required to be carried out in connection with any application for residential development but not governed by the NJRSIS, or in connection with any non-residential subdivision, site plan approval, or variance before the Planning Board shall be governed by this chapter.
- B. The improvements within residential developments which are regulated by the Borough of Clayton Unified Development Ordinance include:
 - 1. Lighting

2. Curbing type.

- C. The standards for water supply and sanitary sewers shall be those specified in the NJRSIS, except where such standards conflict with the rules of the Borough Water and Sewer Department. That Department's rules shall prevail when a conflict is encountered. See §35 Water Supply and 36 Sanitary Sewers and Septic Systems for additional details.

§ 29. Streets.

A. General.

The arrangement of streets shall conform to the circulation plan of the Master Plan and/or Official Map of the Borough of Clayton. For streets now shown on the Master Plan and/or Official Map, the arrangement shall provide for the appropriate extension of existing streets.

B. Street hierarchy and cartway width.

1. Streets shall be classified in a street hierarchy system as specified in the Circulation Plan Element of the Master Plan.
2. Right of way and cartway widths for State, County and local collector roads are included on the Circulation and Community Facilities Map of the Master Plan. The right of way and cartway widths for local non-residential streets shall be fifty-six feet (56') and thirty-six feet (36'), respectively.

C. Street grade, intersections, and pavement.

1. Street grade.

- a. Minimum street grade permitted for all streets shall be 0.75%; but streets constructed at this grade shall be closely monitored and strict attention paid to construction techniques to avoid ponding. Where waivers are granted allowing grades less than 0.75%, combination curbs and gutters shall be required.
- b. Maximum street grade permitted for all streets shall be 8%.
- c. Vertical curves shall be in accordance with AASHTO standards, based on a design speed five (5) mph above the posted speed. For standard speed limits, the following shall apply:

Posted Speed	Design Speed	Minimum Length Per Percent Change in Slope	
		<u>Crest Curves</u>	<u>Sag Curves</u>
25 mph	30 mph	30 feet	40 feet
50 mph	55 mph	185 feet	115 feet

- d. Undulating and broken back grade lines are to be avoided.
- e. The provision of street grades which do not meet the minimum permitted or which exceed the maximum permitted may be allowed only as approved by the Planning Board.

2. Street Geometry and Intersections.

- a. Minimum intersection angle - Street intersections shall be as nearly at right angles as possible for a centerline distance of fifty (50) feet.
- b. Minimum centerline offset of adjacent intersections - New intersections along one side of an existing street shall, if possible, coincide with any existing intersection on the opposite side of each street. However, where not feasible, use of "T" intersections with offsets at least two hundred (200) feet between centerlines shall be encouraged.
- c. Minimum curb radius - The minimum curb radius for local non-residential streets shall be 25' with local collector streets requiring a minimum radius of 30'.
- d. Grade - Maximum grade within intersections shall be two percent (2%) for a distance of fifty (50) feet from the extended curb line.
- e. Minimum centerline radius - The minimum centerline radius minimum for local non-residential streets shall be 100' with local collector streets requiring a minimum centerline radius of 150'.
- f. Minimum tangent length between reverse curves - The minimum tangent length between reverse curves for local non-residential streets shall be 50' with local collector streets requiring a minimum centerline radius of 100'.
- g. A level of service analysis should be made at all proposed intersections which would allow traffic from a development to exit onto an existing street. When

average peak hourly delays of more than twenty-five (25) seconds are expected, the intersection shall be designed with separate left and right exit lanes. When appropriate, through traffic may be incorporated into one of the turn lanes.

3. Pavement.

- a. The minimum total pavement thickness for non-residential streets shall consist of two (2) inches of FABC Mix I-5 surface course over four (4) inches of bituminous stabilized base course Mix I-2 over six (6) inches of dense aggregate or soil aggregate I-5. Higher order streets shall be site specifically designed.
- b. The applicant will be permitted to reduce the stabilized base and dense aggregate thickness based on laboratory CBR tests. These tests and the pavement design may be submitted to the Borough Engineer for review in the review phase or well in advance of construction. However, in no case shall the total bituminous pavement thickness be reduced less than four (4) inches in thickness.
- c. Subgrade shall be compacted to a density not less than ninety-five (95) percent of the maximum density.

D. Curbing.

1. Curbing shall be required for all minor subdivisions and site plans. Curbing in all residential developments shall be constructed with concrete in accordance with the NJRSIS .
2. Concrete curbing shall be required for all non-residential streets, parking lots and on-site drives or roads for drainage purposes, safety, and delineation and protection of the pavement edge.
3. Additionally, curbing may be required for: storm water management; road stabilization; to delineate parking areas; ten (10) feet on each side of drainage inlets; at intersections; at corners; and at tight curve radii of less than twenty-five (25) feet.
4. Curbs shall be constructed according to the specifications set forth below. Asphalt curbs are not permitted.
 - a. The standard curb section used shall be twenty (20) feet in length. All concrete used for curbs shall be prepared in accordance with the New Jersey

Department of Transportation, Standard Specifications for Road and Bridge Construction (latest edition), except that the dimension shall be six (6) inches by eight (8) inches by eighteen (18) inches, and white concrete will not be required.

- b. Curbs and/or combination curbs and gutters shall be constructed of Class B Concrete, air-entrained (3,700 p.s.i.). Curbs and/or curbs and gutters shall be constructed prior to the construction of the pavement.
- c. Where drainage inlets are constructed, but curbs are not required, curbing must be provided at least ten (10) feet on each side of the inlet.
- d. Curbing shall be designed to provide a curbcut and ramp for wheel chairs and/or bicycles at each intersection and elsewhere when required by the design of the development. Where one of the two streets at an intersection is a collector or arterial road, the ramp shall be oriented to the lower use roadway.

E. Sidewalks.

1. Sidewalks shall be required depending on road classification and intensity of development. Sidewalks shall be proposed for both side of a street serving non-residential development, except that a single sidewalk on only one side of a street and at least 8' in width may be proposed by the applicant in order to provide a combination bicycle path and sidewalk.
2. Sidewalks are generally required in all commercial and industrial developments and in other areas where pedestrian circulation may be anticipated.
3. In conventional developments, sidewalks shall be placed in the right-of-way, parallel to the cartway, unless an exception has been permitted to preserve topographical or natural features, to provide visual interest, or unless the applicant shows that an alternative pedestrian system provides safe and convenient circulation.
4. In non-residential developments including 2 or more buildings or lots, sidewalks may be located away from the road system to link the individual sites, the street, and on-site activity centers such as parking areas and recreational areas. They may also be required parallel to the street for safety and other reasons.
5. Sidewalks shall be constructed according to the specifications set forth below:
 - a. Sidewalks shall be a minimum of four (4) feet wide and four (4) inches thick except at points of vehicular crossing where they shall be at least six (6) inches thick. At vehicular crossings, sidewalks shall be reinforced with 6 x 6 #10 WWF reinforcement or an equivalent.

- b. Concrete sidewalks shall be Class B concrete, having a twenty-eight (28) day compressive strength of 3,700 p.s.i.

F. Bikeways.

1. Bicycle paths, separate from required development sidewalks, shall be provided as included in the Master Plan and at the discretion of the Planning Board, including along the Delsea Drive frontage of all lots north of Costil Avenue on the east side and above North Street on the west side.
2. Bicycle lanes, where provided, shall be placed in the outside lane of a roadway, adjacent to the curb or shoulder. When on-street parking is permitted, the bicycle lane shall be between the parking lane and the outer lane of moving vehicles. Lanes shall be delineated with markings, preferably striping. Raised reflectors or curbs shall not be used.
3. Bikeways shall be constructed according to the specifications set forth below:
 - a. Bicycle paths - Dimensions and construction specifications of bicycle paths shall be determined by the number and type of users and the location and purpose of the bicycle path. A minimum six (6) feet paved width should be provided.
 - 1). Choice of surface materials including bituminous mixes, concrete, and soil cement shall depend on use and users of the path.
 - 2). Gradients of bike paths should generally not exceed a grade of five percent (5%), except for short distances.
 - b. Bicycle lanes - Lanes shall be a minimum of six (6) feet wide.
 - c. Bicycle-safe drainage grates shall be used in the construction of all streets.

G. Utility areas.

1. Utilities shall generally be located between curb lines to facilitate easier access for routine maintenance. If utilities are located outside of right-of-way lines, shade trees should be prohibited within ten feet of the utility.

2. The area in which the utilities are placed shall be planted with grass, ground cover, and/or treated with other suitable cover material.
3. Easements for utilities located outside of a right of way shall be indicated on the Final Plan of lots.

H. Rights-of-way.

1. The right-of-way shall be measured from lot line to lot line and shall be sufficiently wide to contain the cartway, curbs, shoulders, sidewalks, graded areas, and utilities.
2. The right-of-way width of a new street that is a continuation of an existing street shall in no case be continued at a width less than the existing street.
3. The right-of-way shall reflect future development as indicated by the Master Plan.
4. Where development is proposed on an existing street which has less than the minimum required right-of-way as included in this Ordinance or in the Master Plan and/or the Official Map, the applicant shall offer a dedication of the additional right-of-way on his half of the street (from centerline) which would be required to meet the required right-of-way standard.
5. Cul-de-sac shall have a right-of-way radius of sixty (60) feet and a cartway radius of fifty (50) feet.

I. Lighting.

1. Lighting for safety shall be provided at intersections, along walkways, at entryways, between buildings, and in parking areas.
2. Street lights in residential areas must be installed in accordance with standard practice in the field as implemented in the Borough and as approved by the Board's engineer, in conjunction with Borough policy.
3. Street lights in residential areas must be installed with a minimum foot candle of 1.0 over the full area of the intersection.
4. The maximum foot-candle level should not exceed 0.25 foot-candles over the right-of-way line.
5. The maximum height of residential street lighting standards shall not exceed the maximum building height permitted, or thirty (30) feet, whichever is less.

6. Light poles, if required, should be installed on the same side of a straight roadway in order to reinforce the direction of circulation alignment. A staggered layout should be discouraged.
7. If cobra head type of luminaire is proposed, the recessed cobra luminaires should be used whenever possible.
8. Light shields shall be placed on all lighting standards so as to provide proper lighting without hazard to drivers or nuisance to residents. The design of lighting standards shall be of a type appropriate to the development and the municipality.

J. Underground wiring.

1. All electric, telephone, television, and other communication facilities, both main and service lines servicing new developments, shall be provided by underground wiring within easements or dedicated public rights-of-way, and installed in accordance with the prevailing standards and practices of the utility or other companies providing such services.
2. Lots which abut existing easements or public rights-of-way where overhead electric or telephone distribution supply lines and service connections have heretofore been installed may be supplied with electric and telephone service from those overhead lines, but the service connections from the utilities' overhead lines shall be installed underground. In the case of existing overhead utilities, should a road widening, an extension of service, or other such condition occur as a result of the subdivision and necessitate the replacement or relocation of such utilities, such replacement or relocation shall be underground.
3. Year-round screening of any utility apparatus appearing above the surface of the ground, other than utility poles, shall be required.

K. Signs within rights-of-way.

1. Design and placement of traffic signs shall follow the requirements specified in Manual on Uniform Traffic Control Devices for Streets and Highways, published by the U. S. Department of Transportation and adopted by the N. J. Department of Transportation.
2. At least two (2) street name signs shall be placed at each four-way street intersection and one at each "T" intersection. Signs shall be installed under light standards and free of visual obstruction. The design of street name signs shall be

consistent and of a uniform size and color appropriate to the community, and erected in accordance with Borough standards.

L. Sight triangles and sight distance.

1. Sight triangles shall be designed in conformance with AASHTO.
2. Sight distance conforming to New Jersey Department of Transportation standards should be provided. Sight distance is measured ten feet behind the proposed or future curb line based on an eye level of 3.5 feet and an object height of 4.25 feet. For a 30 mph design speed, 350 foot of sight distance should be provided.

M. Underdrains.

1. A piped underdrain system is required whenever the seasonal high water table is within two (2) feet of the subgrade of the roadway. Cleanouts with traffic bearing covers should be provided at 250 foot intervals.

N. Street Names.

1. Proposed names for any new streets or for the extensions of existing streets must be approved by the Planning Board based on the review and recommendation of the Fire District and the Post Master.

§ 30. Off-street parking.

A. General regulations.

1. Every use, activity, or structure, in all zoning districts, shall provide sufficient space for access and off-street standing, parking, circulation, unloading, and loading of motor vehicles in a quantity equal to not less than the sum of all applicable standards as provided for in this Section. Parking in residential developments shall be governed by the NJRSIS (N.J.A.C. 5:21).
2. The provisions of this Section shall be complied with each time a use or structure is expanded or changed.

B. Design standards.

1. Every off-street parking space shall be provided with direct access to a street by means of an aisleway, driveway or similar paved, dustless, all weather surface. Parking spaces may not be stacked one behind another without such direct vehicular access. The parking space is intended to be sufficient to accommodate the exterior

extremities of a vehicle, whether wheel blocks are installed within the parking space to prevent the bumper from overhanging one end of the space.

2. Each parking space shall be constructed of either a bituminous or Portland cement concrete surface, laid over a compacted gravel or crushed stone base course as per Borough standards.
 - a. Areas of ingress or egress, loading and unloading, major circulation aisles and other areas likely to experience similar heavy traffic or truck traffic are to be constructed in accordance with the pavement standards for non-residential streets (see Section 29.C.3.).
 - b. Parking stalls and areas likely to experience light traffic shall be paved with a minimum of a two (2) inch FABC Mix I-5 surface course on a three (3) inch bituminous stabilized base course. Alternative paving designs based upon CBR testing and using varying thickness' of FABC, bituminous stabilized base course and/or dense graded aggregate subbase may be submitted for review for review and approval.
 - c. Subgrade shall be compacted to a density not less than ninety-five (95) percent of the maximum density.
 - d. Rigid pavements (Portland Cement) shall be designed for the specific site. At a minimum, a six (6) inch reinforced slab over a six (6) inch dense graded aggregate is to be used.
3. The width and length of each parking space shall be measured perpendicular to each other regardless of the angle of the parking space to the access aisle or driveway. Each parking space shall not be less than eighteen (18) feet in length, nor less than nine (9) feet in width, provided however that:
 - a. Handicapped parking spaces, as provided for below, shall be:
 - 1). Not less than twelve (12) feet in width if the spaces are perpendicular to an uncurbed sidewalk on the same grade as the parking space; or
 - 2). Not less than thirteen (13) feet in width if the spaces are perpendicular to a curbed sidewalk or to a sidewalk not on the same grade as the parking space. The thirteen foot width of the parking space should be clearly divided into an eight (8) foot parking space with an adjacent five (5) foot access aisle leading to a ramp up to the sidewalk. Two (2) adjacent handicapped parking spaces may use the same five (5) foot access aisle.

4. The width of an access aisle shall not be less than the following, however, where the angle of parking is different on both sides of the aisle, the larger aisle width shall prevail:

Angle of Parking	One Way Aisle	Two Way Aisle
90°	22 feet	24 feet
60°	18 feet	24 feet
45°	15 feet	24 feet
Parallel	12 feet	24 feet

5. The maximum gradient across any parking space shall not exceed six percent (6.0%).
6. No parking space, on-site aisle, or on-site roadway may be located within twenty (20) feet of a public street. Individual district regulations may prescribe greater setbacks from public streets.
7. The center line of any access drive, shall be set back from the street line of an intersecting street at least seventy-five (75) feet or one-half (1/2) the lot frontage, whichever is greater, except that in no case need the setback distance exceed two hundred (200) feet.
8. Driveways accessing single family residences shall not exceed sixteen (16) feet in width. 9. All parking lots shall be connected to the use or structure which it is intended to serve by means of a sidewalk. A system of sidewalks and/or walkways shall be provided within parking lots of fifty (50) or more spaces to provide effective internal pedestrian circulation.
10. Any parking lot serving a use which typically provides shopping carts shall provide one (1) or more cart carrels for the return of the shopping carts.
11. Required off-street parking may be provided on a lot other than the lot which generates the parking demand provided that, at the closest point, the lots are within three hundred (300) feet of each other and that the remote parking lot is permanently controlled by the owner of the lot containing the parking generator.
12. For mixed-use developments, a shared parking approach to the provision of off-street parking shall be permitted following the methodology described in the publication Shared Parking (Urban Land Institute and Barton Aschman Associates, Inc., Urban Land Institute, 1984).
13. No parking shall be provided within five (5) feet of any structure.

14. All parking spaces shall be marked by painted lines, each at least four (4) inches in width and extending along the full length of the front and both sides of the space unless otherwise delineated by curbing. The painted line strip shall be centered between two adjacent spaces and half the width of the painted strip may be included within the required size of the parking space.

C. Handicapped parking.

1. Every parking lot containing two (2) or more spaces shall provide handicapped parking spaces calculated according to the following schedule or in conformance with the N.J. Barrier Free Access Code or the Americans with Disabilities Act (ADA), whichever is greater. Decimals resulting from the following calculations shall always be rounded up to the next highest whole number.

<u>Total Parking Spaces</u>	<u>Minimum Required Handicapped Spaces</u>
2 - 19 spaces:	One (1) space
20 - 49 spaces:	Two (2) spaces
50 or more spaces	Three (3) spaces plus an additional two percent (2%) of the total parking spaces provided.

2. Handicapped spaces shall be located in close proximity to principal uses and shall be provided barrier free access to the same. Where multiple principal uses are to be served by a common parking lot, handicapped spaces shall be proportionately distributed through the parking lot.
3. Handicapped spaces shall be marked by both a "handicapped parking" sign and penalty sign, and by pavement markings as prescribed by the State of New Jersey.

D. Required off-street parking by use.

Decimals resulting from the following calculations shall always be rounded up to the next highest whole number. Square feet shall refer to gross leasable square feet or, if unknown, ninety percent (90%) of the gross square footage of the building. Outdoor garden centers or other typical outdoor display areas accessible to the general public should be included in the off-street parking calculation. Basements and attic areas which are used exclusively for storage may be calculated according to the standard for warehousing.

1. Residential development:
Governed by the NJRSIS .

2. Hotel, motel, inn, or boarding house:
One (1) space per rental room plus one (1) space for each employee on the largest shift. A restaurant use which is open to the public shall be calculated separately.
3. Restaurant:
One (1) space per every fifty (50) square feet of floor area devoted to patron use, except for high volume uses which typically have little or no seating area, e.g. ice cream or water ice stores, which shall provide a minimum of twelve (12) spaces for customers, plus two (2) spaces for every three (3) employees.
4. Church, synagogue, or other place of worship:
One (1) space per every sixty (60) square feet of floor area devoted to patron use or one (1) space per every four (4) permanently fixed seats. (When pews are used instead of individual seats, one (1) permanently fixed seat shall equal twenty-two (22) inches of a pew.)
5. Theater, lodge hall, funeral home, or similar place of assembly:
One (1) space per every fifty (50) square feet of floor area devoted to patron use or one (1) space per every three (3) permanently fixed seats.
6. Retail store or personal service establishment, other than in a shopping center of one hundred thousand (100,000) or more square feet:
Five (5) spaces for every one thousand (1,000) square feet.
7. Shopping center of one hundred thousand (100,000) or more square feet:
Four and one-half (4.5) spaces for every one thousand (1,000) square feet.
8. Office, other than dental or medical office:
Four and one-half (4.5) spaces for every one thousand (1,000) square feet.
9. Dental or medical office:
Five and one-half (5.5) spaces for every one thousand (1,000) square feet.
10. Bank or office of a financial institution:
Four and one-half (4.5) spaces for every one thousand (1,000) square feet.
11. Warehouse or distribution facility:
One (1) space for every two thousand (2,000) square feet.

12. Industrial plant or laboratory:
Two (2) spaces per every one thousand (1,000) square feet or one (1) space for every two (2) employees on the largest shift, whichever is greater.
13. Gasoline station, without service bays:
One (1) space for every employee on the largest shift, but in no case less than three (3) spaces.
14. Automobile service facility with bays for maintenance or repair:
One (1) space for every two (2) employees on the largest shift, plus four (4) spaces for each service bay.
15. Convalescent or nursing home:
Three-quarters (0.75) spaces per bed.
16. Swimming clubs:
Twenty-five (25) spaces per every one thousand (1,000) square feet of pool area.
17. Health Club or Spa:
Seven (7) spaces per one thousand (1,000) square feet.
18. School: nursery, elementary, or middle school; day care center:
One (1) space per every employee plus two (2) spaces per one thousand (1,000) square feet of floor area.
19. School: high school or trade school:
One (1) space per every employee plus one-quarter (0.25) spaces per student.
20. Other building or use not specified:
Adequate parking as determined by the Planning Board.

§ **31. Off-street loading.**

A. Off-street loading shall be provided as follows.

1. Off-street loading berths shall be provided in accordance with the following schedule:

<u>Use</u>	<u>Gross Square Footage At Which First Off-Street Loading Berth is Required</u>	<u>Gross Square Footage At Which Each Additional Loading Berth is Required</u>
Manufacturing and Warehouse	5,000	40,000

Storage	10,000	25,000
Commercial, Wholesale	10,000	40,000
Commercial, Retail	10,000	20,000
Service Establishment	10,000	40,000
Restaurant	10,000	25,000
Office or Bank	10,000	100,000
Hotel	10,000	100,000
School	10,000	100,000
Hospitals and Nursing Homes	10,000	100,000
Auditoriums and Arenas	10,000	100,000

2. Notwithstanding the schedule above, at least one (1) off-street loading space [ten (10) feet wide and twenty-five (25) feet long] should be designated for all non-residential uses or residential uses such as nursing homes which receive or deliver shipments of goods. The Planning Board may require additional loading spaces based upon the applicant's testimony at the time of site plan approval.

B. Design standards.

1. Off-street loading shall be either a bituminous or Portland cement concrete surface laid over a compacted gravel or crushed stone base course as per the standards of the Borough Engineer.
2. The standard off-street loading berth shall be fourteen (14) feet wide, sixty (60) feet deep, and shall have an apron area of sixty (60) feet. This yields a dock approach area of one hundred twenty (120) feet. The berth shall have a vertical clearance of fifteen (15) feet.
3. The Planning Board may reduce the off-street loading requirement for offices, small retail stores, and similar uses to a space ten (10) feet wide and twenty-five (25) feet long upon testimony that deliveries will be principally by means of a van or similar small truck.

4. The standard off-street loading berth (14' x 60') shall be provided only in a side or rear yard and shall be screened from the view of public streets and adjacent residential uses or districts.
5. Off-street loading areas shall not be used for the collection of trash or refuse.
6. Off-street loading docks and or doors may not be located on the front wall of a building facing the street. If loading docks or doors are planned to face the street they must be located at least eighty (80') to the rear of the front wall of the building and adequately screened from the street.

C. Commercial drive-through customer service stacking areas.

1. Every commercial facility providing drive-through customer service areas shall provide a stacking lane, ten (10) feet wide by one hundred twenty (120) feet long, for each window, door, canopy, or similar drive-through facility.
2. Each stacking lane shall be provided entirely on the lot of the subject facility and shall not occur within twenty (20) feet of a street or property line.
3. The stacking lane shall not block or cross normal vehicular or pedestrian circulation patterns.
4. A bypass route should be provided for vehicles exiting the stacking lane.

§ 32. Lighting.

- A. Street lighting of a type supplied by the utility company and of a type and number approved by the Planning Board shall be provided for all street intersections and along all arterial, collector and local streets and anywhere else deemed necessary for safety reasons. Wherever electric utility installations are required to be underground, the applicant shall provide for underground service for street lighting. Specific street lighting standards for residential areas are provided in § 26.
- B. All parking areas and walkways thereto and appurtenant passageways and driveways serving commercial, public, office, multi-family residential or other uses having common off-street parking and/or loading areas shall be adequately illuminated for security and safety purposes. The lighting plan in and around the parking areas shall provide for non-glare lights focused downward.
- C. Standards for illumination.

