

Chapter 190. ZONING

[HISTORY: Adopted by the Township Committee of the Township of Andover 7-30-2001 by Ord. No. 2001-10 (Ch. XV of the 1973 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 30.
Flood damage prevention — See Ch. 55.
Land use procedures — See Ch. 74.
Site plan review — See Ch. 131.
Stormwater management — See Ch. 150.
Subdivision of land — See Ch. 159.
Tree harvesting — See Ch. 171.

Article I. Title and Purpose

§ 190-1. Title.

This chapter shall be known and may be cited as the "Zoning Ordinance of the Township of Andover."

§ 190-2. Purpose.

It is the intent and purpose of this chapter to:

- A. Guide the appropriate use or development of all lands in Andover Township in a manner which will promote the public health, safety and general welfare.
- B. Secure safety from fire, flood, panic and other natural and man-made disasters.
- C. Preserve adequate light, clean air, open space and clean water.
- D. Ensure that land development does not conflict with the development and general welfare of neighboring municipalities, the county and the state as a whole.
- E. Promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons and neighborhoods and preservation of the environment.
- F. Encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies.
- G. Provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements.
- H. Encourage the location and design of transportation routes which will promote the free flow

of traffic while discouraging the location of such facilities and routes which result in congestion or blight.

- I. Promote a desirable visual environment through creative development techniques and good civic design and arrangements.
- J. Promote the conservation of open space and valuable natural resources and prevent urban sprawl and degradation of the environment through improper use of land.
- K. Encourage development which incorporates the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development to the particular site.
- L. Encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land.
- M. Establish building lines and the location of buildings designed for residential, commercial, industrial, office or other uses within such lines and fix reasonable standards to which buildings or structures shall conform.
- N. Prohibit uses, buildings or structures which are incompatible with the character of development or the permitted uses within specified zoning districts.
- O. Prevent additions to and alterations or remodeling of existing buildings or structures that would not comply with the restrictions and limitations imposed hereunder.
- P. Protect against fire, explosions, noxious fumes and other hazards in the interest of the public health, safety, and comfort and the general welfare.
- Q. Conserve the taxable value of land and buildings throughout the Township.
- R. Meet the housing needs of the future citizens of the Township of Andover and the region.

Article II. Word Usage and Definitions

§ 190-3. Word usage.

Unless the context otherwise indicates, the following definitions shall be used in the interpretation and construction of this chapter. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "person" includes a corporation as well as an individual; the word "occupied" includes the words "designed or intended to be occupied"; the word "used" shall include the words "arranged, designed, constructed, altered, converted, rented, leased, or intended to be used"; the word "abut" shall include the words "directly across from," "adjacent" and "next to"; and the word "shall" is mandatory and not optional. The word "lot" includes the word "plot"; the word "building" includes the word "structure"; and the word "zone" includes the word "district."

§ 190-4. Definitions.

Certain words and phrases used in this chapter are defined for the purpose hereof as follows:

ACCESSORY USE OR STRUCTURE

A subordinate use or building, the purpose of which is customarily incidental to that of the main use or building and on the same lot.

ADMINISTRATIVE OFFICER

The Zoning Officer.

AGRICULTURAL USE

An area of land which is actively devoted to agricultural or horticultural use which occupies no less than five acres, exclusive of the land upon which the farmhouse is located and such additional land as may actually be used in connection with the farmhouse, as provided in N.J.S.A. 54:4-23.3, 54:4-23.4, 54:4-23.5 and 54:4-23.11. Agricultural uses are defined herein to include peat harvesting operations.

ALTERATION

As applied to a building or structure, a change or rearrangement in the structure parts or in the existing facilities, or an enlargement whether by extension of a side or by increasing in height, or by moves from one location or position to another.

AMUSEMENT MACHINE

Any coin-operated machine or device which, whether mechanical, electrical or electronic, shall be ready for play by the insertion of a coin and may be operated by the public for use as a game, entertainment or amusement, the object of which is to achieve either a high or low score, by comparison to the score of other players.

AMUSEMENT MACHINE ENTERPRISE

Premises for the operation of amusement machines as a primary use.

ANIMAL, DOMESTIC

Dogs, cats, rabbits, and birds (other than poultry) for noncommercial family use only.

ANIMAL, FARM

Animals other than domestic animals that are kept and maintained for commercial production and sale and/or family food production, education or recreation and that are further associated with an agricultural use as defined in this chapter.

ANIMAL HOSPITAL

A place where animals or pets are given medical or surgical treatment. Use as a kennel shall be limited to short-term boarding and shall be incidental to such hospital use.