1. The minimum level of lighting in any portion of the parking lot shall be not less than one-quarter (0.25) foot candles. The average level of lighting within the parking lot shall be not less than one-half (0.5) foot candles. The maximum level of lighting in any portion of the parking lot shall be not greater than two (2) foot candles.
 2. The minimum level of lighting in along any portion of walkway not part of a parking lot shall be not less than one-half (0.5) foot candles. The maximum level of lighting along any portion of walkway not part of a parking lot shall be not greater than two (2.0) foot candles.
 3. The level of lighting at all intersections between access drives and streets shall be not less than one (1.0) foot candles.
 4. The maximum level of lighting on any non-residential site in the Borough shall be fifteen (15) foot-candles for specific uses where visual tasks are performed or where security is a concern.
 5. The maximum level of lighting on any residential site in the Borough shall be ten (10) foot-candles for specific uses where visual tasks are performed or where security is a concern.
- D. All lighting fixtures shall be shielded so that all light is contained on the subject property and does not spill over to adjacent properties. Any outdoor lighting shall be shown on the lighting plan in sufficient detail to allow a determination of the effects upon adjacent properties, traffic safety and overhead sky glow. The objectives of these specifications is to minimize undesirable off-premise effects. To achieve these requirements, the intensity of such light sources, the light shielding and similar characteristics shall be subject to site plan approval.
- E. Lighting standards shall not exceed a height of twenty-five (25) feet in non-residential districts. Bollard lighting is encouraged for pedestrian walkways.

§ 33. Landscape, buffer, and tree protection standards.

A. General standards.

1. The requirements and standards prescribed herein shall be considered the minimum requirements and standards for all landscape and tree protection plans as required by this chapter.
2. All existing tree masses and specimen trees shall be preserved pursuant to the tree protection standards of this chapter and preserved specimen trees may be counted

towards the minimum requirements of this section at the Planning Board's discretion.

3. A reduction in the number of trees or shrubs actually planted may be authorized by the Planning Board only after it can be demonstrated that:
 - a. Planting in the quantities prescribed would be injurious to existing significant tree masses or individual specimen plantings, and
 - b. The existing tree masses or individual specimen plantings have survived all construction activities and are reasonably assured of continued survival.
4. Planting varieties shall be selected with due consideration of their function; local growing habits; rooting, branching and leafing properties; and climate, moisture, soil and nutrient requirements.
5. Planting shall not be installed when they will:
 - a. Block, impede or interfere with the construction, maintenance or operation of roadways, drainage facilities, sanitary sewers or other above or below ground utilities.
 - b. Diminish sight distances along roadways.
 - c. Cast dense winter shadow on roadways or public sidewalks (in the case of evergreen plantings).
6. All portions of a property not utilized by buildings or paved surfaces shall be landscaped utilizing combinations of trees, shrubbery, lawns, fencing, ground cover, rock formations, art works, contours and existing foliage.
7. An underground irrigation system shall be provided where applicable.

B. Screening and landscaping of parking lots.

1. Screening of parking lots.
 - a. Parking lot buffers may be comprised of earth berms, fences, and landscaping which shall be of a sufficient quantity and size to screen parked automobiles from view of those at grade or first floor level in adjacent buildings, to prevent the shining of automobile headlights into the yards of adjacent property and to screen parked automobiles from view of those traveling on public rights-of-way. In general, this buffer shall provide a visual screen at an elevation no less than six (6) feet above the finished grade of the parking areas. In addition,

shade trees shall be provided in the buffer at the rate of one (1) per 1,000 square feet of buffer area.

2. Interior parking lot landscaping.
 - a. Interior parking lots with ten (10) to thirty-nine (39) parking spaces shall provide landscaping equal to or exceeding four percent (4%) of the gross square footage of the paved areas of the site used for drives and parking. Such landscaping shall be provided in areas of not less than one hundred fifty (150) square feet. To provide for safe visibility, shrubbery shall be of less than three (3) feet and shade trees shall have foliage no lower than a height of seven (7) feet.
 - b. Interior parking lots containing forty (40) or more parking spaces shall provide internal landscaping equal to or exceeding five percent (5%) of the gross square footage of the paved area of the parking lot. No row of parking spaces shall be permitted to exceed twenty (20) spaces without interruption by a minimum ten (10) foot wide landscaped island. Every fourth double loaded bay of parking shall be separated with a landscaped ten (10) foot wide separation island. Each island should be planted with low maintenance evergreen and deciduous shrubs and shade trees. Plantings shall be maintained so that shrubbery does not grow to a height of more than three (3) feet and that the crown of shade trees does not grow less than seven (7) feet above grade level.
3. Plantings required within the parking areas are exclusive of other planting requirements such as street trees and perimeter buffers.
4. To prevent conflicts with the opening and closing of automobile doors, all plantings in parking islands located adjacent to or abutting parking stalls shall be setback two (2) feet from the curb. To reduce damage from automobile overhang and snow plowing, all perimeter plantings and all plantings located in separation islands shall be setback three (3) feet from the curb.
5. All loading bay areas shall be screened from the parking area with either fences, walls, vegetation, etc. or a combination of these elements.
6. All trash enclosures located within or on the perimeter of the parking lot shall be screened with deciduous and evergreen material.

C. Buffers.

The following regulations are applicable in every zoning district and shall be in addition to the specific landscape and buffer standards contained within the respective district regulations.

1. Composition of buffers.

a. Adjacent to any street line.

Street buffers may be comprised of earth berms, fences (not to exceed twenty percent [20%] of the linear distance of the street frontage), and landscaping. In general, this buffer shall provide a year-round visual screen between the adjacent uses and the finished grade of the parking areas in the immediate vicinity of the rights-of-way and an elevation no less than six (6) feet above the finished grade. In addition, shade trees shall be provided in the buffer at the rate of one (1) per 1,000 square feet of buffer area.

b. Adjacent to a residentially zoned district.

Within this buffer area, a screen shall be provided which consists of earthen berms and both high and low level plant material, of sufficient mass to initially provide an effective year-round visual screen to a height of not less than six (6) feet at the time of planting or construction. This screen shall be provided in free form planting beds to avoid the appearance of a straight line or a "wall" of planting material. The required high level screen shall consist of alternating double rows of evergreen trees, spaced not more than fifteen (15) feet on center, with rows spaced not more than ten (10) feet apart. No single planting bed shall exceed two hundred (200) feet in length, with sequential beds arranged in an overlapping manner to protect the integrity of the visual barrier. The high level screen shall be supplemented by earthen berms, constructed at a maximum slope of 3:1 and at a height of not less than three feet, and by evergreen shrubs, planted at an initial height of not less than two (2) feet and spaced at intervals of not more than five (5) feet on center. The balance of the buffer area shall be planted with flowering and shade trees at the rate of one (1) per 1,000 square feet of buffer area.

c. Adjacent to a non-residentially zoned district.

- 1). These buffers may be comprised of earth berms, fences, and landscaping which shall be of a sufficient quantity and size to provide a year-round visual screen between the adjacent uses and the finished grade of the parking areas in the immediate vicinity of the property line and an

elevation no less than six (6) feet above the finished grade of the parking or building areas. In addition, shade trees shall be provided in the buffer at the rate of one (1) per 1,000 square feet of buffer area.

- 2). For a site in the HB Districts, the Planning Board may, at its discretion, approve a reduction in the width of the buffer area between non-residentially zoned properties to not less than a total of twenty (20) feet between parking lots provided that a vehicular interconnection is provided between the parking lots and that a reciprocal cross-easement is drafted for both properties permitting joint use of each parking lot by both properties.

2. Maintenance of buffers and landscaping.

- a. Plantings in all buffer areas shall be permanently maintained by the property owner.

D. Trees - Standards for the selection of trees to be planted on private property in conjunction with site plan and/or subdivision approval and replacement of trees lost during construction.

1. Tree plantings are required for all major subdivisions and site plans and should comply with the following requirements:
 - a. All trees shall be located outside of the public right of way or public easements.
 - b. The trees shall be spaced at intervals of no more than fifty (50) feet on center. When medium or small street trees are used, the planting intervals shall decrease accordingly, to achieve branch overlap at maturity. The intent is to create a canopy. Where small and medium street trees are planted fifty (50) feet on center, supplemental smaller ornamental trees shall be planted in between the larger trees. Alternative street tree plantings may be considered.
 - c. In situations where existing masses of trees are preserved along the street, the Planning Board may waive the requirement for the addition of street trees in those areas.
 - d. Trees shall be planted so that they will not interfere with underground or overhead utilities, block sight easements, or obscure street lights.
2. Tree species used should be predominantly indigenous to the area. Some introduced species are hardy and acceptable. For a list of recommended street trees see Exhibit

1. Other species may be selected with the approval of the Planning Board, provided however, that in selecting trees, the following criteria shall be used to determine their suitability.

a. Positive criteria.

- 1). A species that is long lived.
- 2). A species that is native to the area.
- 3). The hardiness of the tree, including but not limited to, wind firmness, climate requirements, and the characteristics of the soil to hold the tree.
- 4). The protection of buildings from wind, sun, and other climatic characteristics.
- 5). The encouragement of wildlife residence.
- 6). The suitability of size at maturity to the tree's function.
- 7). The ability to retain soil and control erosion.
- 8). The ability to reduce noise.

b. Negative criteria.

- 1). Susceptibility to insect and disease attack and to air or water pollution.
- 2). Existence of disease, rot or other damage to the individual tree.

3. To prevent the total obliteration of sections of trees by disease or insect infestation, a variety of trees shall be used in each street tree planting. This does not preclude the limited use of a singular specie of tree to create a strong design statement. In general, no more than five (5) trees in a row or in a cluster should be of the same specie.

E. Planting of detention/retention facilities.

All detention or retention facilities not used as an amenity shall be sensitively landscaped to minimize, rather than accentuate, their location. Low maintenance evergreen and deciduous material should be located in a naturalistic manner along the rim of the basin, and water tolerant varieties of tree, shrub, and ground cover should be utilized along the slopes of the basin.

F. Tree protection.

1. Trees shall be protected and planted in accordance with the Borough of Clayton Tree Preservation and Maintenance Ordinance, Chapter 87 of the Clayton Code.

Exhibit 1
Recommended Trees

<i>Botanical Name</i>	<i>Common Name</i>	<i>Size</i>
Acer campestre	Hedge Maple	Small
Acer rubrum	Red Maple	Tall
Acer rubrum 'October Glory'	October Glory Red Maple	Tall
Acer saccharum	Sugar Maple	Tall
Acer saccharum 'Green Mountain'	Green Mountain Sugar Maple	Tall
Carpinus caroliniana ¹	American Hornbeam	Small
Fraxinus americana ¹	White Ash	Tall
Fraxinus pennsylvanica lanceolata ¹	Green Ash	Tall
F.p. lanceolata 'Marshall's Seedless'	Marshall's Seedless Green Ash	Tall
Gleditsia triacanthos inermis 'Shademaster'	Shademaster Thornless Honey Locust	Tall
Ginkgo biloba (male only)	Ginkgo	Tall
Liquidambar styraciflua * ¹	American Sweet Gum	Tall
Phellodendron amurense	Amur Corktree	Medium
Quercus coccinea ¹	Scarlet Oak	Tall
Quercus palustris † ¹	Pin Oak	Tall
Quercus rubra ¹	Red Oak	Tall
Tilia cordata	Littleleaf Linden	Medium
Tilia cordata 'Greenspire'	Greenspire Littleleaf Linden	Medium
Zelkova serrata 'Village Green'	Village Green Zelkova	Tall

Notes

- Tall > 40'; Medium 30'-40'; Small < 30'.

† Lower Branches hang down. Should be used in areas where conflicts with pedestrians and vehicles will be at a minimum.

* Large seed pod may cause conflicts with pedestrians. Should not be used near sidewalks.

¹ Indigenous plant material.

G. Site protection and general planting requirements.

1. Topsoil preservation - Topsoil shall be stockpiled and redistributed on all landscaped surfaces to a depth of four (4) to six (6) inches.
2. Removal of debris - All site generated, naturally decomposing, landscape debris can be disposed of on-site, but not in areas of existing landscaping or where decomposition of material will cause hazardous settlement.

3. Slope plantings - All bare slopes shall be stabilized with vegetation. Steep slopes shall be stabilized with a combination of stabilizing fabrics, berms, terraces, or other means and vegetation.

H. Planting specifications.

1. All shade and street trees shall have a minimum caliper of two and one half (2.5) inches.
2. All ornamental and flowering trees shall have a minimum height of six (6) to eight (8) feet.
3. All evergreen trees shall have a minimum height of five (5) to six (6) feet unless otherwise determined by the Planning Board or Borough Planner.
4. Shrub and ground cover sizes shall be determined on a case-by-case basis.
5. Trees and shrubs shall be of nursery-grown stock and shall be insect and disease resistant.
6. Trees and shrubs should be planted according to the following recommended horticultural procedures:
 - a. Plants should be well-formed and healthy nursery-grown stock. The root ball should be inspected to insure that it is undamaged and contains good quality soil and that it encompasses the entire root system.
 - b. Planting operations shall be performed during periods within the planting season when weather and soil conditions are suitable and in accordance with accepted local practices.
 - c. Deciduous and evergreen tree planting holes shall be a minimum of two (2) feet larger than the diameter of the root ball and dug to a depth that will place the trees in the same relation to finished grade as the tree bore to its previous existing grade. The root ball shall sit on a convex mound of undisturbed subgrade. Topsoil and subsoil shall be mixed thoroughly with sphagnum peat or humus before back-filling.
 - d. Shrub planting holes shall be a minimum of twelve (12) to eighteen (18) inches larger than the ball.
 - e. Plantings shall be set plumb and straight. The planting shall be set at such a level that, after settlement, a normal or natural relationship to the crown of the

plant with the ground surface will be established. The plant shall be located in the center of the pit. Roots shall be spread evenly throughout the hole and soil added carefully.

- f. The backfill soil should be tamped in place and the hole filled to the top of the root ball. The added soil should be tamped gently, but not compacted, and an eight (8) inch soil saucer rim for the evergreen and deciduous trees and a three (3) inch saucer rim for the shrubs should be created. A saucer rim is not needed when a shrub is planted in a mulched planting bed.
- g. Plants shall be thoroughly watered according to the watering schedule.
- h. Developer shall report to the Borough Engineer any soil or drainage conditions considered detrimental to the growth of plant material and shall propose necessary treatments or revisions to the Landscape Plan. Any significant plan revisions must be submitted to the Planning Board for review and approval. Contractor shall report to the Borough Planner any soil or drainage conditions considered detrimental to the growth of the plant material.
- i. Insofar as it is practical, plant material shall be planted on the day of delivery. In the event this is not possible, the contractor shall protect stock not planted. Plants shall not remain unplanted for longer than a three (3) day period after delivery.
- j. Quality and size of plants, spread of roots, and size of balls shall be in accordance with AANI Z60.1-1986 (or current addition) "American Standard for Nursery Stock" as published by the American Association of Nurserymen, Inc.
- k. Plants shall not be bound with wire or rope at any time so as to damage the bark or break branches. Plants shall be handled from the bottom of the ball only.
- l. Tree trunks shall be wrapped with tree wrap which shall be removed after one (1) growing season.
- m. In the case of balled and burlapped trees, the burlap and bindings shall be removed from the vicinity of the trunk. If synthetic, non-biodegradable burlap and twine is used, complete removal of these materials shall be required after setting plant material in hole.
- n. All trees and shrubs shall be delivered to the site unpruned. Each tree and shrub shall be pruned in accordance with standard horticultural practices to

preserve the natural character of the plant. One-third (1/3) of the leaf area should be removed by thinning the branches and reducing their length. The central leader of the tree shall not be cut.

- o. Trees shall be supported immediately after planting. All trees greater than six (6) inches shall be guyed to anchors. Smaller trees shall be staked with two (2) wood stakes. The stakes shall have a minimum two (2) inch nominal diameter. The support wires between the stakes and the tree shall be a double strand of galvanized wire, with a minimum of No. 15 gauge. To protect the tree from injury, the portion of the support wire in contact with the tree shall be encased in reinforced rubber hosing or its equal. To increase the visibility for safety, surveyor's flags shall be tied to the support wires.
- p. All planting beds and tree saucers shall be dressed to a minimum depth of three (3) inches with shredded hardwood mulch.
- q. No plant, except ground covers, shall be planted less than two (2) feet from existing structures and sidewalks.
- r. No deciduous or evergreen trees shall be planted closer than ten (10) feet to a sanitary or utility easement.
- s. Underground irrigation systems shall be installed in all buffers and other areas of mass planting.
- t. All plant material shall be guaranteed by the contractor to be in a vigorous growing condition. Provisions shall be made for a growth guarantee of at least two (2) years for trees and a minimum of two (2) growing seasons for shrubs. Replacement of dead or diseased material shall be made at the beginning of each planting season. All replacements shall have a guarantee equal to that stated above.

I. Landscape plan requirements.

- 1. In the design of a landscape plan, plantings shall be provided in the varieties, quantities and site locations necessary to:
 - a. Reduce glare and reflection, and to buffer noise and objectionable views.
 - b. Complement or improve upon existing landscaping on adjoining properties.
 - c. Provide moisture retention, soil stabilization, wind breaks and air purification.

- d. Moderate ground surface, building and stream water temperatures.
- e. Provide seasonal color variety.
2. On a case-by-case basis provisions may be made for the moving of on-site specimen trees to other locations on-site if requested by the applicant or the Planning Board.
3. The landscape plans shall be prepared by a Landscape Architect, architect, planner or engineer certified by the State of New Jersey or other person acceptable to the Board.
4. Landscape plans shall show all existing plants and natural features that are to remain. All existing trees with diameters of eight (8) inches or greater shall be located and identified by species, size and condition. When groups of trees are to be saved, the locations of the trees only on the perimeter may be shown.
5. All specimen and tree masses to be preserved and the corresponding tree protection zones and their protection device details shall be shown.
6. All proposed plant locations shall be:
 - a. Graphically shown at ten year's growth.
 - b. Leadered and referenced (plant symbol or key) to a plant list.
7. Plant list shall include:
 - a. Plant symbol or key;
 - b. Quantity;
 - c. Botanical and common name;
 - d. Size at planting;
 - f. Bagged & Burlap, can size, and similar notes; and
 - g. Other notes such as: multi-trunk, heavy, etc.
8. Typical landscape details and specifications shall be shown, including, but not limited to: planting details, fertilizer rates, ground preparation, and grass seed types.
9. Berm location and height.
 - a. Berms should be so located as to work in conjunction with fences and vegetation to provide an effective screen. Their locations shall not impede or dam the flow of surface runoff.

- b. Berms shall not exceed five (5) feet in height and shall not have a slope greater than 3:1.
 - c. Berm contours shall be shown and referenced to existing and proposed contours.
10. All other landscape elements such as fences, walls, street furniture, trash receptacles, and so forth, shall be located and details of same included on the plan.
 11. Light standard locations and on-site utilities that may conflict with landscaping shall be shown.
 12. A watering schedule shall be included with all landscape plan submissions.

J. Bonding.

The developer shall post performance bonds prior to the planting of the street trees and required landscaping in an amount determined by the Borough Engineer. A maintenance bond shall be established to guarantee the replacement of any plant material which does not survive for a period of two (2) years from installation following the release of the performance bond.

§ 34. Common open space standards.

- A. The following standards for the provision of common open space pertain to any multi-family development in the Borough, including but not limited to the PA and APA Districts.
 1. Not less than twenty-five percent (25%) of land area of every multi-family development shall be preserved as common open space or shall be dedicated to active recreational or community facilities.
 2. At least twenty-five percent (25%) of the required open space area shall be free of environmental constraints such as flood plains, wetlands, bodies of water, storm water drainage ways and basins, or steep slopes. This land shall be utilized for common recreational or community facilities in accordance with Section 42.
 3. A plan outlining the cleaning of debris and dead brush and, when required, the selective thinning and removal of diseased, dying or undesirable vegetation.

4. Common, active recreation shall be provided at a ratio of not less than one (1) acre for every one hundred (100) anticipated residents, with a minimum dedication of one (1) acre.
5. The recorded plan and deeds shall indicate that no additional development of principal structures can occur in the common open space area. The open space shall be restricted against any future building, development or use, except as is consistent with that of providing for open space for recreational, conservation, agriculture or aesthetic satisfaction of the residents of the development or of the general public. Buildings or uses for non-commercial recreation, cultural, or agricultural purposes compatible with the open space objectives may be permitted only with the express approval of the Planning Board, following the approval of the building and site plans by the Planning Board.
6. Any land set aside as open space must be made subject to a deed restriction or agreement in a form acceptable to the Planning Board and duly recorded in the office of the Recorder of Deeds of Gloucester County. All documents pertaining to the conveyance and maintenance of the open space shall meet the approval of the Planning Board as to legal form and effect.
7. Methods of conveyance - All open space must be conveyed in accordance with one of the following methods:
 - a. Dedication in fee-simple to the Borough - The Borough may, at the discretion of the Borough Council, accept any portion or portions of the open space provided:
 - 1). It is determined by the Planning Board that such land is suitable in size, shape, location, and access and the Borough Council may determine that such lands will benefit the general public of the municipality;
 - 2). The Borough agrees to and has access to maintain such lands;
 - 3). The titles are conveyed to the Borough without cost; and
 - 4). The Borough Council shall adopt a resolution accepting the deed of dedication from the landowner together with an account of monies as determined by the Borough Council which shall be deposited in a special municipal trust account that shall be used only for the purpose of maintaining the land. The maintenance funds shall be determined by the Borough Engineer based on an estimate of annual costs for the maintenance of the site including constructed facilities. Sufficient funds

shall be posted to cover all costs in perpetuity and shall be based on a present worth value using a three percent (3%) rate of return.

- b. Conveyance of title to a conservancy, corporation, homeowners association, funded community trust, condominium corporation, individual or other legal entity, provided that:
 - 1). The terms of such instrument of conveyance must include provisions suitable to the municipality assuming such organization can guarantee:
 - a). The continued use of such land for the intended purpose in perpetuity;
 - b). Continuity of proper maintenance;
 - c). Availability funds required for such maintenance;
 - d). Adequate insurance protection;
 - e). Provision for payment of applicable taxes;
 - f). The right of the Borough to enter upon and maintain such property at the expense of the organization in the event the organization fails to maintain the property; and
 - g). Such other covenants and/or easements necessary to fulfill the purposes and intent of this chapter.
 - 2). The following are prerequisites for a condominium corporation, homeowners association, or similar entity:
 - a). Disposition of the open space must be approved by the Planning Board, prior to final plan approval, and the final plats recorded before any dwelling units are sold, leased, or otherwise conveyed;
 - b). Membership must be mandatory for each buyer and/or lessee. The organizational papers shall set forth the voting rights and the manner and time of transference of the organization and its assets from developer to homeowner;
 - c). It must be responsible for liability insurance, taxes, recovery for loss sustained by casualty, condemnation or otherwise, and the maintenance of recreational and other facilities;

- d). Members or beneficiaries must pay their pro rata share of the costs, and the assessment levied can become a lien on the property, including any maintenance and associated administrative costs incurred by the municipality;
- e). Such corporation or association shall not be dissolved nor shall it dispose of the open space by sale or otherwise, except to an organization conceived and established to own and maintain the open space. The corporation or association must first offer to dedicate the open space to the Borough before any such sale or disposition of open space.
- f). The dedication of open space, streets, or other lands in common ownership of the corporation, association, individual, or other legal entity or the Borough shall be absolute and not subject to reversion for possible future use for further development.

§ 35. Water supply.

- A. Water supply requirements and standards for residential development shall be those required by the NJRSIS . Non-residential development shall be regulated as indicated in § 28,C above and the following regulations.
- B. Where public water is accessible, water mains shall be constructed in such a manner as to make adequate water service available to each lot or building within the development. The system shall also be designed with adequate capacity and sustained pressure to service the lots and permit necessary fire-fighting abilities, and in a looped system with no dead-end lines, whenever possible.
- C. Where no public water is accessible, water shall be furnished on an individual lot basis. Well installation, sealing and testing shall be in accordance with the New Jersey Standards for Construction of Water Supply Systems in Realty Improvements (Chapter 199 of the Public Laws of 1954), as amended, and in accordance with the guidelines, resolutions and requirements adopted by the County Board of Health and the Borough of Clayton Water and Sewer Department. Prior to being placed in consumer use and prior to the issuance of a certificate of occupancy for any building served by the well, the developer shall certify to the County Board of Health and the Borough of Clayton Water and Sewer Department that he complied with all applicable state, county and local regulations.
- D. If a public water supply system will be provided to the area within a six-year period as indicated in the municipal water master plan, official map, or other official document, the Borough of Clayton Water and Sewer Department may require installation of a capped

system or "dry lines" (mains, only) within the road right-of-way; or alternatively, the Water and Sewer Department may require a payment in lieu of the improvement.

E. Fire hydrants.

1. Fire hydrants shall be provided as required by the Fire Marshall's Office of the Borough of Clayton.
2. Hydrants shall be spaced to provide necessary fire flow, and the average area per hydrant typically should not exceed 120,000 square feet. In addition, hydrants shall be spaced so all commercial buildings shall be within five hundred (500) feet of a hydrant.
3. A hydrant shall be located at all low points and at all high points with adequate means of drainage provided.

§ 35A. Municipal Well Protection

A. The Borough of Clayton utilizes shallow wells for a portion of its municipal public water supply. The one shallow well currently in use is located at the North Delsea water tower site. The well, known as well number 6, is located in the Cohansey - Kirkwood aquifer and is approximately seventy-four (74) feet deep. Any development within eleven hundred (1,100) feet of this and future wells, must be developed in compliance with the New Jersey Clean Water Act, NJAC 7:10 as amended and with the following additional standards to protect these community resources. (The Zoning Map identifies these well protection areas.) Developers and property owners are encouraged to use cooperative approaches to subdivision and site design, especially for storm water management, and to meet with the Water and Sewer Department and their engineers prior to submitting any applications.

1. Structures.

- a. No structure shall be located within two hundred and fifty feet (250') of the well.
- b. Facilities of any type, buildings, tanks, platforms, etc., located outside of industrial or commercial structures, and proposed for the storage of fuels, chemicals or any substances which could endanger ground water resources, shall be prohibited within eleven hundred (1,100) feet of a well unless a containment system designed to hold the entire contents of the facility is provided and approved by the Board and Water and Sewer Department engineers. When an approved containment system is provided, these facilities may be located within five hundred (500) feet of the well.

2. Lot Coverage.
 - a. Maximum building coverage (includes all principal and accessory buildings) - Thirty percent (30%).
 - b. Maximum impervious coverage - Fifty percent (50%).
3. Parking lots or driveways.
 - a. No parking lots or driveways shall be located within two hundred feet (200') of the well.
4. Stormwater facilities.
 - a. No detention or retention facility, dry well or other storm water holding system shall be located within eleven hundred feet (1,100') of a well.
 - b. The outflow from a detention or retention basin, whether through a piped system or overland, shall be located more than eleven hundred feet (1,100') from a well.
 - c. No swale designed for carrying stormwater shall be located with five hundred feet (500') of the well.
5. Sanitary Sewage facilities.
 - a. Sanitary sewer lines, manholes and pumping stations shall be located no closer than two hundred feet (200') to a well.
 - b. Settling basins for any type of residential or non-residential effluent shall not be located within eleven hundred feet (1,100') of a well.
 - c. No septic system used for domestic waste shall be located within five hundred feet (500') of a well. Non-residential septic systems are prohibited within eleven hundred feet (1,100') of a well.

§ 36. Sanitary sewers and septic systems.

- A. Sanitary sewer requirements and standards for residential development shall be those required by the NJRSIS. Non-residential development shall be regulated as indicated in § 28,C above and the following regulations.
- B. Sanitary sewers.

Where a public wastewater treatment plant and collection system is accessible, or where such facilities are to be constructed as a condition of approval of any application for

development, the developer shall construct such wastewater treatment facilities and/or sanitary sewer lines and building connections in accordance with the design criteria and permit requirements of the Borough of Clayton Water and Sewer Department and those of the New Jersey Department of Environmental Protection. The planning, design, construction, installation, modification, and operation of any treatment works shall be in accordance with the applicable NJDEPE regulations implementing the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.) and the New Jersey Water Quality Planning Act (N.J.S.A. 58:11-A-1 et seq.) and in such a manner as to make adequate sewage treatment available to each lot and building within the development.

- C. If a public sanitary sewer system will be provided to the area within a six-year period as indicated in the municipal sewer master plan, official map, and other official document, the Borough of Clayton Water and Sewer Department may require installation of a capped system (mains, only) within the road right-of-way; or alternatively the Water and Sewer Department may require a payment in lieu of the improvement. Capped sanitary sewers shall be allowed only in areas indicated for sewer service in the State of New Jersey Statewide Water Quality Management (WQM) Plans and where permitted by the NJDEP through sewer connection approval.
- D. Septic systems.
 - 1. On-site sewage systems, including septic tanks shall be permitted only when it is infeasible to connect to or extend an existing sanitary sewer, as provided for above.
 - 2. On-site sewage systems shall conform to the regulations of the Gloucester County Department of Health, the New Jersey Department of Environmental Protection, and all other applicable local, county, state, and federal regulations. All systems should be referred to the Borough of Clayton Water and Sewer Department for review.

§ 37. Stormwater management.

A. General.

- 1. Storm sewer requirements and standards for all development shall be those required by the New Jersey Residential Site Improvement Standards (NJRSIS). For non-residential development, the following requirements shall also apply.
- 2. All development plans shall include a Stormwater Management Report prepared, signed and sealed by an engineer licensed by the State of New Jersey. The report is to analyze pre- and post-development conditions and conveyance system design. Drainage area maps are to be provided. Calculations justifying runoff coefficients,

travel time, flow rates, flow volumes, storage volumes and discharge rates, pipe routing tables, etc., are to be included.

3. The storm water management plans submitted shall demonstrate careful consideration of the general and specific concerns, values and standards of the Borough master plan and applicable county, regional and state storm drainage control programs, any county mosquito commission control standards, and shall be based on environmentally sound site planning, engineering and architectural techniques.
4. Development shall use the best available technology to minimize off-site storm water runoff, increase on-site infiltration, simulate natural drainage systems, and minimize off-site discharge of pollutants to ground and surface water and encourage natural filtration functions. Best available technology may include measures such as detention or retention basins, recharge trenches, piping, contour terraces and swales.
5. It shall be the policy of the Planning Board to require the ownership and maintenance of all stormwater basins serving residential areas to be located on property owned and maintained by a homeowner's association. In no case shall a stormwater basin be located and maintained by an individual residential lot.
6. Detention basins are preferred over retention basins. Specific requirements for retention basins are not included herein but will be determined on a case-by-case basis.
7. It shall be the policy of the Planning Board to minimize the number of basins by encouraging the joint use of basins between various developments and minimizing the number of basins within a development.

B. Detention facilities: Maintenance and repair.

1. Responsibility for operation and maintenance of detention facilities, including periodic removal and disposal of accumulated particulate material and debris, shall remain with the owner or owners of the property with permanent arrangements that it shall pass to any successive owner, unless assumed by a government agency. If portions of the land are to be sold, legally binding arrangements shall be made to pass the basic responsibility to successors in title. These arrangements shall be designate for each project the property owner, governmental agency, or other legally established entity to be permanently responsible for maintenance, hereinafter in this section referred to as the responsible person.
2. Prior to granting approval to any project subject to review under this ordinance, the developer shall enter into an agreement with the municipality (or county) to ensure the continued operation and maintenance of the detention facility. This agreement shall be in a form satisfactory to the municipal attorney, and may include, but may

not necessarily be limited to, personal guarantees, deed restrictions, covenants, and bonds. In cases where property is subdivided and sold separately, a homeowners association or similar permanent entity should be established as the responsible entity, absent an agreement by a governmental agency to assume responsibility.

3. In the event that the detention facility becomes a danger to public safety or public health, or if it is in need of maintenance, the municipality shall so notify in writing the responsible person. From that notice, the responsible person shall have fourteen (14) days to effect such maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. If the responsible person fails or refuses to perform such maintenance and repair, the municipality may immediately proceed to do so and shall bill the cost thereof to the responsible person.
4. In accordance with the NJRSIS (N.J.A.C. 5:21-7.5), for detention basins serving a residential community, a maintenance trust fund should be posted which will generate sufficient revenue to cover all maintenance costs in perpetuity. The fund shall be based on a present worth value using a three (3) percent rate of return. All costs, including mowing, eventual structure replacement, sediment removal, etc., are to be included. The minimum amount of the fund should be \$35,000.00 (based on a 1/2 acre basin). This requirement shall apply for basins under either Borough or a homeowner's association ownership.
5. The plans are to include notes pertaining to restoration procedures and a long term maintenance schedule and procedures. Maintenance shall include mowing, leaf removal, debris removal, inspection, desilting, and any other work specific for the facility.

C. Stormwater management: Detention basin locations.

1. Basins shall generally not be located adjacent to residential properties.
2. When located adjacent to residential properties, side slopes shall be 4:1. Water depth shall be limited to three (3) feet.
3. Low maintenance, water tolerant grasses, or wildflower seed mix shall be used as appropriate. Type of vegetation used shall be compatible with the site.
4. Fencing and dense landscaping may be required when adjacent to residential lots.
5. All basins, regardless of ownership, must have a dedicated access from a public right-of-way. The access should include a stabilized surface suitable for the passage of maintenance and inspection equipment and vehicles. An easement granting the municipality the right to access and perform work in the basin should be granted.

D. Stormwater management: Discharge location.

1. The development plans should illustrate all topographical features and structures downstream of all basin discharges, emergency spillways, stormwater outfalls and swales, for a sufficient distance to evaluate the impact of discharge. A stability analysis of the downstream flow path should be provided. Impacts on structures and/or private property should be reviewed.
2. The impact of increased runoff volume from basins should also be reviewed.
3. Easements should be provided at all points of discharge onto adjacent properties, regardless of the use of basins, swales, or pipelines to convey the flow to the property line.

E. Stormwater management: Retention basins.

1. When approved, detailed design criteria for retention basins will be determined on a case-by-case basis. However, at a minimum, all requirements for detention basins will be adhered to along with the following:
 - a. The separation between seasonal high groundwater to and the basin bottom shall be two (2) feet for dry or recharge basins.
 - b. Basins should dewater within twenty-four (24) hours after the design storm event.
 - c. Post-construction percolation tests will be required to ensure that the designed dewatering period will be attained.
 - d. Side slopes of 4:1 or less shall be used.
 - e. For wet retention basins, or permanent ponds, a sufficient natural water supply capable of maintaining a minimum depth of three (3) feet shall be required.
 - f. In accordance with the NJRSIS (N.J.A.C. 5:21), for retention basins serving a residential community, a maintenance trust fund should be posted which will generate sufficient revenue to cover all maintenance costs in perpetuity. The fund shall be based on a present worth value using a three (3) percent rate of return. All costs, including mowing, eventual structure replacement, sediment removal, scarifying, etc., are to be included. The minimum amount of the fund should be \$47,000.00 (based on a 1/2 acre basin). This requirement shall

apply for basins under either Borough or a homeowner's association ownership.

F. Stormwater management: Water Quality.

1. The water quality standards for stormwater management shall be those included in the NJRSIS N.J.A.C. 5:21-7.6.

§ 38. Performance standards for industrial developments.

- A. Fire and explosive hazards. All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against the hazards of fire and explosion and adequate fire-suppression equipment shall be installed and maintained in an operable condition in accordance with the regulations of the fire marshall's office, construction official and the regulations of applicable local, county, state, and federal agencies.
- B. Electrical disturbance. No activity shall be permitted which results in an electrical disturbance adversely affecting the operation of any equipment beyond the building in which the disturbance is created.
- C. Smoke, ash, dust, fume, vapor, gases and other forms of air pollution. There shall be no emission at any point from any chimney or otherwise which can cause damage to human health, to animals or vegetation, or to other forms of property; or which will cause any excessive soiling at any point.
- D. Liquid and solid wastes. There shall be no discharge at any point, into any private or public sewerage system, or into any stream, or into the ground of any materials in such a way, or of such temperature, as to contaminate or otherwise cause the emission of hazardous materials except as regulated by applicable local, state, or federal agencies.
- E. No activity or use shall produce a sound pressure level on adjacent property in excess of the level permitted by the applicable laws of the State of New Jersey, and regulations adopted by the New Jersey Department of Environmental Protection and Energy or their successor department, and as currently enforced by the Gloucester County Health Department or any other duly authorized enforcement agency.
- F. Vibration. No activity or operation shall produce at any point along the lot line continuous earth borne vibrations greater than the maximum displacement as permitted in the following table:

<u>Frequency</u> (cycles per second)		<u>Residential District</u> <u>Displacement</u> (in inches)	<u>Non-Residential District</u> <u>Displacement</u> (in inches)
>	≤		
0	10	.0004	.0020
10	20	.0002	.0010
20	30	.0001	.0006
30	40	.0001	.0004
40	50	.0001	.0003
50	-	.0001	.0002

Discrete pulses that do not exceed 100 impulses per minute may not produce more than twice the displacement specified in the table.

- G. Glare. No activity or use shall produce a strong, dazzling light or reflection of same beyond its lot lines. Exterior lighting shall be shielded, buffered and directed so that glare, direct light, or reflection will not be a nuisance to adjoining properties, dwellings, streets, districts, or from adjacent buildings within an industrial park. In no event shall a lighting intensity greater than one twenty-five hundredths (.125) foot-candle, measured at grade, be permitted beyond the subject lot lines.
- H. Odor. No operation shall release materials capable of becoming odorous, either by bacterial decomposition or chemical reaction, that cause or will cause odorous matter or vapor to be generated so as to be readily discernible without instruments from any point along the boundaries of each lot.
- I. Operation. All fabricating, manufacturing, or assembling activities shall be conducted entirely within enclosed buildings.

§ 39. General design requirements.

- A. General design requirements for all non-residential districts are as follows:
 1. No merchandise, products, waste equipment, or similar material or objects shall be displayed or stored outside. However, for automotive sales facilities, vehicles capable of moving under their own power may be displayed and stored outside.
 2. All buildings in a development shall be compatibly designed, whether constructed all at one time or in stages over a period of time. All building walls facing any street or residential district line shall be suitably finished for aesthetic purposes.

3. All portions of the property not utilized by buildings or paved surfaces shall be landscaped.
4. The established grades on the site shall be planned for both aesthetic and drainage purposes. The grading plan, drainage facilities and landscaping shall be coordinated to prevent erosion and silting as well as assuring that the capacity of any natural or man-made drainage system is sufficient to handle the water generated and anticipated both from the site and contributing upstream areas.
5. Trash enclosures must be enclosed behind an opaque fence or wall at least five (5) feet in height, with an opaque self-closing gate. The exterior finish material of the trash enclosure and gate must be compatible with that of the exterior of the principal structure. Trash enclosures shall not be within ten (10) feet of any other structures.
6. Not more than one (1) point of ingress and/or egress shall be permitted within seventy-five (75) feet of another point of ingress and/or egress serving the same tract, and in no case shall a development have more than two (2) such points of ingress and/or egress on any one (1) street frontage.

§ 40. Signs

A. Compliance required.

1. The intent of this Section is to provide standards for the regulation of signs as accessory uses within the various zoning districts of the Borough of Clayton. Any sign hereafter erected or maintained shall conform to the provisions of this section and any other applicable ordinance or regulation of the Borough of Clayton.

B. Prohibited signs.

1. The following types of signs shall be prohibited throughout the Borough:
 - a. Billboards or off-premises signs.
 - b. Any sign which is not permanently attached to the ground or a building structure.

C. Permitted signs.

1. The following types of signs and no others shall be permitted:

- a. In all residential and agricultural districts:
- 1). Official traffic signs.
 - 2). Official signs of any governmental agency.
 - 3). Signs advertising the sale or rental of premises and signs bearing the word SOLD or the word RENTED, with the name and address of the person effecting the sale or rental, provided that such signs may be erected only on the premises to which they relate and that the size of any such sign shall not exceed one (1) square foot for each ten (10) feet of lot frontage, with a maximum of fifty (50) square feet, but no sign need be less than six (6) square feet.
 - 4). Signs indicating the location and direction of premises available for or in the process of development and having inscribed thereon the name of the owner, developer, builder or agent, provided that the size of any such sign shall not exceed fifty (50) square feet and that not more than one (1) sign shall be erected on each five hundred (500) feet of street frontage.
 - 5). Signs of mechanics and artisans, but only during the period of time that such persons are performing work, provided that such signs shall be erected only on the premises where such work is being performed and that the size of any such sign shall not exceed twelve (12) square feet and that such signs shall be removed promptly upon completion of the work.
 - 6). Signs of schools, colleges, churches, hospitals or other similar institutions and historic sites, provided that the size of any such sign shall not exceed twenty (20) square feet and that not more than two (2) signs shall be placed on any lot or on contiguous lots owned by the same persons.
 - 7). Signs prohibiting or otherwise controlling trespassing upon particular premises or indicating the private nature of a road, driveway or premises, provided that the size of any such item shall not exceed two (2) square feet.
 - 8). Signs indicating the name of a particular organization, farm or estate, provided that the size of any such sign shall not exceed six (6) square feet.
 - 9). Signs identifying a legal non-conforming or approved accessory uses in residences, including a professional nameplate or a sign for an approved

home occupation, provided that the size of any such sign shall not exceed two (2) square feet and that such signs shall only be erected on the lot where such accessory use exists.

- 10). Signs used in conjunction with non-conforming commercial uses, provided that the size of any such sign shall not exceed six (6) square feet.
- 11). Signs used for advertising the sale of farm products, provided that the size of any such sign shall not exceed six (6) square feet, and not more than three (3) such signs shall be placed on any lot or on contiguous lots owned by the same person. These signs shall only be displayed when such products are on sale.
- 12). Temporary signs erected for a special event such as an election, yard sale, charitable event or similar purpose. (See Section 40., C., 2. r and s. below).

b. In commercial and industrial districts:

- 1). All signs which are permitted in § 40., C., a., above.
- 2). Each commercial or industrial use may have one (1) identification sign located on or attached to the principal facade of said use on each street frontage. Such sign shall not project more than two (2) feet beyond the building facade and shall not exceed one hundred (100) square feet in area or cover fifteen percent (15%) of the principal facade, whichever is the lesser amount. The lowest part of said sign shall be not less than ten (10) feet above the sidewalk, pavement or ground.
- 3). Optional facade sign configuration:
Each Commercial use in the CB District may have two (2) identifying signs located on a principal street facade which may be a maximum of 25 sq. ft. each. One may be used as a Menu Board style signage to advertise specials and/or sales.
The intent is to provide for sale type advertisement so banners and poster type signage is not needed and will assist in maintaining sign compliance.

OR

Due to unique architectural façade condition, upon review by the Zoning Officer, additional signage may be permitted, but each additional sign may not exceed 12 sq. ft. and must conform to all applicable sign regulations set forth in the Borough Ordinance.

Total square footage on optional signs may not exceed the limits set forth in Section 40.C1.b.2

The intent is to provide for sale type advertising.

- 4). Signs required by law to be exhibited by the occupants of the premises.
- 5). Each commercial or industrial use may have one (1) sign, not attached to a building, on each street frontage, provided that such sign shall not

exceed seventeen (17) feet in height and shall not be larger than fifty (50) square feet in area and shall be erected within the property lines of the premises to which it relates.

- 6). No sign, except such directional devices as may be required by the federal aeronautical authorities, shall be placed, inscribed or supported upon the roof or upon any structure which extends above the roof of any building.
- 7). Commercial properties may display no more than one (1) ornamental flag or banner, measuring less than six (6) square feet, at the principal street facade.

2. General regulations. The following regulations shall apply to all permitted sign uses:
 - a. No sign shall be placed in such a position that it will cause danger to traffic on a street by obscuring the view.
 - b. No sign, other than official traffic signs, shall be erected within or project over the lines of any street unless specifically authorized by other ordinances or regulations of the Borough of Clayton.
 - c. No sign shall project more than two (2) feet over a public sidewalk.
 - d. In addition to the other requirements of this Article, every sign referred to in this Article must be kept in good condition and repair and shall not be allowed to become dilapidated. Whenever a sign shall become dilapidated or unsafe, the administrative officer shall order such sign to be repaired or removed within seven (7) days from the receipt of such order by the owner of the property on which the sign is located. Thereafter, if the condition continues to exist, the Borough of Clayton may cause the same to be rectified, charging the cost to the record owner of the premises.
 - e. No sign attached to a structure shall extend above the roof line or parapet.
 - f. No flashing, blinking, twinkling, animated, moving or apparently moving sign shall be permitted, except for time-and-temperature and change-of-copy displays.
 - g. No sign with any lighting or control mechanism which may cause radio or television interference shall be permitted.

- h. No sign shall be located so as to interfere with any opening required for legal ventilation, fire escape, doors, windows or other opening used as a means of egress or ingress or for fire-fighting purposes.
- i. No sign shall utilize the colors red or green in its illumination when said sign is placed within one hundred (100) feet of a street intersection.
- j. No sign shall be of a shape to distract the attention of the operator of a motor vehicle.
- k. No sign shall in any way simulate official, functional, directional or warning signs erected or maintained by any railroad, public utility or governmental agency concerned with the protection of public health and safety.
- l. Other banners, spinners, flags, pennants or any moving objects shall not be permitted, whether containing a message or not, except for Opening Day Ceremonies, Grand Openings for a period of two weeks (Zoning Permit required), religious or civic holidays or locally sponsored events. They can in no way obstruct the right of way or traffic vision. They must conform to general sign provisions set forth in this chapter for setbacks, size and color (as it relates to traffic signals).
- m. No signs shall be attached to or painted upon trees, fences, chimneys, utility poles, rocks, curbs, walks, sidewalks, driveways, lamps, hydrants, benches or bridges.
- n. In any residential district, no sign shall be illuminated between the hours of 10:00 p.m. and 7:00 a.m., prevailing time, the following morning unless the business or use so advertised is open to the public later than 10:00 p.m., in which event any such sign may be kept illuminated until such business is closed to the public.
- o. All signs shall conform to the Borough building, electrical or other codes, as appropriate.
- p. The top of any sign not attached to a structure shall not exceed seventeen (17) feet in height.
- q. No sign, except as required by law, shall be erected or supported upon the roof of any building or upon any structure which extends above the roof of any building.

- r. Temporary signs erected for a special event such as an election, charitable event or similar purpose shall not be displayed more than thirty (30) days prior to the event and shall be removed by the advertiser within five (5) days after such event shall have taken place.
- s. Temporary signs erected for a yard sale shall not be displayed more than three (3) days prior to the event and shall be removed by the advertiser within two (2) days after such event shall have taken place.
- t. Proximity to streets.
 - 1). Signs shall not be located closer than the following distances to the street right-of-way unless said signs are attached flush to the surface of a building located closer to the street right-of-way:

AREA OF SIGN (square feet)	MINIMUM DISTANCE (feet)
Less than 25	15
26 to 75	25
76 or more	30

- 2). No sign shall be erected within fifty (50) feet of a street intersection or adjoining residential district. These distances may be increased by the administrative officer or municipal agency if strict adherence would cause an inconvenience to the public or constitute a safety hazard.

- u. All signs shall comply with applicable county, state and federal sign regulations or laws.
- v. All signs shall be located only on the lot on which the business benefiting from the sign is also located.

D. Non-conforming signs.

- 1. A sign lawfully authorized, erected and existing on the effective date of this Article may be continued in use, provided that it is not allowed to become dilapidated or unsafe and provided also that said sign shall not be enlarged or changed to benefit another user.

E. Permits.

1. It shall be unlawful for any person, firm, or corporation to erect, alter, relocate or maintain any sign within the Borough of Clayton, except those signs hereinafter exempted, without first making an application for and obtaining a permit from the administrative officer, which shall be in addition to any other license or permit required by other Borough of Clayton ordinances or county, state or federal laws or regulations.
2. Applicants for commercial or industrial signs shall submit, along with their application, a scaled drawing, which must include the following details:
 - a. The message on the sign face.
 - b. The method of illumination and intensity of lighting.
 - c. Materials.
 - d. Color scheme.
 - e. Structural design.
 - f. The location on the building.
 - g. The location on the property if a ground sign, showing the sign's relationship to the street right-of-way line, buildings, paved and landscaped areas within one hundred (100) feet of the sign.
 - h. The height to the top of the sign.
 - i. Square footage of the sign, including dimensions.
 - j. Square footage of the main building face for wall signs.
 - k. Any other requirements pursuant to this chapter.

F. Exempt signs.

1. The following signs shall not require an application or permit:
 - a. Temporary signs erected for a special event, such as an election, yard sale, charitable event or similar purpose.

- b. Official traffic signs.
- c. Official signs of any governmental agency.
- d. Real estate signs and mechanics and artisans signs.

Article VI. General Regulations

§ 41 Affordable Housing Requirements.

A. Purpose. This section of the Clayton Ordinance sets forth regulations regarding low and moderate income housing units in Clayton Borough that are consistent with the provisions of N.J.A.C. 5:93 et. Seq. As effective on June 6, 1994, as amended through September 5, 1996. These rules are pursuant to the Fair Housing Act of 1985 and Clayton's constitutional obligation to provide for its fair share of low and moderate income housing.

B. Inclusionary Development

A. Affordable Housing Compliance. The developer of low and moderate income housing units shall contract on its own with Housing Affordability Service (HAS), formerly known as the Affordable Housing Management Service (AHMS) of the New Jersey Department of Community Affairs (DCA) regarding COAH's provisions for income distribution, affirmative marketing, affordability controls, applicant screening and selection and all other requirements as may be put forth by COAH.

B. Clayton's new construction or inclusionary component will be divided equally between low and moderate income households as per N.J.A.C. 5:93-2.20.

C. Except for inclusionary developments constructed pursuant to low income tax credit regulations:

1. At least one-half of all units within each inclusionary development will be affordable to low income households.
2. At least one-half of all rental units will be affordable to low income households.
3. At least one-third of all units in each bedroom distribution pursuant to N.J.A.C. 5:93-7.3 will be affordable to low income households.

- D. Inclusionary developments that are not restricted to senior citizens will be structured in conjunction with realistic market demands so that:
1. The combination of efficiency and one bedroom units is at least ten (10) percent and no greater than twenty (20) percent of the total low and moderate income units.
 2. At least thirty (30) percent of all low and moderate income units are two bedroom units.
 3. At least twenty (20) percent of all low and moderate income units are three bedroom units.
 4. Low and moderate income units restricted to senior citizens may utilize a modified bedroom distribution. At a minimum, the number of bedrooms will equal the number of senior citizen low and moderate income units within the inclusionary development.
- E. In conjunction with realistic market information, the following criteria will be used in determining maximum rents and sale prices:
1. Efficiency units will be affordable to one person households.
 2. One bedroom units will be affordable to 1.5 person households.
 3. Two bedroom units will be affordable to three person households.
 4. Three bedroom units will be affordable to 4.5 person households.
 5. Median income by household size will be established by a regional weighted average of the uncapped Section 8 income limits published by HUD as per N.J.A.C. 5:93-7.4(b).

6. The maximum average rent and price of low and moderate income units within each inclusionary development will be affordable to households earning fifty seven and one half (57.5) percent of median income.
 7. Moderate income sales units will be available for at least three different prices and low income sales units will be available for at least two different prices.
 8. For both owner-occupied and rental units, the low and moderate income units will utilize the same heating source as market units within an inclusionary development.
 9. Low income units will be reserved for households with a gross household income less than or equal to fifty (50) percent of the median income approved by COAH; moderate income units will be reserved for households with a gross household income less than eighty (80) percent of the median income approved by COAH as per N.J.A.C. 5:93-9.15.
 10. The regulations outlined in N.J.A.C. 5:93-9.15 and 9.16 will be applicable for purchased and rental units.
- F. For Rental units, developers and/or municipal sponsors may:
1. Establish one rent for a low income unit and one for a moderate income unit for each bedroom distribution.
 2. Gross rents, including an allowance for utilities, will be established so as not to exceed thirty (30) percent of the gross monthly income of the appropriate household size as per N.J.A.C. 5:93-7.4(a). The utility allowance will be consistent with the utility allowance approved by HUD for use in New Jersey.
- G. For Sale units:
1. The initial price of a low and moderate income owner-occupied single family housing unit will be established so that after a down payment of five (5) percent, the monthly principal, interest, homeowner's insurance, property taxes (based on the restricted value of the low and moderate income unit) and condominium or homeowner fee does not exceed twenty-eight (28) percent of

the eligible gross monthly income.

2. Master deeds of inclusionary developments will regulate condominium or homeowner association fees or special assessments for low and moderate income purchasers at a rate equal to at least thirty three (33) percent, but not more than fifty (50) percent of those paid by market purchasers. These percentages are consistent with the requirement of N.J.A.C. 5:93-7.4(e). Once established within the master deed, the percentage will not be amended without prior approval from COAH.
3. Clayton will 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.
4. Clayton will 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).
5. Municipal, state, non-profit and seller options regarding sale units will be consistent with N.J.A.C. 5:93-9.5 - 9.8. Municipal rejection of repayment options for sale units will be consistent with N.J.A.C. 5:93-9.9.
6. The continued application of options to create, rehabilitate or maintain low and moderate income sale units will be consistent with N.J.A.C. 5:93-9.10.
7. Eligible capital improvements prior to the expiration of controls on sale units will be consistent with N.J.A.C. 5:93-9.11.
8. The regulations detailed in N.J.A.C. 5:93-9.12 - 9.14 will be applicable to low and moderate income units that are for sale units.

H. In zoning for inclusionary developments the following is required:

1. Low and moderate income units will be built in accordance with N.J.A.C. 5:93-5.6(d):

Minimum % of Low/Moderate Income units Completed	% of Market Housing Units Completed
0	25
10	25 + 1 unit
50	50
75	75
100	90

2. A design of inclusionary developments that integrates low and moderate income units with market units is encouraged as per N.J.A.C. 5:93-5.6(f).

I. 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 Clayton will designate Housing Affordability Services (HAS) with the responsibility of ensuring affordability of sale and rental units over time. The HAS will be responsible for those activities detailed in N.J.A.C. 5:93-9.1(a).

1. In addition, HAS will 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.
2. Newly constructed low and moderate income sales units will remain affordable to low and moderate income households for at least thirty (30) years. HAS will require all conveyances of newly constructed units to contain the deed restriction and mortgage lien adopted by COAH and referred to as Appendix E as found in N.J.A.C. 5:93.
3. Housing units created through the conversion of a non-residential structure will be considered a new housing unit and will be subject to thirty (30) year controls on affordability. HAS will require an appropriate deed restriction and mortgage lien subject to COAH's approval.

J. Rehabilitated units:

1. Rehabilitated owner-occupied single family housing units that are improved to code standard will be subject to affordability controls for at least six (6) years.
2. Rehabilitated renter-occupied housing units that are improved to code standard will be subject to affordability controls for at least ten (10) years.

K. Rental units:

1. Newly constructed low and moderate income rental units will remain affordable to low and moderate income households for at least thirty (30) years. HAS will require an appropriate deed restriction and mortgage lien subject to COAH's approval.
2. Affordability controls in accessory apartments will be for a period of at least ten (10) years, except if the apartment is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.13, then the controls on affordability will extend for thirty (30) years.
3. Alternative living arrangements will 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 ten (10) years except if the alternative living arrangement is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.13, then the controls on affordability will extend for thirty (30) years.

- L. Section 14(b) of the Fair Housing Act N.J.A.C. 52:27D-301 et. seq. incorporates the need to eliminate unnecessary cost generating features from Clayton's land use ordinances. Accordingly, Clayton will 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. Clayton will adhere to the components of N.J.A.C. 5:93-10.1 - 10.3.

Section 3. **Affirmative Marketing Requirements**

- A. Clayton has a fair share obligation of one hundred twenty-five (125) units of which ninety-four (94) are new construction. This ordinance will apply to all developments that contain proposed low and moderate income units that are listed below and any future developments that may occur:

Development Names: Rustic Village
 Clayton at Academy
 International Senior Dev. LLC

- B. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of sex, age or number of children, to housing units which are being marketed by a developer/sponsor of affordable housing. It is a continuing program and covers the period of deed restriction. The plan shall address the requirements of N.J.A.C. 5:93-11. In addition, the plan prohibits discrimination in the sale, rental, financing or other services related to housing on the basis of race, color, sex, religion, handicap, age, familial status/size or national origin. Clayton is in the housing region consisting of Burlington, Gloucester and Camden Counties. The affirmative marketing program is a continuing program and shall meet the following requirements:
1. All newspaper articles, announcements and requests for applications for low and moderate income units shall appear in the Gloucester County Times and any other daily regional publications as described by the developer. (One major newspaper is sufficient as long as the combined outreach efforts attract sufficient applicants.)
 2. The primary marketing shall take the form of at least one press release sent to the publications described by the developer above and a paid display advertisement in the Gloucester County Times. Additional advertising and publicity shall be on an "as needed" basis.
 3. The advertisement shall include a description of the:

- street address of the units;
 - direction to the housing units;
 - number of bedrooms per unit;
 - range of prices/rents;
 - size of units;
 - income information; and
 - location of applications including business hours and where/how applications may be obtained.
4. All newspaper articles, announcements and requests for applications for low and moderate income housing shall appear in the following community oriented weekly newspapers, religious publications and organizational newsletters within the region:

The Sentinel

5. The following regional radio and/or cable television station(s) shall be used:
- Comcast Cable (Clayton)
6. The following are locations where applications, brochures, signs, and/or posters used as part of the affirmative marketing program should be placed:
- Clayton Borough Municipal Building
 - Gloucester County Library
 - The developer's sales office
 - Gloucester County Office of Municipal and County Government Services
 - Gloucester County Housing Authority
7. The following is a listing of community contact persons and/or organizations in Camden, Gloucester and Burlington Counties that will aid in the affirmative marketing program with particular emphasis on

contacts that will reach out to groups that are least likely to apply for housing within the region:

- a. Gloucester County Housing Authority
- b. Camden County Housing Authority
- c. Burlington County Housing Authority

8. Quarterly flyers and applications shall be sent to each of the following agencies for publication in their journals and for circulation among their members: Board of Realtors in Burlington, Camden, and Gloucester Counties.
9. Applications shall be mailed to prospective applicants upon request.
10. Additionally, quarterly informational circulars and applications shall be sent to the chief administrative employees of each of the following agencies in the Counties of Burlington, Camden, and Gloucester: Welfare or Social Service Board, Rental Assistance Office (local office of the Department of Community Affairs), Office on Aging, Housing Authority, Library, and Area Community Action Agencies.
11. All developers of low and moderate income housing units shall be required to assist and affirmatively market the affordable units in their respective developments.
12. The HAS is the agency under contract with Clayton to administer the affirmative marketing program. The HAS has the responsibility to income qualify low and moderate income households; to place income eligible households in low and moderate income units upon initial occupancy; to continue to qualify households for reoccupancy of units as they become vacant during the period of affordability controls; to assist with advertising and outreach to low and moderate income households; and to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C. 5:93-9.1. The following service providers have agreed to perform counseling services to low and moderate income households on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements and landlord/tenant law:

- Consumer Credit Counseling Service of the Delaware Valley
- Consumer Credit Counseling Service of South Jersey

The Borough Administrator shall serve as the municipal contact person or liaison.

13. Households who live or work in Burlington, Camden, and Gloucester Counties may be given preference for the sales and rental units constructed within the housing region. Applicants living outside the housing region shall have an equal opportunity for the units after regional applicants have been initially serviced.
14. The marketing program shall commence at least one hundred twenty (120) days before the issuance of either temporary or permanent certificates of occupancy. The marketing program shall continue until all low and moderate income housing units are initially occupied and for as long as affordable units are deed restricted and occupancy or reoccupancy of units continues to be necessary.
15. The developer shall make available to the Borough Administrator and/or the Municipal Planning Consultant any and all information required by COAH to comply with its monitoring and reporting requirements as noted in N.J.A.C. 5:93-11.6 and 12.1.
16. The following sites have been designated in the Housing Element of the Master Plan and its Fair Share Plan as sites for inclusionary development:
 - a. Rustic Village
 - b. Clayton Avenue at Academy Street
17. The following zoning district has an affordable housing obligation:
 - a. The "PA" Planned Apartment District

§ 42. Provision of park and recreation land and facilities; park and recreation escrow account.

A. Reservation of land and Submission of Recreation Escrow Fees

1. Any residential major subdivision with twenty (20) or more dwellings shall reserve land for use as publicly available park and recreation facilities as determined herein, provided however, that the applicant may petition the Planning Board to accept a payment of monies in lieu of reservation, as described below. Recreational facilities for this land shall be installed in accordance with this section.
2. The amount of land to be reserved for park and recreation facilities shall not be less than an amount equal to one (1) acre for each one hundred (100) expected residents, with the minimum dedication set at one (1) acre. For the purposes of determining the anticipated number of persons expected to reside in the development, the applicant may either present demographic data acceptable to the Borough Planning Board or calculate the number of anticipated residents based on the following table, taken from the New Practitioners Guide to Fiscal Impact Analysis (Burchell, et al; Center for Urban Policy Research; Rutgers University Press; 1985):

<u>Unit Type</u>	<u>1BR</u>	<u>2BR</u>	<u>3BR</u>	<u>4BR</u>	<u>5BR</u>	<u>Blended</u>
Single family		2.223	3.258	4.031	4.853	3.384
Garden apartment	1.443	2.175	3.439			1.904
Townhouse	1.695	2.019	2.808			2.441
Two family	1.556	2.320	3.429			2.619

3. Such land shall have a minimum easement of thirty (30) feet to a public street and shall not have an average slope exceeding seven percent (7%) and shall be generally located so as to be accessible to the residents of the development.
4. The recorded plan and deeds shall indicate that no additional development of principal structures can occur in the recreation area. The open space shall be restricted against any future building, development or use, except as is consistent with that of providing for recreational, conservation, agriculture or aesthetic satisfaction of the residents of the development or of the general public. Buildings or uses for non-commercial recreation, cultural, or agricultural purposes compatible with the open space objectives may be permitted only with the express approval of the Planning Board, following the approval of the building and site plans by the

Planning Board.

5. Any land set aside as a recreation area must be made subject to a deed restriction or agreement in a form acceptable to the Planning Board and duly recorded in the office of the Recorder of Deeds of Gloucester County. All documents pertaining to the conveyance and maintenance of the recreation area shall meet the approval of the Planning Board as to legal form and effect.
7. Methods of conveyance - All recreation areas must be conveyed in accordance with one of the methods set forth in Section 34, paragraph A. 6.
8. All major subdivisions shall also contribute \$500 per lot to the Borough Park and Recreation Escrow Account as per Section B.,1, below.

B. Fees in lieu of land.

Any applicant may, at the time of preliminary or final major subdivision approval, petition the Planning Board to accept a voluntary contribution of monies in lieu of land dedication or reservation.

1. Such contribution shall be deposited in the Borough's Park and Recreation Escrow Account to be established by the Borough Council. Such contribution shall be used by the Borough for acquisition of recreation land or for the improvement of the existing recreational facilities that will actually be available to and benefit the persons in said subdivision or land development and located in the general neighborhood of said subdivision or land development. In the event that there are no recreational facilities in the immediate vicinity of the subdivision or land development, such contribution may be used for the acquisition and/or improvement of other Borough-wide recreational facilities.
2. The contribution shall be a cash sum in an amount equal to the fair market value of the area of land that would otherwise been required to have been set aside for park and recreational facilities provided that said sum shall not exceed five hundred dollars (\$500.00) per dwelling unit.
3. Payment of fees in lieu of land dedication or reservation shall be collected by the Planning Board secretary/clerk and are payable prior to the issuance of a building permit for the dwelling unit that it relates to.

4. The Planning Board shall, at its sole discretion, have the authority to accept the offer of payment of fees in lieu of land dedication or reservation of park and recreational facilities or it may decline the offer and require the land dedication or reservation.

C. Required recreation facilities

1. In all residential developments which require recreation facilities the developer shall install, as a minimum, the following recreational facilities on the land which has been set aside for recreational purposes. The Planning Board may alter the schedule of active recreation facilities required at its discretion. Equivalent facilities may be specified by the Planning Board.

Dwell. Units	Tot Lots, ¹	Tennis Courts, ¹	Basket ¹ Court, ²	Play-grounds, ²	Softball Fields, ³
1 to 24	-	-	-	-	-
25-50	1	-	-	-	-
51-150	1	1	1	-	-
151-200	2	2	1	-	-
201-250	2	2	1	1	1
251-350	2	3	1	1	1
351 - 450	3	4	2	1	1

¹ Plus one (1) for every 100 additional units.

² Plus one (1) for every 300 additional units.

³ Plus one (1) for every 400 additional units.

2. The specifications and equipment for individual facilities shall be determined by the Planning Board based on an initial submission by the applicant and the review of same by the Board's professionals and the Park and Recreation Committee. All facilities must meet the Americans with Disabilities Act (ADA) requirements for accessibility.
3. All required facilities shall be completed before fifty-one percent (51%) of the

certificates of occupancy are issued for the completed section, but in any event all recreation facilities shall be completed prior to the issuance of certificates of occupancy for units which are immediately contiguous to such recreational facilities.

4. Contribution in lieu of facilities

- a. The Planning Board may, at its discretion and with the advice of the Parks and Recreation Committee, waive the requirements of this Article in instances where it is deemed that the developer's installation of recreation facilities is undesirable.
- b. In the event that the Planning Board, with the advice of the Parks and Recreation Committee, deems that the developer's installation of recreation facilities is undesirable, the developer shall contribute to the borough's parks and recreation escrow account an amount to be established by the Board predicated upon the actual cost of the facilities that would otherwise be required. The cost of the facilities that would otherwise be required shall be determined by the Borough Engineer.
 - I. The total amount due is assessed and is divided by the number of buildings to determine the fee collectible prior to the issuance of a Zoning Permit for each building. The Zoning Clerk is responsible for collecting the fee.
 - II. Once the fee is collected it shall be forwarded to the Borough Treasurer who shall deposit it in the borough's parks and recreation escrow account. These funds shall be used to offset the cost of Parks and Recreation Capital Improvement Projects which are approved as part of the annual Capital Budget.

D. Park and recreation escrow account.

1. In addition to the open space and recreation facilities requirements of this Article, the developers of non-inclusionary multi-family developments shall pay to the Borough a fee of two hundred and fifty dollars (\$250) per dwelling unit. The Secretary of the Planning Board is responsible for collecting the fee upon final

approval of a site plan. Once the fee is collected it shall be forwarded to the Borough Treasurer who shall deposit it in the boroughs parks and recreation escrow account. These funds shall be used to offset the cost of parks and recreation capital improvement projects which are approved as part of the annual capital budget. The Planning Board may, at its discretion, stipulate that payment of fees for the parks and recreation escrow account shall be in installments based upon the number of new dwelling units shown on the site plan and a payment agreement of reasonable duration shall be submitted to the Board prior to final approval of the site plan.

§ 43. Reverse frontage lots.

- A. Lots with frontage on more than one (1) street are required to create a landscaped buffer along the street frontage(s) without direct driveway access. [Driveway access is not permitted on the higher order street(s).] This landscaped buffer must be a minimum of twenty-five (25) feet in depth from the right-of-way. The landscaping buffer shall be located within an easement that prohibits any structure or building, including fencing, from such easement. The easement shall be in a form acceptable to the Planning Board Solicitor. Any fencing that is installed must have a gate opening to the street without direct driveway access to insure that pedestrian access is provided for maintenance of the required buffer. Corner lots with just two (2) street frontages are not required to place a gate in the fencing facing the street without direct driveway access.
- B. Landscaping within the required street buffer should consist of existing vegetation when it can be properly preserved during construction. In the case where existing vegetation can not be preserved or if there is to be an insufficient existing vegetative screen preserved within this buffer, the Planning Board may require additional landscaping to be provided, including evergreen and deciduous trees and shrubs. See buffer standards in § 33 for guidance in designing these areas.

§ 44. Visibility at street and driveway intersections.

- A. Sight triangle easements shall be required at all street intersections, in addition to the specified right-of-way widths, in which no grading, planting or structure shall be erected or maintained in such a manner as to obscure the vision above the height of three (3) feet and below ten (10) feet, except for street signs, fire hydrants and light standards.

- B. The sight triangle easement for all street intersections is defined as that area outside of the street right-of-way which is bounded by the intersecting street lines and the straight line connecting sight points, one (1) each located on the two (2) intersecting street center lines: arterial streets at one hundred fifty (150) feet; collector streets at one hundred (100) feet; and local streets at thirty (30) feet. Such easement dedication shall be expressed on the plat or plan as follows: "Sight triangle easement deeded for purposes provided for and expressed in the Unified Development Ordinance of Borough of Clayton."

- C. The sight triangle easement for any driveway entry onto a public road is defined as that area outside of the street right-of-way which is bounded by the intersecting street line and a straight line connecting two sight points, one (1) each located fifty (50) feet along each side of the street and a point ten (10) feet back from the street line along the driveway centerline.

§ 45. Residential driveways.

- A. For residential uses, not including multi-family developments:
 - 1. Continuous open driveways in excess of sixteen (16) feet at the street line shall be prohibited.
 - 2. The edge of a paved driveway shall not be closer than three (3) feet to a side or rear property line.

§ 46. **Recreational uses in residential districts.**

A. General.

1. The regulations of this Section shall apply to all open private recreational uses, including swimming pools, which require the installation of permanent surfaces, either at ground level or elevated.
2. Such uses are considered "structures" for the purpose of permits and certain other regulations; however, they are not counted as floor area in computing building coverage.
3. No such use shall be located in a front yard, except that a basketball hoop on a pole must be located at least ten (10) feet from the front property line. Additionally, no such use shall be located less than ten (10) feet from any property line as measured from the edges of any permanent surface, except that such a use may be located five (5) feet from a side or rear property line if a six (6) foot fence is erected for at least twenty (20) feet along that side or rear property line.
4. No such use shall be constructed in the Borough except in accordance with a permit therefore previously secured from the Zoning Officer. The application for said permit shall be accompanied by a plan showing the size and location of any recreational facility and its enclosure and such other information as may be necessary for the Zoning Officer to determine whether said facility complies with the requirements of this Section.
5. Every tennis or paddle tennis court area shall be completely enclosed by a metal chain-link or mesh fence at least nine (9) feet in height but not in excess of twelve (12) feet in height. Appropriate fences for any other type of recreational use may be required at the discretion of the Zoning Officer. The type, quality and method of construction of any required fence shall be approved by the Construction Officer with the intent that said fence shall act as a protection to adjacent properties against interference from stray balls.

B. Special regulations applicable to swimming pools.

1. No private residential swimming pool, as defined in § 6 of this chapter, shall be constructed or installed on any lot unless the lot contains a residential building.

Pools shall be located in rear yard areas only and shall occupy no more than seventy-five percent (75%) of the yard area in which it is located. All swimming pools used for bathing or swimming purposes in which water may collect in excess of a depth of two (2) feet shall be completely enclosed by a fence. Swimming pools shall be located no less than ten (10) feet from any property line as measured from the water line.

2. The type, quality and method of construction of any required fence shall be approved by the Construction Officer with the intent that it shall act as a safeguard and protection to children. Such fence shall be at least four (4) feet in height, but not in excess of six (6) feet, and non-removable. Fences shall have suitable self-latching gates and shall be such as to prevent unauthorized children and stray animals from entering the pool area.
3. No swimming pool shall be constructed in the Borough except in accordance with a permit therefore previously secured from the Zoning Officer, upon written application accompanied by a plan showing the size, shape, and location of the swimming pool and its enclosure and such other information as may be necessary for the Zoning Officer to determine whether the pool complies with the requirements of this chapter.
4. No commercial swimming pool shall be constructed or installed unless approved as part of a site plan approval. Commercial swimming pools shall be classified into types in accordance with their particular use and shall meet the appropriate design standards as set forth by the National Swimming Pool Institute or the Swimming Pool Code of New Jersey, whichever is more stringent.

§ 47. Grading and Basement requirements.

- A. All lots being filled shall be filled with clean fill and/or topsoil to allow complete surface draining of the lot into local storm sewer systems or natural drainage rights-of-way. No construction shall be permitted which creates or aggravates water stagnation or a draining problem on adjacent properties.
- B. The use of basements in conjunction with any development shall be subject to the approval of the Borough Engineer based on a review of a report from a professional engineer, licensed in the state of New Jersey, indicating that the seasonal high water table for the subject property is at least 1' below the surface of the lowest portion of a finished

or unfinished basement floor or crawl space floor. This report must be submitted at the time of a building permit request and must be based on a soil boring(s) or test pit(s) found acceptable by the Borough Engineer

§ 48. **Stripping of topsoil; excavation of clay, sand, gravel or rock.**

A. Topsoil, sod, clay, sand, gravel or rock may be removed only under the following conditions:

1. As a part of the construction or alteration of a building, or the grading incidental to such building;
2. In connection with normal land preparation and maintenance;
3. In connection with the construction or alteration of a street or utility improvement; and
4. As part of a legal, non-conforming commercial resource extraction operation.

B. A soil erosion and sedimentation control permit shall be required in all instances.

§ 49. **Special height limitations.**

A. The height limitations of the respective districts shall not apply to the following, provided that they do not extend more than fifteen (15) feet above the roof line and do not occupy more than twenty percent (20%) of the area of the roof.

1. Church spires or domes.
2. Non-commercial radio and television towers.
3. Chimneys, smokestacks, flag poles and aerials.
4. Elevators, tanks, HVAC and other mechanical equipment, and other projections neither intended nor used for human occupancy, provided they are screened from view of surrounding properties and streets.

B. Height limitations.

The height limitations of the respective districts shall not apply to the following, provided that they do not extend more than four (4) feet above the roof line:

1. Cornices.
2. Parapets.

§ 50. Prohibited uses.

A. All uses not expressly permitted in this chapter are prohibited. The following uses are specifically prohibited in every district:

1. Junk yards, including automobile or motor vehicle junk yards or wrecking establishments.
2. No single recreational vehicle or boat may be used for living or housekeeping purposes within the Borough, except as provided for by the Code of the Borough of Clayton.
3. Outdoor storage of any type shall not be permitted unless such storage is a part of the normal operation of a use conducted on the premises subject to design and performance standards for the prevailing district and provided further that the following requirements are conformed with:
 - a. All outdoor storage facilities shall be enclosed by an opaque fence adequate to conceal the facilities from any adjacent properties.
 - b. No materials or wastes shall be deposited upon a lot in such form or manner that may be transferred off the lot by natural causes or forces.
 - c. All material or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.
 - d. Flammable or explosive liquids, solids, or gases shall be permitted to be stored in above ground storage tanks only if the proposed use and structure

meet the requirements of the Uniform Construction Code of the State of New Jersey and the Fire Prevention Code, as used by the Borough of Clayton officials. In addition, above ground storage tanks are not permitted in any front yard and shall be sufficiently buffered from any adjoining use.

4. Private sanitary landfills.
5. Commercial resource extraction operations.
6. Any use of a heavy industrial nature which is not similar in character to those permitted in the I Industrial District. Examples of such uses are power generation plants and the manufacturing of automobiles, steel, and similar products.
7. The overnight parking of any vehicle with a gross weight in excess of twelve thousand five hundred (12,500) lbs. or with more than two (2) axles shall be prohibited in all residential districts, unless otherwise approved by the Borough Council.
8. No temporary or portable building, structure or vehicle (including tractors or trailers) shall be placed, parked or situated upon any lot in the Borough for dwelling purposes, and no temporary or portable building, structure or vehicle (including tractors or trailers) in excess of one hundred twenty (120) square feet shall be parked, placed or situated on any lot in the Borough for the purpose of storage, office use, manufacturing or the retail or wholesale marketing or sale of any goods, services, products or items of any kind.

B. Enforcement, Violations and Penalties.

1. It shall be the duty of the Construction Official, Zoning Officer or local Police Department of the Borough of Clayton to administer and enforce the provisions of Section 50.
2. Any person found guilty of any violation of this section shall be subject to a fine not to exceed the sum of one thousand (\$1,000.00) dollars or imprisonment in the county jail for a term not to exceed ninety (90) days or both.

§ 51. Manufactured housing and pre-manufactured buildings.

A. Manufactured housing, as defined by the Municipal Land Use Law (C.40:55D-102), and pre-manufactured buildings, as permitted by the New Jersey Uniform Construction Code (C.52:27D-119 et seq.), including those created by the joining of several sections constructed at another location, shall be permitted in every residential zoning district, subject to the following regulations:

1. The unit must comply with all regulations, including area and bulk standards, of the underlying zoning district.

2. The unit must comply with all state and federal standards for manufactured housing or pre-manufactured buildings.
3. The unit must be mounted on a permanent foundation which is installed either partially or entirely below grade and which is:
 - a. capable of transferring all design loads imposed by or upon the structure into soil or bedrock without failure;
 - b. placed at an adequate depth below grade to prevent frost damage, and
 - c. constructed of material approved under the New Jersey Uniform Construction Code.

§ 52. Accessory buildings and structures in residential districts.

A. The following supplemental and general regulations regarding accessory buildings and structures shall be observed in all residential districts where applicable:

1. No accessory building shall exceed one (1) story or seventeen (17) feet in height, whichever is less.
2. No private garage may be erected within a front yard and no such building may be erected in a side or rear yard unless:
 - a. It is entirely separated from the principal building.
 - b. It is located at least five (5) feet farther back from the front street line than the rearmost portion of the principal building.
- 2A. No accessory building may be erected within a front yard and no such building may be erected in a side or rear yard unless:
 - a. It is located at least two (2) feet from any property line and at least two (2) feet farther back from the street line than the frontmost portion of the principal building excluding any porches and at least five (5) feet from the principal building and cannot exceed twelve (12) feet to the top of the ridge. This section does not apply to detached garages.
3. Notwithstanding the provisions of this Subsection, no accessory building may be located in any yard which abuts a street.

§ 53. Projections into required yards.

- A. No part of a building shall be erected within, or shall project into any required yard area except as follows:
1. Cornices, projecting eaves, gutters or chimneys may project a distance of up to thirty (30) inches into a required yard area.
 2. Steps and awnings may project up to five (5) feet into a required yard area.
 3. Handicapped ramps may project thirteen (13) feet into a required yard, however, they may not be any closer than three (3) feet to a property line.

§ 54. Reduction or modification of existing lots.

- A. No existing lot area shall be so reduced that the area of the lot, or the dimensions of the open spaces, shall be smaller than herein prescribed in a district.
- B. No lot shall be formed from part of an existing lot already occupied by a building unless the existing building and any proposed building shall each be able to meet the area and yard requirements prescribed for the district in which they are located.
- C. No yard or open space required in connection with any building shall be considered as providing required open space for any other building.
- D. Any existing lot area or yard depth may be reduced for the purpose of providing a right-of-way for a public street as required by an agency of the government entity having jurisdiction over said street.

§ 55. Lot configuration.

- A. Insofar as is practical, side lot lines shall be either at right angles or radial to street lines.
- B. Each lot must front upon an approved public street with a right-of-way at least fifty (50) feet in width.
- C. Where extra width has been dedicated for widening of existing streets, lots shall begin at such new street line and all setbacks shall be measured from such line.

§ 56. Fences.

- A. No fence shall be erected in any zoning district within the right-of-way of a street.
- B. No fence shall exceed six (6) feet in height except as authorized by the Planning Board as a conditional use. However, fences to be located at electrical, telephone, gas and municipal utilities may be a maximum height of eight (8) feet by right.
- C. No fence in any zoning district shall be constructed of, or topped with, barbed wire, concertina wire, broken glass, electrified wires, or any other materials which may be considered dangerous unless approved as a conditional use by the Planning Board.
- D. All fences shall be constructed so that a finished side is exposed to the outside of the property line.
- E. All fences shall be maintained in an adequate manner so that broken elements are promptly replaced and elements requiring paint are painted as necessary.
- F. Fences shall not be constructed of corrugated metal.
- G. Fences may only be located in a front yard if the fence is four (4) feet or less in height . (See § 43. Reverse frontage lots for exceptions.)
- H. In multi-family, townhouse, or garden apartment developments, fences shall only be permitted in the side and rear yards when designed as privacy fences around patios and when designed to be compatible with the architecture of the building. Fences in the front yards of such developments shall not be permitted except as part of a plan to provide fencing for the entire development. However , fences are permitted in required buffers as noted in § 33.
- I. See § 43. for the permitted placement of fences on reverse frontage lots.

§ 57. Environmental regulations.

- A. Use of lands in flood plains, wetlands and wetland buffers. Lands which are located within the one hundred (100) year flood plain of a stream or lands which are classified by the New Jersey Department of Environmental Protection and Energy (NJDEPE) as

wetlands or wetland transition buffers may be used only as permitted by the NJDEPE.

B. Site Environmental Assessment.

1. A Site Environmental Assessment shall be prepared by qualified firms or individuals and shall be submitted to the Borough with an application for development. The minimum required scope of work for the Site Environmental Assessment shall include:
 - a. Records review;
 - b. Site inspection;
 - c. Interviews; and
 - d. Preparation of report.

2. Records review - Regulatory agency file data and existing environmental reports should be reviewed to determine if any existing documents show that the site was used for waste disposal or burial, and to determine if the site has previously been identified as a suspected source of contamination. The minimum documents that should be reviewed include, but are not limited to:
 - a. Federal Environmental Protection Agency (EPA) and New Jersey databases should be reviewed to determine if National Priority List (Superfund NPL) or State Superfund sites, or other alleged contamination sites are located within one thousand (1,000) feet of the proposed development site.
 - b. Historical aerial photographs from the 1950's (or earlier, if available) to current periods should be reviewed. The photographs should be inspected for signs of dumps, excavations, vegetation stress, or other feature indicative of contamination, both on and adjacent to the site. The preferred scale of the photographs is one inch (1") equals four hundred (400) feet.
 - c. Recorded land title records and/or chain of title and/or property tax file indicating property ownership from 1940 to the present.

3. Site inspection - The applicant's environmental consultant should physically inspect the site and collect information on these subjects, as appropriate, to identify past or current practices which could cause soil or groundwater contamination, or which could cause contamination in any structures at the site, but not limited to:

- a. Past and current materials use;
 - b. Storage, handling, and disposal of wastes at the subject property, as applicable;
 - c. The number and location of chemical storage containers, such as drums and storage tanks, and the materials stored in these;
 - d. Transformers and capacitors at or directly adjacent to the property for signs of leaks, spills, and fires; and
 - e. The properties and structures around the site to document evidence of obvious and severe impacts from the adjacent properties on the subject site. Examine exteriors of adjacent buildings and grounds of adjacent properties for evidence of staining and spills.
4. Interviews - The applicant's environmental consultant should conduct interviews with local government officials, occupants and adjoining property owners relative to obtaining information indicating recognized environmental conditions in connection with the property. The interviews shall generally confirm:
- a. The prior uses of the site;
 - b. Conditions or events related to environmental conditions;
 - c. Questions about helpful documents;
 - d. Prior assessment; and
 - e. Proceedings involving the site.
5. Report preparation - The applicant's environmental consultant should prepare a report that includes, but is not limited to:
- a. Description of the physical site, description of the site history and surrounding land use.
 - b. A USGS topographic map indicating the location of the site.
 - c. List of the environmental reports, permits and background documents reviewed. List of interviewees.
 - d. Discussion of causes of environmental concern as applicable, such as underground storage tanks, PCBs, asbestos and other applicable environmental hazards.
 - e. Statements regarding the presence of wells on the site, and a statement regarding the presence or past presence of septic systems or other subsurface disposal systems.

- f. The results of contacts with regulatory agencies concerning potential contaminated sites in the site vicinity.
 - g. Prints of all aerial photographs.
 - h. A table that indicates the dates of property ownership from 1940 to the present, and the corresponding property use(s) for those years, if known.
 - i. Discussion of potential contamination in the soil and groundwater of the site.
 - j. The resume or curriculum vitae of the individual(s) who performed the environmental assessment. The resume or curriculum vitae should indicate that the assessor has knowledge of current environmental investigative techniques and standards.
6. Certification - The Site Environmental Assessment report shall include a statement as follows: "[Name of the Environmental Company] has performed this Site Environmental Assessment with diligence; it is complete and accurate within its scope. To the best of our knowledge, no contamination-related condition associated with the property has been misrepresented or omitted from this report."
7. Indemnification - The Site Environmental Assessment report shall also include the following statement: "The Applicant hereby indemnifies the Borough, its affiliates and Engineer against any liability, loss, expense, lien, claim demand, and cause of action of every kind for damage to property of the Applicant and third parties, including fines or penalties, attorney's fees, and other costs that result from activities associated with or the findings of this Site Environmental Assessment."
8. Waiver - All requests for waiver of requirements of the Site Environmental Assessment may be forwarded to the Environmental Committee for their recommendations. The request for waiver shall include justifications for relieving the requirements. If the request was forwarded to the Environmental Committee, the Committee shall respond with recommendations within thirty (30) days.
9. Further requirements - Upon review of the Site Environmental Assessment report by the Planning Board Engineer, as the case may be, and upon the recommendation of said Engineer, the Planning Board may require other studies, tests, or environmental treatments and remedies as may be determined to be reasonably necessary for the environmental safety and security of the site.

§ 58. Non-conforming structures, uses and lots.

A. Continuation.

1. Any use, located either within a building or other structure, or on the land, which was legally non-conforming prior to the effective date of this chapter or was lawful immediately prior to the effective date of this chapter but which became non-conforming by virtue of this chapter, may be continued so long as the use is continued without abandonment, including subsequent sales of the property.
2. Any non-conforming use or structure existing at the time of the passage of this ordinance may be continued upon the lot or in the structure so occupied and any such structure may be restored or repaired in the event of partial destruction thereof amounting to not more than seventy-five percent (75%) of the structure.
3. Any lot which was lawful at the time of its creation but which is non-conforming by virtue of this chapter, may be continued to be used for the use existing at the time the lot became non-conforming. Any subsequent use of the lot which requires variances from the provisions of this chapter shall be governed by the Planning Board.

B. Expansion of non-conforming uses, buildings or structures.

1. The expansion of non-conforming uses, buildings, or structures may take place only upon the approval of the Planning Board in accordance with the Municipal Land Use Law (P.L. 1975, c. 291 (C.40:55D-70,d (2).)

C. Abandonment.

1. A non-conforming use of land or of a building shall be presumed to have been abandoned if it is found that some overt act or failure to act carrying a sufficient implication that the owner neither claims nor retains any interest in the use or structure considered abandoned and there has been an intention to abandon the use or structure.

E. Certificate of non-conformity.

1. The prospective purchaser, prospective mortgagee, or any other person interested in

any land upon which a non-conforming use or structure exists may apply in writing for the issuance of a certificate certifying that the use or structure existed before the adoption of the ordinance which rendered the use or structure non-conforming. The burden of proof shall be entirely upon the applicant.

2. The Zoning Officer may issue a certificate of non-conformity within one year of the adoption of the ordinance which rendered the use or structure non-conforming or the Planning Board may issue said certificate at any time. Denial by the Zoning Officer is appealable to the Planning Board.
3. A reasonable fee, as established by the Borough Council, may be charged for the certificate of non-conformity.

§ 59. Temporary construction and/or sales trailers.

Temporary construction and/or sales trailers are permitted in all districts subject to the approval of a Zoning Permit. A construction trailer may be at the site for the period of construction beginning with the issuance of a construction permit and concluding before a certificate of occupancy is granted, or one (1) year, whichever is less. A sales trailer may be at the site for the period beginning with the posting of bonds for the project and concluding before a certificate of occupancy is granted (or the last certificate of occupancy in the case of a residential project), or one (1) year, whichever is less. Construction and sales trailers shall be set back from all street and lot lines at least thirty (30) feet. Any temporary construction or sales signage must comply with the standards as noted in § 40.

§ 60. Collection or storage of recyclable materials in multifamily housing.

- A. There shall be included in any new multifamily housing development that requires subdivision or site plan approval an indoor or outdoor recycling area for the collection and storage of residentially-generated recyclable materials. The dimensions of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with anticipated usage and with current methods of collection in the area in which the project is located. The dimensions of the recycling area and the bins or containers shall be determined in consultation with the municipal recycling coordinator, and shall be consistent with the district recycling plan adopted pursuant to section 3 of P.L. 1987, c.102 (N.J.S.A. 13:1E-99.13) and any applicable requirements of the municipal master plan, adopted pursuant to section 26 of

P.L. 1987, c.102.

- B. The recycling area shall be conveniently located for the residential disposition of source separated recyclable materials, preferably near, but clearly separated from, a refuse dumpster.
- C. The recycling area shall be well lit, and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling area, and the bins or containers placed therein, against theft of recyclable materials, bins or containers.
- D. The recycling area or the bins or containers placed therein shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid, or otherwise covered, so as to keep the paper or cardboard dry.
- E. Signs clearly identifying the recycling area and the materials accepted therein shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.
- F. Landscaping and/or fencing shall be provided around any outdoor recycling area and shall be developed in an aesthetically pleasing manner.

Article VII. Planning Board

§ 61. Establishment and composition of the Planning Board.

A. Establishment.

A Planning Board is hereby created for the purposes set forth in this chapter and for such other duties as may from time to time be assigned to it by the Borough Council. The Planning Board shall consist of nine (9) members and two (2) alternates, who shall be designated "Alternate No. 1" and "Alternate No. 2."

B. Membership.

1. Members shall be appointed according to the following classes:
 - a. Class I - The Mayor or the Mayor's designee in the absence of the Mayor.
 - b. Class II - One (1) of the officials of the Borough other than a member of the Borough Council, to be appointed by the Mayor. However, if there is an Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be deemed to be the Class II Planning Board member for purposes of this chapter in the event that there be among the Class IV or alternate members of the Planning Board a member of the Board of Education.
 - c. Class III - A member of the Borough Council to be appointed by it.
 - d. Class IV - Other citizens of the Borough, to be appointed by the Mayor. Members of Class IV shall hold no other municipal office, position or employment except that one (1) member may be a member of the Historic Preservation Commission, if established pursuant to N.J.S.A. 40:55D-1 and one (1) member may be a member of the Board of Education. If there is an Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be a Class IV member unless there be among the Class IV or alternate members of the Planning Board a member of the Board of Education, in which case the member common to the Planning Board and Environmental Commission shall be deemed a Class II member of the Planning Board. For

the purposes of this section, membership on a Borough board or Commission whose function is advisory in nature, and the establishment of which is discretionary and not required by statute, shall not be considered the holding of a Borough office.

2. Terms of members.
 - a. The term of the member composing Class I shall correspond with his official tenure. The terms of the members composing Class II and Class III shall be for one (1) year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the Environmental Commission. The term of a Class II (or Class IV) member who is also a member of the Environmental Commission shall be for three (3) years or terminate at the completion of his term as a member of the Environmental Commission, whichever comes first.
 - b. All present Class IV members of the Planning shall continue in office until the completion of the terms for which they were appointed. The term of a Class IV member who is also a member of the Board of Education shall terminate whenever he or she is no longer a member of such other body or at the completion of his or her Class IV term, whichever comes first.
 - c. The terms of Class IV regular members first appointed pursuant to this chapter shall be so determined that to the greatest practicable extent the expiration of such term shall be evenly distributed over the first four (4) years after their appointment, provided that the initial term shall not exceed four (4) years. Thereafter the term of each Class IV regular member shall be four (4) years. All terms shall run from January 1 of the year in which the appointment is made.
3. Members and alternates shall not participate in any hearing in which they have, either directly or indirectly, any personal or financial interest.
4. Any member or alternate other than the Mayor, after a public hearing if he or she requests it, may be removed by the Borough Council for cause.

5. Alternate members.
 - a. Alternate members shall be appointed by the Mayor and shall meet the qualifications of Class IV members.
 - b. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member.
 - c. A vote shall not be delayed to permit the voting of an absent regular member.
 - d. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 will vote.

§ 62. Powers of the Planning Board.

A. The Planning Board shall have to power to:

1. Prepare, maintain, adopt and administer the master plan.
2. Prepare, maintain, and administer the subdivision, site plan, and zoning ordinances within this chapter and hear and decide applications made pursuant thereto.
3. Prepare, maintain, and administer the official map.
4. Prepare a capital improvements program.
5. Review proposed amendments to the subdivision, site plan, and zoning ordinances within this chapter and the official map, and make recommendations regarding the same to the Borough Council.
6. Hear and decide applications for conditional uses.
7. Hear and decide applications for variances and certain building permits when in conjunction with applications for subdivision, site plan and conditional use approval pursuant to Article 8 of N.J.S.A. 40:55D-1 et seq.

B. The Planning Board may:

1. Participate in the exercise and review of programs or plans required by State or Federal law or regulation.

2. Assemble data on a continuing basis as part of a continuous planning process.
 3. Perform such other advisory duties as may be requested of it by the Borough Council.
- C. When acting as the Zoning Board of Adjustment, the Planning Board shall have the power to:
1. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning provisions of this chapter.
 2. Hear and decide requests for interpretation of the zoning map, zoning provisions of this chapter, official map, or for decisions upon other special questions upon which the Board is authorized to pass.
 3. Hear and decide variance requests pertaining to:
 - a. "c" variances.
 - 1). Where (a). by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b). by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c). by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or structures lawfully existing thereon, the strict application of any regulation of the zoning provisions of this chapter would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship.
 - 2). Where in an application or appeal relating to a specific piece of property the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning provisions of this chapter and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from the zoning provisions of this chapter;

provided; however, that no variance from those departures enumerated in subsection 3.b. of this section shall be granted under this subsection;

b. "d" variances.

In particular cases and for special reasons, grant a variance to allow departure from the zoning provisions of this chapter to permit:

- 1). A use or principal structure in a district restricted against such use or principal structure.
- 2). An expansion of a non-conforming use.
- 3). Deviation from a specification or standard pertaining solely to a conditional use.
- 4). An increase in the permitted floor area ratio.
- 5). An increase in the permitted density, except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision.
- 6). A height of a principal structure which exceeds by ten (10) feet or ten percent (10%) of the maximum height permitted in the district for a principal structure.

Variances granted under this subsection shall be granted only by affirmative vote of at least five (5) members. When considering applications under this section, the Class I and the Class III members shall not participate in the applications for development.

- c. Negative Criteria - No variance or other relief may be granted under the terms of this section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning provisions of this chapter.

4. Exercise such other powers which are authorized by N.J.S.A. 40:55D-76.

§ 63. **Organization and advisory bodies of the Planning Board.**

A. Organization.

1. The Planning Board shall elect a chairperson and vice-chairperson from one of its members of Class IV.
2. The Planning Board shall select a secretary who may or may not be a member or a municipal employee.
3. The Borough Council shall make provision in its budget and appropriate funds for the expenses of the Planning Board.
4. The Planning Board may employ, or contract for, and fix the compensation of legal counsel, other than the municipal attorney, and experts and other staff and services as it may deem necessary, not exceeding, exclusive of gifts or grants, the amount appropriated by the Borough Council for its use.
5. The Borough Council may establish in the Salary Ordinance a manner of compensation and reimbursement of expenses for members and alternates of the Planning Board.

B. Advisory bodies.

1. A citizens' advisory committee may be appointed by the Mayor, and shall serve at the pleasure of the Mayor, to assist or collaborate with the Planning Board in its duties, but such person or persons shall have no power to vote or take other action required of the Board.
2. The Planning Board shall make available to the Environmental Commission an informational copy of every application submitted for development, although failure on the part of the Planning Board to make such informational copy available to the Environmental Commission shall not invalidate any hearing or procedure.

§ 64. **Annual report.**

A. Annual report.

1. The Planning Board, in its capacity as Zoning Board of Adjustment shall, at least once a year, review its decisions on applications and appeals for variances and

prepare and adopt by resolution a report of its findings on the zoning provisions of this chapter which were the subject of variance requests.

2. The report shall contain recommendations relative to amendments or revisions to the zoning provisions of this chapter, if any.
3. The report shall be sent to the Borough Council.

§ 65. Appeals and applications to the Planning Board when acting as the Zoning Board of Adjustment.

A. Appeals and applications.

1. Appeals to the Planning Board may be taken by any interested party affected by any decision of the Administrative Officer of the Borough based on or made in the enforcement of the zoning provisions of this chapter or the official map.
2. Such appeal shall be taken within twenty (20) days by filing a notice of appeal with the Administrative Officer, specifying the grounds of such appeal.
3. The Administrative Officer shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
4. A developer may file an application for development with the Planning Board for action under any of its powers without prior application to the Administrative Officer.

B. Time for decision.

1. The Planning Board shall render a decision not later than one hundred twenty (120) days after the date:
 - a. An appeal is taken from the decision of the Administrative Officer, or
 - b. The submission of a complete application for development to the Planning Board.
2. Failure of the Planning Board to render a decision within the prescribed time period or within such further time as may be consented to by the developer, shall

constitute a decision favorable to the developer. If an applicant elects to submit separate consecutive applications for "d" variance approval and site plan, subdivision or conditional use approval, the one hundred twenty (120) day time period for action shall apply to the application for approval of the "d" variance, and the time period for granting or denying any subsequent approval shall be as otherwise provided in this chapter.

C. Modification of appeal.

The Planning Board may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from and to that end have all the powers of the Administrative Officer from whom the appeal is taken.

D. Stay of proceedings by appeal; exception.

1. An appeal to the Planning Board shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the Administrative Officer certifies to the Board, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property.
2. In such case, proceedings shall not be stayed other than by order of the Superior Court upon notice to the Administrative Officer and on due cause shown.

§ 66. Meetings of the Board .

- A. Regular meetings of the Planning Board shall be fixed for the entire calendar year and set for a certain time and place. Regular meetings shall be scheduled no less than once a month and shall be held as scheduled unless canceled for lack of applications for development to process.
- B. Special meetings may be held at the call of the Chairman or on the request of any two (2) Board members, and which shall be held on notice to its members and the public in accordance with all legal requirements.
- C. No action shall be taken at any meeting without a quorum being present, said quorum to be the majority of the full authorized membership of the Board.
- D. All actions shall be taken by a majority vote of the members of the Board at the meeting except as otherwise required by N.J.S.A. 40:55D-1 et seq. A member of the Board who

was absent for one (1) or more of the meetings at which a hearing was held shall be eligible to vote on a matter upon which the hearing was conducted provided, however, that such Board member certifies in writing to the Board that he or she has read a transcript or listened to a recording of all of the hearings from which he or she was absent.

- E. All regular and special meetings shall be open to the public and notice of all such meetings shall be given in accordance with State requirements.
- F. Minutes of every regular and special meeting shall be kept and shall include the names of the persons appearing and addressing the Board and of the persons appearing by attorney, the action taken by the Board, the findings, if any, made by it and reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the Administrative Officer. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceedings concerning the subject matter of such minutes. Such interested party shall be charged a reasonable fee for the reproduction of the minutes, as indicated in § 84. of this chapter.

§ 67. Public hearings

- A. The Planning Board shall hold a hearing on each application for development. Each Board shall make rules governing such hearings.
- B. Any maps and documents for which approval is sought at a hearing shall be on file and available for public inspection at least ten (10) days before the date of the hearing during normal business hours in the office of the Administrative Officer. The developer may produce other documents, records, or testimony at the hearing to substantiate, clarify, or supplement the previously filed maps and documents.
- C. The officer presiding at the hearing or such person as he may designate shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipality Investigations Law (C. 2A:67A-1 et seq.) shall apply.
- D. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and reasonable limitations as to time and number of witnesses.

- E. A verbatim recording shall be made of every hearing. The recording of the proceedings shall be made either by stenographic, mechanical or electrical means. The Borough shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his or her expense, provided that the charge for a transcript shall not exceed the maximum amount permitted in N.J.S.A. 2A:11-15 and as indicated in § 84. of this chapter. Each transcript shall be certified in writing by the transcriber to be accurate.
- F. If an applicant desires a certified court reporter, the costs of taking testimony and transcribing it and providing a copy of the transcript to the Borough or court shall be at the expense of the applicant, who shall also arrange for the attendance by the reporter. All costs for transcription of the record before the applicable Board shall be the entire and sole obligation of the applicant or appellant, whichever requests the transcript. The obligation to obtain and pay for such transcript shall be solely that of the applicant or appellant who requests the transcript.

§ 68. Public notice of hearings.

- A. Public notice of a hearing shall be given by the developer for the following applications for development:
 - 1. Any request for a variance.
 - 2. Any request for conditional use approval.
 - 3. Any request for issuance of a permit to build within the bed of a mapped street or public drainageway or on a lot not abutting a street.
 - 4. Any request for minor or major site plan and/or subdivision approval involving one (1) or more of the aforesaid elements.
 - 5. Any request for preliminary approval of a major subdivision.
- B. The Administrative Officer shall notify the developer at least two (2) weeks prior to the public hearing at which the application will be discussed. Notice of a hearing requiring public notice shall be given by the developer at least ten (10) days prior to the date of the hearing in the following manner:
 - 1. By publication in the official newspaper of the Borough, if there is one, or in a newspaper of general circulation in the Borough.

2. By notice to all owners of real property located in the State and within two hundred (200) feet in all directions of the property which is the subject of the hearing, as such owners are shown in the current tax duplicate, provided that this requirement shall be deemed satisfied by notice to the (a.) condominium association, in the case of any unit owner whose unit has a unit above or below it, or (b.) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given by serving a copy on the property owner, as shown on the current tax duplicate, or his agent in charge of the property or by mailing a copy thereof by certified mail to the property owner at his address as shown on the current tax duplicate. It is not required that a return receipt is obtained as notice is deemed complete upon mailing.
3. Notice to a partnership owner may be made by service to any partner. Notice to a corporate owner may be made by service upon its president, vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowner's association, because of its ownership of common elements or areas located within two hundred (200) feet of the property which is the subject of the public hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.
4. To the clerk of any adjoining municipality or municipalities when the application for development involves property located within two hundred (200) feet of said municipality or municipalities. Notice shall be given by personal service or certified mail.
5. To the Gloucester County Planning Board when the application for development involves property adjacent to an existing County road or proposed road shown on the County Official Map or on the County Master Plan, adjoining other County land or situated within two hundred (200) feet of a municipal boundary. Notice shall be given by personal service or certified mail.
6. To the Commissioner of Transportation of the State of New Jersey when the property abuts a State highway. Notice shall be given by personal service or certified mail.
7. To the State Planning Commission when the application for development involves property which exceeds one hundred fifty (150) acres or five hundred (500)

- E. A verbatim recording shall be made of every hearing. The recording of the proceedings shall be made either by stenographic, mechanical or electrical means. The Borough shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his or her expense, provided that the charge for a transcript shall not exceed the maximum amount permitted in N.J.S.A. 2A:11-15 and as indicated in § 84. of this chapter. Each transcript shall be certified in writing by the transcriber to be accurate.
- F. If an applicant desires a certified court reporter, the costs of taking testimony and transcribing it and providing a copy of the transcript to the Borough or court shall be at the expense of the applicant, who shall also arrange for the attendance by the reporter. All costs for transcription of the record before the applicable Board shall be the entire and sole obligation of the applicant or appellant, whichever requests the transcript. The obligation to obtain and pay for such transcript shall be solely that of the applicant or appellant who requests the transcript.

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 - 3. Any request for issuance of a permit to build within the bed of a mapped street or public drainageway or on a lot not abutting a street.
 - 4. Any request for minor or major site plan and/or subdivision approval involving one (1) or more of the aforesaid elements.
 - 5. Any request for preliminary approval of a major subdivision.
- B. The Administrative Officer shall notify the developer at least two (2) weeks prior to the public hearing at which the application will be discussed. Notice of a hearing requiring public notice shall be given by the developer at least ten (10) days prior to the date of the hearing in the following manner:
 - 1. By publication in the official newspaper of the Borough, if there is one, or in a newspaper of general circulation in the Borough.

dwelling units, in which case the notice shall include a copy of any maps or documents required to be filed with the Borough.

8. Notice of hearings on applications for approval of a major subdivision or a site plan, not defined as a minor site plan by this chapter, requiring public notice pursuant to subsection A. of this Section shall be given to public utilities, cable television companies or local utilities which possess a right-of-way or easement within the Borough and which has registered with the Borough in accordance with N.J.S.A. 40:55D-1 et seq. Notice shall be given by personal service or certified mail to the person whose name and address appears on the registration form.
- C. Upon the written request of a developer, the Administrative Officer shall, within seven (7) days, make and certify a list from the current tax duplicates of names and addresses of owners within the Borough to whom the developer is required to give notice. In addition, the Administrative Officer shall include on the list the names, addresses and positions of those persons who, not less than seven (7) days prior to the date on which the developer requested the list, have registered to receive notice pursuant to subsection B.8. of this Section. The developer shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner or to any public utility, cable television company, or local utility not on the list shall not invalidate any hearing or proceeding. A sum not to exceed \$0.25 per name, or \$10.00, whichever, is greater, may be charged for such list.
- D. The developer shall file an affidavit of proof of service with the Planning Board.
- E. The notice shall state the date, time and place of the hearing, the nature of the matters to be considered, an identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the Borough Tax Assessor's office, and the location and times at which any maps and documents for which approval is sought are available for inspection.

§ 69. Notice Requirement for Hearing on Change to the Zoning Classification or Boundaries

- A. Notice of a hearing on an amendment to the zoning ordinance proposing a change to the classification or boundaries of a zoning district, exclusive of classification or boundary changes recommended in a periodic general reexamination of the master plan by the Planning Board pursuant to section 76 of P.L. 1975, c. 291 (C. 40:55D-89), shall be given prior to adoption in accordance with the provisions of this ordinance.

- B. A notice pursuant to this section shall state the date, time and place of the hearing, the nature of the matter to be considered and an identification of the affected zoning districts and proposed boundary changes, if any, by street names, common names or other identifiable landmarks, and by reference to lot and block numbers as shown on the current tax duplicate in the municipal tax assessor's office.

§ 70. Decisions.

- A. The Board shall include findings of fact and conclusions based thereon in each decision on any application for development and shall reduce the decision to writing.
- B. The Board may provide such written decision and findings and conclusions either on the date of the meeting at which the Board grants or denies approval or, if the meeting at which such action is taken occurs within the final forty-five (45) days of the applicable time period for rendering a decision on the application for development, within forty-five (45) days of such meeting by the adoption of a resolution of memorialization setting forth the decision and findings and conclusions of the Board.
- C. Failure of a motion to approve an application for development to receive the number of votes required for approval shall be deemed an action denying the application. An action resulting from the failure of a motion to approve the application shall be memorialized by resolution as provided above.
- D. The adoption of a resolution of memorialization pursuant to this subsection shall not be construed to alter the applicable time period for rendering a decision on the application for development. Such resolution shall be adopted by a vote of the majority of the Board members who voted for the action previously taken, and no other member shall vote thereon. The vote of such a resolution shall be deemed to be a memorialization of an action taken by the Board and not to be an action of the Board, except that failure to adopt such a resolution within the forty-five (45) day period shall result in the approval of the application for development, notwithstanding any prior action taken thereof.
- E. Whenever a memorialization is adopted, the date of such adoption shall constitute the date of the decision for purposes of the mailings, filings, and publications specified in § 71. of this chapter.

§ 71. Appeal of decisions by the Board.

- A. All appeals of decisions made by the Planning Board, except as noted below, shall be taken directly to the Superior Court of New Jersey and not to the Borough of Clayton Council.
- B. Any interested party may appeal to the Borough of Clayton Council any final decision of the Planning Board involving the granting of a variance as specified in N.J.S.A. 40:55D-70d. Such appeals shall be decided upon the record established by the Board of Adjustment. The filing and hearing of such appeals shall be in accordance with the provisions of N.J.S.A. 40:55D-17.

§ 72. Notice of decision.

- A. Any decision of the Planning Board when acting upon an application for development and any decisions of the Borough Council when acting upon an appeal shall be given notice in the following manner:
 - 1. A copy of the decision shall be mailed by the municipal agency within ten (10) days of the date of the decision to the developer or appellant or, if represented, then to his attorney, without separate charge. A copy of the decision shall also be mailed within ten (10) days to any interested party who has requested it and who has paid the fee prescribed in § 84. of this chapter.
 - 2. A brief notice of the decision shall be published in the official newspaper of the Borough. Such publications shall be arranged by the Secretary of the Planning Board or the Borough Clerk, as the case may be, without separate charge to the developer other than that collected for publication at the time of submittal of the application. The notice shall be sent to the official newspaper for publication within ten (10) days of the date of the decision.
 - 3. A copy of the decision shall also be filed in the office of the Administrative Officer, who shall make a copy of such filed decision available to any interested party upon payment of a reasonable fee and available for public inspection at the office during business hours.

Article VIII. Review and Approval Procedures

§ 73. Purpose.

The purpose of this article is to provide procedures for the review and approval of applications for subdivisions, site plans, conditional uses, and general development plans in the Borough of Clayton.

§ 74. Applicability of requirements.

- A. Subdivision review - All subdivisions, as defined under Article II. of this chapter, are subject to the review procedures specified herein.
- B. Site plan review - Site plan review and approval shall be required before any development, change of use, or before any excavation, removal of soil, clearing of a site, or placing of fill on lands or before any change to an existing driveway or to the arrangement of existing parking spaces; and, except as otherwise provided, no building permit shall be issued for any building use or reduction, or enlargement in size or other alteration of any building or change in the use of a 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 conform to the plans as approved by the reviewing Board except for the following:
 - 1. A construction permit for a single-family detached dwelling unit or a two-family dwelling unit and/or their accessory building(s) ;
 - 2. Any construction permit for the customary buildings incidental to farms;
 - 3. Any change of use from one permitted nonresidential use to another permitted nonresidential use, if both the Construction Official and the Zoning Officer stipulate to the Planning Board that the existing site development meets the requirements of this chapter for the new use, including on-site parking requirements;
 - 4. The filling of any land involving an area of less than 2,000 square feet;
 - 5. A sign for an existing use or structure for which all applicable zoning requirements as determined by the Construction Code Official or designated official have been met.

- C. Conditional use review - Before a construction permit or certificate of occupancy shall be issued for any conditional use as permitted by this chapter, application shall be made to the Planning Board. The review by the Planning Board of a conditional use shall include any required site plan review pursuant to this chapter. Public notice and a hearing shall be required as stipulated by this chapter.

§ 75. Informal reviews.

A. Applicability.

Nothing in this section shall be considered mandatory but the procedures provided for herein are recommended for the purpose of expediting the review process and reducing development costs.

B. Pre-application conference.

1. Any developer may meet with the Administrative Officer or his/her designee without the payment of any fees and without obligation.
2. A pre-application conference may be used to provide the developer with an overview of the substantive and procedural aspects of the development review process, to provide insight as to the acceptability of the proposed plan, and to offer suggestions for the improvement of said plan.
3. The developer may be required to secure an appointment with the Administrative Officer in advance of the pre-application conference and to submit a sketch plan of the proposed application. The conference shall be held within fourteen (14) days of requesting an appointment unless the Administrative Officer is unavailable because of illness, vacation, or similar reason.
4. For the purpose of the pre-application conference only, the sketch plan need not be drawn to scale nor be prepared by a licensed engineer, surveyor, architect, landscape architect, or planner but shall contain sufficient information from a tax map or other source to enable the Administrative Officer to determine the suitability of the proposal in relation to the standards of this chapter.
5. The pre-application conference is a good-faith meeting between the developer and the Administrative Officer. Nothing discussed at the conference shall be binding upon either party or upon the Planning Board.

C. Concept plan review.

1. An applicant for site plan, subdivision or an applicant having a particular question which cannot be resolved at a pre-application conference may request an informal concept plan review before the Planning Board.
2. Standards for the concept plan.
 - a. The concept plan shall contain sufficient detail to enable the Planning Board to determine compliance with this chapter, including the area of all proposed lots and buildings and any dimensions necessary to determine zoning compliance.
 - b. Roadway and street widths shall be noted but fully engineered plans for streets, drainage, and other utility or infrastructure systems shall not be required.
 - c. The required number of concept plans to be submitted by the applicant shall be determined by the Administrative Officer, but in no case shall be less than fifteen (15) plans.
3. The applicant shall be required to submit application fees for an informal concept review before the Planning Board, however, the applicant shall only be required to post escrow fees for the review services of the Borough's professional consultants if such review is so requested by the applicant. At the conclusion of the concept review process, any unexpended escrow fees will be returned.
4. An applicant desiring to have a concept plan informally reviewed by the Planning Board shall file an application with the Secretary of the Planning Board at least fourteen (14) days prior to the next regularly scheduled meeting of the Planning Board. The Secretary of the Planning Board shall thereafter notify the applicant of the time and place which has been scheduled by the Planning Board for the informal review.
5. Nothing in the concept review process shall be binding upon either the applicant or the Planning Board.

§ 76. **Submission, classification, and completeness of formal applications.**

- A. All formal applications for approval, including minor subdivisions and site plans, preliminary or final major subdivisions and site plans, conditional uses, and conceptual use plans, shall be submitted with forms provided by the Administrative Officer. The Administrative Officer shall also provide the applicant with a copy of the checklist for completeness which is contained in Article IX. of this chapter. The completed application forms shall be accompanied by all required plans, supporting documentation, application fees and escrow fees for professional review.
- B. Submission standards.
1. In order to be considered for a hearing before the Planning Board, all requirements included in A. above must be submitted at least twenty-eight (28) days prior to a regularly scheduled hearing. Applications submitted up to fourteen (14) days prior to a regularly scheduled hearing will be considered for completeness only, unless in the Board's judgment, with the advice of its professionals, the application is deemed sufficiently simple and does not need significant amendment. In such cases, the Board may consider the application.
 2. Plans and supporting documentation must contain all information herein required for the type of approval requested. Where there is a question as to classification of the plan, the applicant may seek advice from the Administrative Officer. Failure to provide all required information will result in the plan being declared incomplete.
 4. All applications for conceptual, preliminary or final site plan or subdivision approval which require public sanitary sewer or water service shall submit a receipted copy of an application to the Clayton Water and Sewer Department to verify available capacity, i.e., Forms A, B, or C, as appropriate. Water and Sewer Department approvals of utility capacity and for connection to the systems shall be obtained prior to Planning Board action. The Board may require these approvals as a condition in their resolution of approval
 5. Fifteen (15) copies of all application forms, plans and supporting documentation shall be submitted by the applicant to the Administrative Officer, where the Administrative Officer or his or her representative shall date stamp the plans upon receipt. This date shall be considered the official submission date.

- C. The Administrative Officer shall, immediately upon receipt, date the submitted documents and assign a file number. Once a file number has been assigned, the applicant shall place this number on all succeeding submissions.
- D. The Administrative Officer shall immediately forward one copy of all items submitted to the Board Solicitor, Board Engineer and other appropriate professionals.
- E. Review of submission. The Board Engineer and other appropriate professional shall review all aspects of the application, including the completeness of the application, and shall expeditiously report their findings to the Board.
- F. The following certifications are required before an application is heard by the Planning Board.
 - 1. All taxes due to the Borough on the property for which application is made shall be paid.
 - 2. Sufficient moneys are in the escrow account to cover the cost of professional reviews.
 - 3. Where applicable, the applicant shall submit a certification that the plan has been submitted for review by appropriate outside agencies such as the New Jersey Department of Environmental Protection and Energy in the case of potential wetlands or stream encroachment, the Gloucester County Board of Health where septic systems are proposed, the Gloucester County Planning Board, the New Jersey Department of Transportation when the proposal has frontage on a state highway, and any other agency as may be directed by the Administrative Officer. A final determination by these agencies shall not be required for action by the Planning Board, but any action taken shall be conditioned upon the approval of these agencies.

§ 77. Approval procedures for minor subdivisions and minor site plans.

- A. The developer must comply with § 68. of this chapter regarding requirements for notice of a public hearing.
- B. The Board shall take action on minor subdivisions and minor site plan applications within forty-five (45) days after the application has been certified complete or within such further time as may be consented to by the developer. Failure of the Board to act within the prescribed time period shall constitute approval of the application.

C. Minor subdivisions and minor site plans do not require preliminary approval and may be voted upon for final action by the Board. The Board may condition approval upon compliance with any reasonable condition not in violation with the terms of this chapter or other applicable local, state, or federal law.

D. When a minor subdivision or minor site plan is approved by the Board, at least ten (10) prints of the plat, plan or deed descriptions shall be submitted to the Board by the developer to be signed by the Chairman and Secretary of the Board.

Copies of the approved documents, including the resolution of approval, shall be sent to:

1. Applicant.
2. Planning Board file.
3. Borough, Board and Water and Sewer Engineers.
4. Board Planner, as necessary
5. Construction Code Official.
6. Borough Clerk.
7. Tax Assessor. (2 copies)
8. County Board of Health, if applicable.
9. Fire Bureau

E. Effect of minor subdivision approval.

1. The approval of a minor subdivision shall expire one hundred ninety (190) days from the date of the resolution of approval unless within such period a plat conforming to all conditions of approval is filed in conformity with the provisions of the Map Filing Law, N.J.S.A. 46:23-9.9 et seq., or a deed clearly describing the approved minor subdivision is filed by the developer with the County recording officer, the Borough engineer, and the Borough tax assessor as required by N.J.S.A. 40:55D-1 et seq.

2. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision approval was granted, shall not be changed for a period of two (2) years after the date of minor subdivision approval, provided the approved minor subdivision shall have been duly recorded as provided in this subsection.
 3. If the developer proves to the reasonable satisfaction of the Board that he or she was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other government entities and that he or she applied promptly for and diligently pursued the approvals, the Board either:
 - a. Shall grant an extension of the approval period not to exceed one (1) year. The developer shall apply for this extension before: (1.) what would otherwise be the expiration date, or (2.) the 91st day after the developer receives the last legally required approval from the other governmental entities, whichever occurs later; or
 - b. May extend the one hundred ninety (190) day period for filing a minor subdivision plat or deed pursuant to subsection E. of this Section. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Board. The developer may apply for the extension either before or after what would otherwise be the expiration date.
- F. Effect of minor site plan approval.

The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor site plan approval was granted, shall not be changed for a period of two (2) years after the date of minor site plan approval. If the developer proves to the reasonable satisfaction of the Board that he or she was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other government entities and that he or she applied promptly for and diligently pursued the approvals, the Board shall grant an extension of the approval period not to exceed one (1) year. A developer shall apply for this extension before: (1.) what would otherwise be the expiration date, or (2.) the 91st day after the date on which the developer receives the last of the legally required approvals from the other governmental entities, whichever occurs later.

§ 78. Approval procedures for preliminary major subdivisions and site plans.

- A. The developer must comply with § 68. of this chapter regarding requirements for notice of a public hearing.
- B. The Planning Board shall take action on a preliminary major site plan application involving ten (10) acres of land or less and ten (10) dwelling units or less and/or a preliminary major subdivision application involving ten (10) lots or less within forty-five (45) days after the application has been certified complete or within such further time as may be consented to by the developer. Provided, however, that the Planning Board shall take action on a preliminary major site plan or subdivision application which includes a request for relief pursuant to N.J.S.A. 40:55D-60 within one hundred twenty (120) days after the application has been certified complete or within such further time as may be consented to by the developer. Failure of the Planning Board to act within the prescribed time period shall constitute approval of the application.
- C. The Planning Board shall take action on a preliminary major site plan application involving more than ten (10) acres of land or more than ten (10) dwelling units and/or a preliminary major subdivision application involving more than ten (10) lots within ninety-five (95) days after the application has been certified complete or within such further time as may be consented to by the developer. Provided, however, that the Planning Board shall take action on a preliminary major site plan or subdivision application which includes a request for relief pursuant to N.J.S.A. 40:55D-60 within one hundred twenty (120) days after the application has been certified complete or within such further time as may be consented to by the developer. Failure of the Planning Board to act within the prescribed time period shall constitute approval of the application.
- D. The Planning Board shall take action on a preliminary major site plan or subdivision application which includes a request for relief pursuant to N.J.S.A. 40:55D-70d. within one hundred twenty (120) days after the application has been certified complete or within such further time as may be consented to by the developer. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be as otherwise provided in N.J.S.A. 40:55D-1 et seq. Failure of the Planning Board to act within the prescribed time period shall constitute approval of the application.
- E. The Board may condition preliminary major subdivision or site plan approval upon compliance with any reasonable condition not in violation with the terms of this chapter or other applicable local, state, or federal law, provided, however, that no preliminary

plan approval shall be granted prior to the approval for sanitary sewer and water service (if appropriate) by the Borough of Clayton Water and Sewer Department.

- F. When a preliminary major subdivision or site plan is approved by the Board, at least ten (10) prints of the plat or plan shall be submitted to the Board by the developer to be signed by the Chairman and Secretary of the Board and the Borough Engineer. Copies of the approved documents, including the resolution of approval, shall be sent to:

1. Applicant.
2. Planning Board file.
3. Borough , Board and Water and Sewer Engineers.
4. Board Planner, as necessary.
5. Construction Code Official.
6. Borough Clerk.
7. Tax Assessor. (2 copies)
8. County Board of Health, if applicable.
9. Fire Bureau

- G. Effect of preliminary major subdivision or site plan approval.

1. The preliminary approval of a subdivision or site plan shall, except as provided in subsection d. of this section, confer the following rights for a three (3) year period from the date on which the resolution of preliminary approval is adopted:
 - a. That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to use requirements; layout and design standards for streets, curbs and sidewalks; lot size; yard dimensions, and off-tract improvements; and, in the case of a site plan, any requirements peculiar to site plan approval pursuant to N.J.S.A. 40:55D-41, except that nothing herein shall be construed to prevent the Borough from modifying by ordinance such general terms and conditions of preliminary approval as relate to public health and safety;

- b. That the developer may submit an application for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary subdivision plat or site plan, as the case may be; and
- c. That the developer may apply for, and the Planning Board may grant, an extension of the 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 may govern.
- d. In the case of a subdivision of, or site plan for, an area of fifty (50) acres or more, the Planning Board may grant the rights referred to in subsections a, b and c. of this section for a reasonable period of greater than three (3) years, but not more than seven (7) years. The developer may apply for thereafter, and the Planning Board may thereafter grant an extension of the preliminary approval for not more than three (3) additional one (1) year periods, provided that if the design standards have been revised by ordinance, such revised standards may govern. The granting of this extended approval period shall be based upon the Planning Board's consideration of such factors as:
 - 1). The total number of dwelling units and/or square footage of non-residential floor area proposed;
 - 2). Economic conditions; and
 - 3). The comprehensiveness of the development.
- e. Whenever the Planning Board grants an extension of preliminary approval pursuant to subsection c. or d. of this section and preliminary approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date.
- f. The Planning Board shall grant an extension of preliminary approval for a period determined by the Board but not exceeding one (1) year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that he or she was barred or prevented, directly or indirectly, from proceeding with the development because of

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

H. Concurrent preliminary and final subdivision and site plan approval.

1. The Planning Board may, at its discretion, approve a request from a developer to concurrently consider preliminary and final subdivision and/or site plan approval provided that:
 - a. The application does not involve the construction of a new street.
 - b. The application involves the creation of ten (10) or fewer lots.
 - c. The total square footage of non-residential construction involves less than twenty-five thousand (25,000) square feet of floor area and less than thirty thousand (30,000) square feet of impervious surface.
 - d. The submission of preliminary and final application forms and the required application and escrow fees for a preliminary approval.
2. The approval procedures for final approval shall be followed by the Planning Board as noted in § 79. below.

§ 79. Approval procedures for final major subdivisions and site plans.

- A. The Planning Board shall take action on a final major site plan or subdivision application within forty-five (45) days after the application has been certified complete or within such further time as may be consented to by the developer. Failure of the Planning Board to act within the prescribed time period shall constitute approval of the application.
- B. The Planning Board may condition approval upon compliance with any reasonable condition not in violation with the terms of this ordinance or other applicable local, state, or federal law provided, however, no such final approval shall be granted until the project has received sewer and water service approval from the Borough of Clayton Water and Sewer Department.

- C. All final plans shall be revised to incorporate any conditions of approval and, when all such conditions have been met, ten (10) copies of the revised final plat shall be submitted to the Administrative Officer to be signed by the Chairman and Secretary of the Planning Board. copies of the approved documents, including the resolution of approval, shall be sent to:
1. Applicant.
 2. Planning Board file.
 3. Borough , Board and Water and Sewer Engineers.
 4. Board Planner, as necessary.
 5. Construction Code Official.
 6. Borough Clerk.
 7. Tax Assessor. (2 copies)
 8. County Board of Health, if applicable.
 9. Fire Bureau
- D. Final approval of a major subdivision shall expire ninety-five (95) days from the date of signing of the plats unless within such period the plat shall have been filed by the developer with the County recording officer, in conformity with the provisions of the Map Filing Law, N.J.S.A. 46:23-9.9 et seq. The Planning Board may, for good cause, extend the time period for filing for an additional one hundred ninety (190) days from the date of signing of the plats. The Planning Board may extend the ninety-five (95) day or one hundred ninety (190) day period if the developer proves to the reasonable satisfaction of the Planning Board that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Planning Board. The developer may apply for the extension either before or after what would otherwise be the expiration date.

E. Effect of final approval.

1. The zoning requirements applicable to the preliminary approval first granted and all other rights granted to the developer pursuant to the preliminary approval, whether conditionally or otherwise, shall not be changed for a period of two (2) years after the date on which the resolution of final approval is adopted; provided that the developer has duly recorded the major subdivision plat as provided for in N.J.S.A. 40:55D-54.
2. If the developer has duly recorded the major subdivision plat as provided for in N.J.S.A. 40:55D-54, the Planning Board may grant an extension of the final approval for not more than three (3) additional one (1) year periods.
3. Notwithstanding any other provisions of N.J.S.A. 40:55D-1 et seq., the granting of final approval terminates the time period of preliminary approval for the section(s) granted final approval.
4. In the case of a conventional subdivision or site plan for one hundred fifty (150) acres or more, or site plan for development of non-residential floor area of two hundred thousand (200,000) square feet or more, the Planning Board may grant the rights referred to in subsections 1. and 2. of this section for a reasonable period of greater than two (2) years, but not more than seven (7) years. The developer may apply for thereafter, and the Planning Board may thereafter grant, an extension of final approval for such additional period of time as shall be determined by the Planning Board to be reasonable taking into consideration:
 - a. The total number of dwelling units and/or square footage of non-residential floor area which is proposed;
 - b. Economic conditions; and
 - c. The comprehensiveness of the development.
5. Whenever the Planning Board grants an extension of final approval pursuant to subsection 1., 2. or 4. of this section and final approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date.
6. The Planning Board shall grant an extension of final approval for a period determined by the Board but not exceeding one (1) year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that he or she was barred or prevented, directly or indirectly, from

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

7. All final approvals are conditioned upon submission of required bonds or other surety of a form satisfactory to the Borough, as prescribed in § 85. If required street, utility, and similar improvements are not constructed, the Borough may call said bond or surety and use its proceeds to construct said improvements at the applicants expense.

§ 80. Approval procedures for conditional uses.

- A. The Planning Board may condition conditional use approval upon compliance with any reasonable condition not in violation with the terms of this chapter or other applicable local, state, or federal laws.
- B. The Planning Board shall take action on an application for a conditional use within ninety-five (95) days of submission of a complete application or within such further time as may be consented to by the developer.
 1. This time period shall be concurrent with the review of a site plan application.
 2. An approval shall be conditioned upon receipt of a favorable recommendation from the County Planning Board or other appropriate agency, as required.
 3. Failure to render a timely decision shall be deemed an approval, as required by N.J.S.A. 40:55D-67.
- C. The Planning Board shall take action on a conditional use approval application which includes a request for relief pursuant to N.J.S.A. 40:55D-70d. within one hundred twenty (120) days after the application has been certified complete or within such further time as may be consented to by the developer. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be as otherwise provided in N.J.S.A. 40:55D-1 et seq. Failure of the Board to act within the prescribed time period shall constitute approval of the application.

- D. Conditional use approvals which also include the approval of a subdivision or site plan, shall be subject to the same review and approval procedures, including the submission of final plans for signatures and distribution, as any other subdivision or site plan.
- E. Effect of approval. In the granting of an approval for a conditional use, the applicant shall secure a building permit or, in the case where no building permit is required, a certificate of occupancy, within one (1) year from the date of approval, otherwise the granting of the conditional use shall be deemed null and void.

§ 81. Compliance and time limitations for certain approvals.

- A. Compliance - All applicable requirements shall be met at the first time of erection, enlargement, alterations, moving or change in use of a structure and shall apply to the entire structure or structures, whether or not the entire structure or structures were involved in the erection, enlargement, alteration, moving or change in use.
- B. Time limit on variances.
 - 1. Applicable time limit - Any variance granted by the Planning Board pursuant to N.J.S.A. 40:55D-70., subsection c. or d., shall expire and become null and void one (1) year from the date such variance is granted unless within said period the applicant obtains a building permit or otherwise avails himself of the said approval; provided, however, that in the event that such variance is approved in conjunction with a major subdivision or site plan approval, then such variance shall not expire and become null and void until three (3) years after the preliminary approval for such site plan and/or subdivision is granted and any approved extensions thereof, or if final approval is granted for such development, two (2) years from the date of the final approval and any approved extensions thereof.
 - 2. Varying time periods - Nothing contained herein shall be construed as preventing the applicable municipal agency from specifying a shorter or longer period of time than noted in subsection B.1. above pursuant to approvals granted to variance applications under N.J.S.A. 40:55D-70., subsection c. or d., that are not in conjunction with a major subdivision or site plan approval.
- C. Commencement of time periods - For the purpose of calculating the times provided for in this section, such time periods shall commence on the date the municipal agency memorializes its approval by written resolution.

Article IX. Specifications of Documents to be Submitted

§ 82. Purpose.

The documents to be submitted are intended to provide the approving authority with sufficient information and data to assure compliance with all Borough codes and specifications and ensure that the proposed development meets the design and improvement standards contained in this chapter. The specification of documents to be submitted is based on the type of development and particular stage of development application.

§ 83. Document submission requirements.

The documents to be submitted for residential development are shown on charts provided as part of the New Jersey Residential Site Improvement Standards (NJRSIS), as amended. The documents to be submitted for non-residential development are shown on charts provided as part of the (NJRSIS), as amended, for residential development and as supplemented by additional requirements in a checklist entitled, "Supplemental Checklist for Non-Residential Development. which accompany and are made a part of this chapter, and which are adopted herein and included by reference. In specific cases and for documented reasons, the approving authority may waive the submission of a particular document. The reasons for the waiver shall be indicated in the resolution of the approving authority.

Article X. Fees, Guarantees and Off-Tract Improvements

§ 84. Fees.

- A. Non-refundable application fees - Each applicant who files an application before the Borough of Clayton Planning Board shall pay the applicable application fee listed below for such application. The application fee provided for herein shall be non-refundable and is required for purposes of offsetting the administrative and clerical costs of operating the Planning Board and for costs which may be incurred by the Planning Board in the normal processing of such applications (exclusive of the legal, planning, engineering and other professional services deemed necessary by the Planning Board).
- B. Creation of escrow accounts.
1. In addition to the non-refundable application fees referred to above, each applicant before the Planning Board shall establish and make the required payments to an escrow account to be maintained by the Borough for the purpose of providing sufficient moneys to pay the costs of review by professionals engaged by the Planning Board.
 2. Upon submitting an application for development to the Planning Board, the applicant shall be required to deposit with the Secretary of the Planning Board the sums hereinafter provided and execute an escrow agreement requiring the applicant to pay all necessary and reasonable costs incurred by the Borough for technical and professional review by the approving authority. The escrow agreement shall be in a form approved by the Borough Council. The amounts specified below to be placed in escrow are estimates of professional fees only and should not be considered as a minimum or maximum fee which may be required of the applicant to compensate the Borough for legal, engineering, traffic engineering, planning or other professional services. Said fees must be paid prior to Board certifying the application as complete; provided, however, that payment of the fee in and of itself shall not be deemed as making the application complete.

In the event that the amounts required to be posted by this section are not sufficient to cover the professional charges incurred by the Borough of Clayton for such application, then the applicant shall pay the amount required which is over and above the funds previously collected and shall not receive any approvals or other permits from the Borough before such fees are paid in full.

In the event the amounts posted as fees shall be in excess of the amount required for all professional review, the excess funds shall be returned to the applicant within thirty (30) days of the issuance of a certificate of occupancy for the project which the application fee covers.

The Board Secretary shall periodically advise the Board Chairperson of the balance of all escrow accounts and whether additional funds are required as provided for hereinafter. In the event additional funds are required, the Board Chairperson or Secretary shall notify the applicant of the amounts required as additional fees. In the event the applicant refuses or fails to make the payments required within ten (10) days of demand, the Board Secretary shall notify the approving authority. If the additional fees are not paid, the Planning Board may deny the application before it, and no other permits or certificates shall be issued by the Borough to the applicant for the applicable project until payment is made in full. In the event additional fees are required, the applicant shall pay such fees to the Borough in accordance with the same agreement already entered into or under any additional terms which may be agreed to by the applicant and the approving authority.

3. Before issuing a Zoning Permit prior to construction or prior to occupancy for any element of a project, the applicable code official for the Borough of Clayton shall first determine from the Board Secretary whether there are sufficient escrow funds to pay all pending or reasonably anticipated bills attributable for professional review to the particular project. The applicable code officer shall not issue the requested construction permit or certificate of occupancy until the amounts which are due or necessary to provide sufficient funds in escrow to pay such pending or reasonably anticipated bills are paid in full by the applicant.

C. Fees and escrows - The following is a schedule of fees to be paid by the applicant upon filing an application:

1. Conceptual - Major subdivision or site plan.

Application fee -	\$ 200
Engineering (if required) -	250
Planning (if required) -	350
Traffic Engineering (if required) -	300
Legal -	200
Legal - Borough Solicitor (if required) -	100

2. Minor subdivision, resubdivision or lot line adjustment

Application fee - \$ 100
Professionals Escrow - 350 plus \$25 per lot

3. Major subdivision, preliminary.

Application fee - \$ 500
Professionals Escrow - 1200 plus \$100 per lot

4. Major subdivision, final.

Application fee - \$ 300
Professionals Escrow - 600 plus \$50 per lot

5. Minor site plan.

Application fee - \$ 50
Professionals Escrow - 100

6. Major subdivision, amended.

Application fee - \$ 300
Professionals Escrow - 500 plus \$50 per lot

7. Tax map revision fee

Per lot for the first 20 lots \$ 50
Per lot for 21 to 150 lots 40

For more the 150 lots, an additional sum as determined by the Planning Board upon the review of an estimate by the Borough Engineer, shall be deposited.

8. Major site plan, preliminary.

Application fee - \$ 300
Professionals Escrow - 700 plus \$200/acre over one

9. Major site plan, amended.

Application fee -	\$ 200
Professionals Escrow -	500 plus \$50 per acre

10. Major site plan, final.

Application fee -	\$ 200
Professionals Escrow -	500 plus \$50 per acre

11. Site Plan Waiver

Application fee -	\$ 50
Professionals Escrow -	100

In the event that a waiver is not approved, and a site plan is deemed necessary, the funds already submitted will be deducted from the application and escrow fees to be collected for the application.

12. Use variance - (Applications made under N.J.S.A. 40:55D-70.d.)

Application fee	\$250
Professionals Escrow	\$100

13. Bulk variance - (Applications made under N.J.S.A. 40:55D-70.c.)

Application fee -	\$ 150
Professionals Escrow	\$100

14. Appeals - (Applications made under N.J.S.A. 40:55D-70.a.)

Application fee -	\$ 100
Professionals Escrow	\$100

15. Interpretations (Applications made under N.J.S.A. 40:55D-70.b.)

Application fee - \$ 50

16. Conditional Use review. (If subdivision or site plan approval is needed, the fees for the appropriate application shall be charged in addition to the following.)

Application fee - \$ 50
Professionals Escrow 50

17. Miscellaneous.

Application fee - \$ 100
Engineering (if required) - 150
Planning (if required) - 150
Legal - 200

18. Zoning change request.

Application fee - \$ 200
Engineering - 400
Planning - 800
Traffic Engineering - 500
Legal - 350
Legal - Borough Solicitor - 500
Publication - 100

16. Certificate of Non-conformity.

Application fee - \$ 20

17. Subdivision Approval Certificate.

Application fee - \$ 20

18. Copies of minutes and other documents. \$.25/page

- D. Professional fees - The engineering, traffic engineering, legal and planning escrows as set forth in the aforesaid provisions are minimum amounts representing an estimate of the anticipated costs for such services based on the hourly rates of the respective professional. The hourly rates to be charged each applicant for the services of such professionals shall be the same as those set forth in the contracts between the Borough and said professionals.

§ 85. Improvement and maintenance guarantees.

- A. Before recording final subdivision plats or as a condition of final site plan approval or as a condition to the issuance of a zoning permit pursuant to N.J.S.A. 40:55D-65d, the Board, for the purpose of assuring the installation and maintenance of on- and off-tract (pursuant to N.J.S.A. 40:55D-42) improvements, shall require and accept in accordance with the standards adopted by this chapter, the following:
1. The furnishing of a performance guarantee in favor of the Borough of Clayton in an amount not to exceed one hundred twenty percent (120%) of the cost of installation, which cost shall be determined by the Borough Engineer according to the method of calculation set forth in this chapter for improvements which the Board may deem necessary or appropriate, including but not limited to: streets, grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, surveyor's monuments as shown on the final subdivision plat and required by the Map Filing Law (N.J.S.A. 46:23-9.9 et seq.), culverts, storm sewers, drainage structures, erosion control and sedimentation control devices, public improvements of open space and, in the case of site plans only, other on-site improvements and landscaping. The itemized cost estimate shall be appended to each performance guarantee posted by the obligor.
 2. The time allowed for the installation of all improvements covered by the performance bond shall be two (2) years or less, unless otherwise determined by the Board based on a detailed request by the applicant and a recommendation from the Board Engineer.
 3. Provision for a maintenance guarantee to be posted with the Borough Council 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, which cost shall be determined by the Borough Engineer according to the method of calculation set forth in this chapter. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another

governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the Borough for such utilities or improvements.

- B. The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the Borough Council by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed one hundred twenty percent (120%) of the cost of the installation, which cost shall be determined by the Borough Engineer according to the method of calculation set forth in this chapter as of the time of the passage of the resolution.
- C. If the required improvements are not completed or corrected in accordance with the performance guarantee, the obligor and surety, if any, shall be liable thereon to the 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. Such completion or correction of improvements shall be subject to the public bidding requirements of the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.).
- D. Estimate of cost for installation of improvements.

A performance guarantee estimate shall be prepared by the Borough Engineer, setting forth all requirements for improvements as fixed by the Board and their estimated cost. The estimated cost of the installation of improvements determined by the Borough Engineer shall be based on documented construction costs for public improvements prevailing in the general area of the Borough. The developer may appeal the Borough Engineer's estimate to the Borough Council. The Borough Council shall decide the appeal within forty-five (45) days of receipt of the appeal in writing by the Borough Clerk. After the developer posts a guarantee with the Borough based on the cost of the installation of improvements as determined by the Borough Council, he may institute legal action within one (1) year of the posting in order to preserve the right to a judicial determination as to the fairness and reasonableness of the amount of the guarantee.

- E. Approval by Borough Solicitor.

The applicant shall present two (2) copies of the performance guarantee in an amount equal to the amount of the approved performance guarantee estimate for approval as to form and execution by the Borough Solicitor.

F. Bonding and cash requirements.

1. The performance guarantee posted by the applicant shall be in the form acceptable to the Borough Solicitor. Performance and maintenance bonds shall be provided by an acceptable surety company licensed to do business within the State of New Jersey with a rating of no less than a B+ by AM Best. The performance guarantee in favor of the Borough shall be in an amount not to exceed one hundred twenty percent (120%) of the cost of the installation and improvements. The Director of Finance shall issue its receipt for such cash deposits and shall cause the same to be deposited in a bank named by the Borough for this purpose to be retained as security for completion of all requirements and to be returned to the developer on completion of all required work and expiration of the period of maintenance guarantee or, in the event of default on the part of the applicant, to be used by the Borough of Clayton to pay the cost and expense of obtaining completion of all requirements.
2. The Borough shall accept a performance guarantee or maintenance guarantee for the purposes herein which is an irrevocable letter of credit if it:
 - a. Constitutes an unconditional payment obligation of the issuer running solely to the Borough for an express initial period of time in the amount determined pursuant to N.J.S.A. 40:55D-53;
 - b. Is issued by a banking or savings institution authorized to and doing business in the State of New Jersey;
 - c. Is for a period of time of at least one (1) year; and
 - d. Permits the Borough to draw upon the letter of credit if the obligor fails to furnish another letter of credit which complies with the provisions of this subsection thirty (30) days or more in advance of the expiration date of the letter of credit or such longer period in advance thereof as is stated in the letter of credit.

G. Inspections and tests.

1. All improvements and utility installations shall be inspected during the time of their installation under the supervision of the Borough Engineer to ensure satisfactory completion. The cost of said inspection shall be the responsibility of the applicant, and he or she shall deposit with the Planning Board Secretary for

placement in an escrow account an amount not to exceed, except for extraordinary circumstances, the greater of five hundred dollars (\$500.00) or five percent (5%) of the amount of the performance guarantee estimate of the cost of improvements pursuant to this chapter. The obligor shall reimburse the Borough for all reasonable inspection fees paid to the Borough Engineer for the foregoing inspection of improvements. For those developments for which the reasonably anticipated fees are ten thousand dollars (\$10,000) or greater, the fees may, at the option of the developer, be paid in four installments. The initial amount deposited by a developer shall be twenty-five percent (25%) of the anticipated fees. When the balance on deposit drops to ten percent (10%) of the anticipated fees because of payments to the Borough Engineer for inspection, the developer shall make additional deposits of twenty-five percent (25%) of the anticipated fees. The Borough Engineer shall not perform any inspection if sufficient funds to pay for such inspection are not on deposit.

2. In no case shall any paving work be done without permission from the Borough Engineer's office. At least forty-eight (48) hours notice shall be given to the Borough Engineer's office prior to any such construction so that he or a qualified representative may be present at the time the work is to be done.
3. The Borough Engineer's office shall be notified forty-eight (48) hours in advance of any work being done so that he or a qualified representative may inspect the work.
4. Any improvement installed without notice for inspection pursuant to subsection G.3. above shall constitute just cause for:
 - a. Removal of the uninspected improvement;
 - b. The payment by the developer of any costs for material testing.
 - c. The restoration by the developer of any improvements disturbed during any material testing; and/or
 - d. The issuance of a stop work order by the Borough Engineer pending the resolution of any dispute.
5. A final inspection of all improvements and utilities will be done by the Borough Engineer to determine whether the work is satisfactory and in agreement with the approved final plan drawings and Borough specifications. The general condition

of the site shall also be considered. Upon a satisfactory final inspection report, action will be taken to release or declare in default the performance guarantee covering such improvements and utilities.

6. Inspection by the Borough of the installation of improvements and utilities by the applicant shall not subject the Borough to liability for claims, suits or any other liability of any kind that may at any time arise because of defects or negligence during construction or at any time thereafter; it is recognized that the responsibility to maintain safe conditions at all times during construction and to provide proper utilities and improvements is upon the applicant and his contractors, if any.

H. Reduction of guarantees.

1. Upon substantial completion of all required on- and off-site improvements (except for the top course of road paving) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the Borough Council in writing, by certified mail addressed in care of the Borough Clerk, that the Borough Engineer prepare, in accordance with the itemized cost estimate prepared by the Borough Engineer and appended to the performance guarantee pursuant to this chapter, a list of all uncompleted or unsatisfactory completed improvements. If such a request is made, the obligor shall send a copy of the request to the Borough Engineer. The request shall indicate which improvements have been completed and which improvements remain uncompleted in the judgment of the obligor. Thereupon the Borough Engineer shall inspect all improvements covered by the obligors request and shall file a detailed list and report, in writing, with the Borough Council, and shall simultaneously send a copy thereof to the obligor not later than forty-five (45) days after receipt of the obligor's request.
2. The list prepared by the Borough Engineer shall state, in detail, with respect to each improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed improvement determined to be unsatisfactory. The report prepared by the Borough Engineer shall identify each improvement determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guarantee relating to the completed and satisfactory improvement, in accordance with the itemized cost estimate prepared by the Borough Engineer and appended to the performance guarantee.

3. The Borough Council, by resolution, shall either approve the improvements determined to be complete and satisfactory by the Borough Engineer, or reject any or all of these improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the Borough Engineer and appended to the performance guarantee. This resolution shall be adopted not later than forty-five (45) days after receipt of the list and report prepared by the Borough Engineer. Upon adoption of the resolution by the Borough Council, the obligor shall be released from all liability pursuant to its performance guarantee, with respect to those approved improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that thirty percent (30%) of the amount of the performance guarantee posted for each line item may be retained to ensure completion and acceptability of all improvements.
4. If the Borough Engineer fails to send or provide the list and report as requested by the obligor within forty-five (45) days from receipt of the request, the obligor may apply to the court in a summary manner for an order compelling the Borough Engineer to provide the list and report within a stated time and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

If the Borough Council fails to approve or reject the improvements determined by the Borough Engineer to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within forty-five (45) days from the receipt of the Borough Engineer's list and report, the obligor may apply to the court in a summary manner for an order compelling, within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the Borough Engineer and appended to the performance guarantee, and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

5. In the event that the obligor has made a cash deposit with the Borough or approving authority as part of the performance guarantee, then any partial reduction granted in the performance guarantee pursuant to this subsection shall be applied to the cash

deposit in the same proportion as the original cash deposit bears to the full amount of the performance guarantee.

6. If any portion of the required improvements is rejected, the approving authority may require the obligor to complete or correct such improvements and, upon completion or correction, the same procedure of notification, as set forth in this section shall be followed.
 7. Nothing herein, however, shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the Borough Council or the Borough Engineer.
 8. The obligor shall reimburse the Borough for all reasonable inspection fees paid to the Borough Engineer for the foregoing inspection of improvements; provided that the Borough may require of the developer a deposit for the inspection fees in an amount not to exceed, except for extraordinary circumstances, the greater of five hundred dollars (\$500.00) or five percent (5%) of the cost of improvements, which cost shall be determined pursuant to this chapter.
 9. 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.
- I. Conditions for acceptance of improvements; maintenance guarantee.

The approval of any plat under this chapter by the approving Board or Borough Council, or both, shall in no way be construed as acceptance of any street or drainage system or any other improvement required by this chapter, nor shall such plat approval obligate the Borough in any way to maintain or exercise jurisdiction over such street or drainage system or other improvement. No improvement shall be accepted by the Borough Council unless and until all of the following conditions have been met.

1. The Borough Engineer shall have certified in writing that the improvements are complete and that they comply with the requirements of this chapter.
2. The final plat shall have been approved by the Board.

3. Maintenance guarantee.

- a. After final acceptance of all improvements, the developer shall have filed with the Borough Council a maintenance guarantee in an amount equal to not more than fifteen percent (15%) of the original estimate of the cost of installing the improvements and shall run for a period not exceeding two (2) years. The procedures and requirements governing such maintenance guarantee shall be identical with the procedures and requirements for a performance guarantee set forth in this chapter. The requirements for a maintenance guarantee may be waived by the Borough Council only if the Borough Engineer has certified that the improvements have been in continuous use for not less than two (2) years from the date the Borough Engineer certified completion of such improvements and that during this period the developer has maintained the improvements in a satisfactory manner.
- b. As-built plans and profiles (one (1) reproducible and two (2) paper copies) of all utilities and roads are submitted to the Administrative Officer, with certification signed and sealed by a New Jersey licensed professional engineer as to the actual construction as approved by the Borough Engineer, shall be provided.
- c. In the event that any other Borough or governmental agencies or public utilities automatically will own the utilities to be installed, or the improvements are covered by a maintenance guarantee to another municipal or governmental agency, no maintenance guarantee shall be required by the Borough for such utilities or improvements.

J. Guarantee status reports.

The Borough Clerk shall issue a semi-annual status report on all non-cash performance and maintenance guarantees held by the Borough. The report shall give an accounting of each guarantee, specifically noting its expiration date. The report shall be submitted to the Borough Engineer, Construction Official, Zoning Officer, and the Secretary of the Planning Board.

K. Certificate of occupancy.

Occupancy permits will be issued only when the installation of any curbs, all utilities, all functioning water supply and sewage treatment facilities, all necessary storm

drainage to ensure proper drainage of the lot and surrounding land, rough grading of lots, base course for the driveway, shade trees (weather and seasonal conditions permitting) and base course for the streets are installed to serve the lot and structure for which the permit is requested. Streets, if installed prior to final approval, shall not be paved until all heavy construction is complete; shade trees shall not be planted until all grading and earth moving is completed; and seeding of grass areas shall be the last operation. The issuance of a certificate of occupancy will follow the procedures outlined in this chapter and State of New Jersey Uniform Construction Code.

A separate certificate of occupancy shall also be required when any change occurs in the use or occupancy of an existing structure.

§ **86. Off-tract improvements.**

This section is intended to ensure a pro rata share allocation of the costs for off-tract improvements necessitated by new development.

As a condition of final subdivision or site plan approval, the Planning Board may require a developer to pay his/her pro rata share of the cost of providing reasonable and necessary improvements for off-tract costs directly related to the development. These costs may include that of land and/or easements for, and construction of, improvements to circulation, water, sewerage, drainage facilities which are located off-tract of the property limits of the subdivision or development but for which substantially all the cost of said improvements is necessitated or required directly by the development. In addition, a development may be liable for its share of the cost of the impact of the development to Borough and/or regional capital improvements provided that the cost shall not duplicate off-tract improvements for which the developer is primarily responsible. The Planning Board shall provide in its resolution of approval the basis of the required improvements.

A. Calculation of proportionate costs.

1. Full allocation.

In cases where off-tract improvements are necessitated by the proposed development, and where no other property owner(s) receive(s) a special benefit thereby, the developer may be required at his sole expense and as a condition of approval, to provide and install such improvements. In such case where the Planning Board determines that the full improvement is required to service this

development, the developer shall fully install the entire improvement at his expense with no reimbursement.

2. Proportionate allocation.

a. Where it is determined that some properties outside the development will also be benefited by the off-tract improvement, the following criteria shall be utilized in determining the proportionate share of the cost of such improvements to the developer.

b. Allocation formula.

1). Roadways - The applicant's proportionate share of street improvements, alignment, channelization, barriers, new or improved traffic signalization, signs, curbs, sidewalks, trees, utility improvements uncovered elsewhere, the construction or reconstruction of new or existing streets, and other associated street or traffic improvements shall be as follows:

a). The municipal engineer, traffic engineer or planner shall provide the applicant with the existing and reasonably anticipated future peak hour traffic for the off-tract improvement;

b). The applicant shall furnish a plan for the proposed off-tract improvement which shall include the estimated peak-hour traffic generated by the proposed development and the proportion thereof which is to be accommodated by the proposed off-tract improvement. The ratio of the peak hour traffic generated by the proposed development which is to be accommodated by the off-tract improvement to the future additional peak-hour traffic anticipated to impact the proposed off-tract improvement shall form the basis of the proportionate share. The proportionate share shall be computed as follows:

$$\frac{\text{Total cost of enlargement or improvement}}{\text{Developer's Cost}} = \frac{\text{Capacity of enlargement or improvement (peak-hour traffic)}}{\text{Development peak-hour traffic to be accommodated by the enlargement or improvement}}$$

2). Drainage improvements - The applicant's proportionate share of storm water and drainage improvements including the installation, relocation or replacement of storm drains, culverts, catch basins, manholes, rip-rap, improved drainage ditches and appurtenances thereto, and relocation or replacement of other storm drainage facilities or appurtenances associated therewith, shall be determined as follows:

- a). The capacity and the design of the drainage system to accommodate storm water runoff shall be based on the standards specified in § 37. of this chapter and related appendices, computed by the developer's engineer and approved by the municipal engineer.
- b). The capacity of the enlarged, extended, or improved system required for the subdivision and areas outside of the developer's tributary to the drainage system shall be determined by the developer's engineer subject to approval of the municipal engineer. The plans for the improved system shall be prepared by the developer's engineer and the estimated cost of the enlarged system calculated by the municipal engineer. The prorated share for the proposed improvement shall be computed as follows:

$$\frac{\text{Total cost of enlargement or improvement}}{\text{Developer's Cost}} = \frac{\text{Capacity of enlargement or improvement (total capacity expressed in cubic feet per second)}}{\text{Development-generated peak rate of runoff expressed in cubic feet per second to be accommodated by the enlargement of improvement}}$$

B. Future funds.

Where the proposed off-tract improvement is to be undertaken at some future date, the moneys required for the improvement shall be deposited in a separate interest-bearing account to the credit of the Borough of Clayton until such time as the improvement is constructed. If the off-tract improvement is not begun within ten (10) years of deposit, all moneys and interest shall be returned to the applicant.

Article XI. Administration, Enforcement and Amendments

§ 87. Administrative guidelines.

These rules, regulations and standards shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the Borough. Any action taken by the Borough under the terms of this chapter shall give primary consideration to the above mentioned matters and to the welfare of the entire community.

§ 88. Waivers.

The Planning Board, when acting upon applications for minor site plans, minor subdivisions, preliminary major subdivisions and preliminary major site plans, shall have the power to grant such exceptions from the requirements for such subdivision or site plan approval as specified in this chapter if an applicant can clearly demonstrate that because of peculiar conditions, literal enforcement of one (1) or more of said requirements is impracticable or will exact undue hardship. However, any exception granted by the Planning Board, must be reasonable and within the general purpose and intent of the rules, regulations and standards established by this chapter.

§ 89. Permits and Enforcement.

- A. A Zoning Permit shall be required prior to the erection or basic structural alternation of any building, sign, structure or portion thereof and prior to the use or change in use of any building, sign, structure or land and prior to the change or extension of any non-conforming use. This includes but is not limited to, fences, swimming pools and sheds.
- B. It shall be the duty of the Construction Official Zoning Officer of the Borough to administer and enforce the provisions of this chapter. No structure shall be erected or altered unless a building permit is obtained from the Construction Official following the issuance (in most cases) of a Zoning Permit (see detail below) by the Zoning Officer, and no structure or lot shall be used in violation of this chapter.
 1. It shall be the duty of the Construction Official to keep a record of all applications and all construction permits which are either issued or denied, with notations of any conditions involved, which data shall form a part of the Borough public records. A monthly report of construction permits shall be filed with the Tax Assessor and the Borough Council. The full extent of the responsibilities of the Construction Official are included in the Uniform Construction Code of the State of New Jersey.

2. The Zoning Officer shall have the following responsibilities:
 - a. It shall be the duty of the Zoning Officer to inspect the structures and land in the Borough and order the owner, in writing, to remedy any condition found to exist in violation of the provision(s) of this chapter or any condition in violation of any application for development as duly approved by the Borough under the terms of this chapter. For purposes of this inspection, the Zoning Officer shall have the right to enter any building or premises during reasonable hours, subject to due process of law. The owner shall have fifteen (15) days within which time to respond to the purported violations and indicate the remedies to be taken. Such response, or lack of response, shall be immediately communicated in writing by the Zoning Officer to the Borough Attorney for appropriate referral and action.
 - b. Zoning Permits - The Zoning Officer shall approve all Zoning permits. A Zoning permit is a document signed by the Zoning Officer (1) which is required by this chapter as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building and (2) which acknowledges that such use, structure or building complies with the provisions of this chapter or a variance therefrom duly authorized by the Planning Board pursuant to N.J.S.A. 40:55D-1 et seq.
 - c. Certificate of Non-conformity - The Zoning Officer is authorized to issue certificates certifying that a use or structure existed before the adoption of this ordinance, or amendments thereto, which rendered the use or structure non-conforming. This authority is limited to one (1) year following the adoption of the ordinance rendering the use or structure non-conforming. The Planning Board may issue said certificates at any time.
3. Upon notice being served of any land use existing in violation of any provision(s) of this chapter, the certificate of occupancy for such use shall thereupon, without further notice, be null and void, and a new certificate of occupancy shall be required for any further use of the structure or land.

B. Administrative Officer.

1. The Borough Council shall appoint an Administrative Officer for the purposes of administering this chapter and related land use ordinances.

2. Duties of the Administrative Officer shall be:
 - a. To administer this chapter in accordance with its literal intent and as specified herein. The Administrative Officer shall not have the power to permit any construction, subdivision, or change of use of land or building which is not in strict accordance with the terms of this chapter.
 - b. Upon the request of the Planning Board, to present such facts, records, or similar information so as to assist those agencies in making a decision in a matter brought before it.
 - c. Subdivision approval certificates - The Administrative Officer shall issue document certifying whether or not a subdivision has been duly approved by the Planning Board and issued to a prospective purchaser, prospective mortgagee or any other person interested in any land in the Borough. A request for a subdivision approval certificate must be in writing and must contain a diagram showing the location and dimension of the land to be covered by the certificate and the name of the owner thereof.

C. Issuance of certificates of occupancy.

1. It shall be unlawful to use or permit the use of any structure or part thereof, either occupied by a new use or occupant or hereafter erected, altered, converted or enlarged, wholly or in part, until a certificate of occupancy shall have been issued by the Construction Official. Upon the completion of any building or alteration in compliance with this chapter and any other ordinance, rule or regulation, the owner or his agent may apply to the Construction Official, in writing, for the issuance of a certificate of occupancy pursuant to the provisions of this section, but only when:
 - a. The structure or part(s) thereof and the proposed use conform to this chapter and all other applicable codes and ordinances of the Borough.
 - b. A determination by the Zoning Officer that the use and/or structure is in compliance with the standards for the zoning district and any approvals of the Planning Board.
 - c. Prior site plan, subdivision and variance approvals, as may be necessary, have been granted by the appropriate municipal agency or municipal agencies in accordance with the provisions of this chapter.

- d. All local taxes and assessments on the property have been paid.
 - e. A letter from each utility company has been received by the Borough stating that the utility has been inspected in accordance with the approved plan and is ready for use.
2. A fee shall be charged for each certificate of occupancy in accordance with the applicable ordinances of the Borough.
 3. A certificate of occupancy shall be granted or denied in writing within ten (10) days from the date that a written notification is filed with the Construction Official that the erection of the structure is completed, unless additional time is agreed upon by the applicant in writing.
 4. With respect to any subdivision and/or site plan, or subsection thereof, granted final approval, a certificate of occupancy shall be issued by the Construction Official, based on a report of the Borough Engineer following a site inspection to verify the installation of the following improvements as such improvements may be required as part of subdivision and/or site plan approval:
 - a. Curbs and sidewalks.
 - b. All utilities.
 - c. Water supply and sewage treatment facilities, which shall be functioning and serving the property in question.
 - d. Storm water drainage facilities.
 - e. Appropriate grading of the property as determined by the Borough Engineer.
 - f. Base course of the street or streets serving the property.
 - g. Base course of driveways and parking areas.
 - h. Trees and other required landscaping as may be practicable due to seasonal restrictions.

- i. Pavement striping and markings and on-site regulatory and directional signing.
5. With respect to any individual residential lot within a subdivision, a certificate of occupancy shall be issued by the Construction Official, based on a report of the Borough Engineer following a site inspection to verify the installation of the following improvements, in addition to those listed in subsection C.4. above, to the extent the same are required as part of the subdivision approval:
 - a. Grading of the lot consistent with the approved grading and drainage plans for the subdivision. Where deemed necessary by the Borough Engineer, as-built grading plans, certified by an appropriate professional, shall be required.
 - b. Driveway aprons.
 - c. Street names and regulatory signs.
 - d. Trees, subject to seasonal conditions.
6. A copy of any issued certificate of occupancy shall be kept on file at the premises affected and shall be shown to the Construction Official upon request.
7. Should the Construction Official decline to issue a certificate of occupancy, his reasons for doing so shall be stated on two (2) copies of the application and one (1) copy shall be returned to the applicant.
8. A temporary certificate of occupancy may be issued for a new structure or use for which site approval has been granted although not all conditions of said approval have been complied with. Such temporary certificate of occupancy shall be issued only in extenuating circumstances and only with the approval of the Construction Official, who shall establish specific terms and conditions, including, but not limited to, a time limit for the installation of the uncompleted improvements and the receipt of an appropriate performance guarantee assuring the installation of the improvements as indicated on the approved plat or plan and conditioned by the Planning Board engineer's report.
9. A monthly report on the certificates of occupancy issued shall be filed with the Tax Assessor. A record of all certificates of occupancy shall be kept in the office of the Construction Official, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the structure or land affected. The charge

for each copy shall be established by resolution of the Borough Council, except that there shall be no charge to a municipal agency.

10. The following shall be unlawful until a certificate of occupancy is issued by the Construction Official:
 - a. Occupancy and use of a building erected, constructed, restored, altered or moved or any changes in use of an existing building.
 - b. Occupancy, use or change in use of vacant land.
 - c. Any change in the use of a non-conforming use.
 - d. Occupancy and use of any enlargement to an existing structure.

D. Payment of taxes.

No approval, permit or certificate for any of the following shall be given to an application or to an applicant if any taxes or assessments for local improvements are due or delinquent on the property for which the application is made: preliminary and final site plan; preliminary and final subdivision; minor subdivision; minor site plan; bulk variance; use variance; conditional use; zoning permit or subdivision approval certificate. An application for approval or issuance of any of the above items shall not be deemed complete and shall not be considered by the applicable municipal agency unless the applicant submits with the application a certification signed by an authorized representative of the Borough of Clayton Tax Collector's office stating that no taxes or assessments as described above are due or delinquent on the subject property.

§ **90. Violations and penalties.**

- A. Each and every violation of this chapter shall be subject to punishment by a court of appropriate jurisdiction. Said violation may include a fine of not more than one thousand dollars (\$1,000.00) and/or imprisonment for a term not to exceed ninety (90) days and/or community service of ninety (90) days, or a combination of any of the above.
- B. The violation shall be deemed enforceable against the owner, contractor and/or any other person interested as lessee, tenant, or otherwise.
- C. Each day that a violation continues to exist shall be deemed to be a separate violation.

- D. Nothing contained in this chapter shall be deemed to limit the right of any interested person to initiate the prosecution of any person or persons believed to be in violation of this chapter.

§ 91. Amendments.

This chapter may be amended from time to time by the Borough Council, after the appropriate referrals, notices, hearings and other requirements of law.

§ 92. Procedure for amendments.

- A. Prior to the hearing on adoption of a zoning ordinance or any amendments thereto, Borough Council shall refer any such proposed ordinance or amendment thereto to the Planning Board pursuant to the following requirements:
1. The Planning Board shall issue a report within thirty-five (35) days of referral by the Borough Council which identifies any portion of the proposed development regulation, revision or amendment which is inconsistent with the master plan and any recommendations concerning these inconsistencies.
 2. The Planning Board may include in its report any other matter which it deems appropriate.
 3. Failure of the Planning Board to render a report within the prescribed time period shall relieve the Borough Council of its responsibility to wait for that report before acting on the proposed development regulation, revision or amendment.
- B. After receipt of the Planning Board report, or after the expiration of the time allocated for delivery of that report, the Borough Council shall conduct a public hearing on the merits of the proposed development regulation, revision or amendment.
- C. The Borough Council shall evaluate the proposed amendment for its consistency with the master plan.
- D. Notice requirement for hearings on changes to the zoning classifications or boundaries shall be in accordance with § 69.

- E. The Borough Council may enact an amendment which is in whole or part inconsistent with the master plan and which is not designed to effectuate the land use plan or housing plan elements but only by an affirmative vote of a majority of its full authorized membership. In that instance, the reasons for the action of the Borough Council shall be set forth in a resolution and recorded in the minutes of the Borough Council.
- F. A protest against any proposed amendment or revision of a zoning ordinance may be filed with the Borough Clerk, signed by the owners of twenty percent (20%) or more of the area either (a). of the lots or land included in such proposed change, or (b). of the lots or land within two hundred (200) feet in all directions therefrom inclusive of street space, whether within or without the Borough. In the event such a protest is filed, the amendment or revision shall require the affirmative vote of two-thirds of all members of Borough Council.
- G. No zoning amendment shall be submitted to or adopted by initiative or referendum.

§ 93. Severability and repealer.

- A. Should any section or provision of this chapter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity as a whole or of any other part thereof.

94. Enforcement Procedure for Planning/Zoning Board Resolutions and/or actions.

- A. Purpose. The purpose of this section is to provide for the process and procedures to enforce the decisions of the Clayton Planning/Zoning Board.
- B. Enforcement Procedure:
 - 1. Any alleged violation of any Planning/Zoning Board action may be reported to the Borough of Clayton by a citizen or as observed by an employee of the Borough of Clayton or the Zoning Officer or Code Enforcement Officer or any other official of the Borough of Clayton.
 - 2. Upon the reporting of any alleged violation (i.e. either in writing or orally), an investigation and/or verification of the complaint will be completed by the Zoning Officer or Code Enforcement Officer.
 - 3. If an alleged violation has been verified, then written notice of the alleged violation will be sent to the violator with a designated time frame to correct the violation in the discretion of the Borough Zoning Officer or Code Enforcement Officer.

4. In the event the violator fails to correct the violations in the time prescribed or continues to violate the provisions of the Clayton Planning/Zoning Board, then a summons will be issued through the Clayton Municipal Court for a violation of the provisions of this section of the Unified Development Ordinance and the appropriate Court date will be scheduled by the Municipal Court for enforcement of the actions of the Clayton Planning/Zoning Board for the appropriate action as determined by the Municipal Court Judge.

C. Penalties.

Anyone who is found to have violated this section of the Unified Development Ordinance shall be subject to a fine of not less than fifty (\$50.00) dollars nor more than one thousand (\$1,000.00) dollars and/or imprisonment in the County Jail for up to ninety (90) days or both at the discretion of the Municipal Court Judge. For purposes of this section, each day of the continued violation will constitute a separate violation.