ANIMAL KENNEL

Any building, structure or premises in which animals are kept, boarded, bred or trained for commercial gain.

APPLICANT

The landowner or the agent, optionee, contract purchaser or other person authorized to act for and acting for the landowner submitting an application under this chapter.

APPLICATION FOR DEVELOPMENT

The application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance, issuance of a permit, or appeals.

APPROVING AUTHORITY

The Planning Board of the Township, unless a different agency is designated by ordinance.

AUCTION MARKET

Any premises on which are held at periodic times auction sales of merchandise or personal property.

AUTOMOTIVE SERVICE STATION or GASOLINE STATION

A place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public, including sale of accessories, greasing, oiling and light motor service on the premises.

BASEMENT

That portion of a building which is partly below and partly above grade and having at least 1/2 its height above grade and with a floor-to-ceiling height of not less than 6 1/2 feet.

BOARDER

A person who is not related to the head of the household and who may or may not pay for the privilege of boarding.

BOND

An insurance agreement underwritten by a reputable insurance company approved by the Township Committee, or cash as determined by the Township Planning Board, to provide financial surety for the act or default of an applicant in failing to comply with the standards of this chapter and the conditions of his approved plan.

BUILDING

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

BUILDING AREA

That horizontal ground area which is directly under a building or buildings.

BUILDING SETBACK

A line established by this chapter within a lot defining the minimum distance between any structure or portion thereof to be erected or altered and an adjacent right-of-way, easement, street line, common open space or property 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 services; management and consulting services; protective services; equipment rental and leasing; commercial research, development, testing; photo finishing; and personal supply services. [Added 4-25-2011 by Ord. No. 2011-01]

CELLAR

A portion of the building partly underground, having 1/2 or more than 1/2 of its height below the average grade level of the building or with a floor-to-ceiling height of less than 6 1/2 feet.

CHILD-CARE CENTER

An establishment providing for the care, supervision and protection of children.

CLUSTER

Areas to be developed as a single entity according to a plan containing residential housing, commercial and/or industrial units which have a common or public open space as an appurtenance.

COMMERCIAL MOTOR VEHICLE OPERATION

Any facility or property used primarily for the dispatching, garaging, servicing or maintaining of any truck registered at a gross weight in excess of 6,000 pounds, omnibus, tractor, trailer, semitrailer, pole trailer, or any vehicle registered in this state engaged in commerce which is now or hereafter subject to regulation and licenses by the Interstate Commerce Commission, the Bureau of Motor Carrier Safety of the Federal Highway Administration or the New Jersey Division of Motor Vehicles, provided that any such operation shall be limited to a maximum of 50 truck or trailer-type units and a maximum of 100 trailer-type units. The temporary storage of freight or cargo consistent with and ancillary to an operation shall be permitted. The storage of any other freight or cargo is prohibited.

COMMERCIAL RECREATION

See "recreation, commercial."

COMMERCIAL VEHICLE

Any commercial-type vehicle, whether or not registered as a commercial vehicle, used in connection with a business or any vehicle containing advertising matter intended to promote the interest of any business, including tractor trailers, cabs or trailers normally used for over-the-road use, shipping containers, straight trucks and panel trucks.

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.

COMMON SEWER

A sewerage system wherein all uses on the property dispose of sewage into a common facility.

COMMON WATER

A water system wherein all water users on the property obtain their drinking water from a central well, or wells, or public water supply system.

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 15 developmentally disabled or mentally ill persons who require assistance, temporarily or permanently, in order to live in the community and shall include, but not be limited to, group homes, halfway houses, intermediate care facilities, supervised apartment living arrangements and hostels. 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 a community residence housing mentally ill persons, such residents shall have been approved for a purchase of service contract or an affiliation agreement pursuant to such procedures as are established by regulation of the Division of Mental Health and Hospitals of the Department of Human Services. As used in this chapter, "developmentally disabled person" means a person who is developmentally disabled as defined in N.J.S.A. 30:11B-2, and "mentally ill person" means a person who is afflicted with a mental illness as defined in N.J.S.A. 30:4-23, *Editor's Note: N.J.S.A.*

30:4-23 was repealed by L. 1987, c. 116. See now N.J.S.A. 30:4-27.2. 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.

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 regulation of the Department of Human Services pursuant to N.J.S.A. 30:14-1 et seq. providing food, shelter, medical care, legal assistance, personal guidance and other services to not more than 15 persons who have been victims of domestic violence, including any children of such victims who temporarily require shelter and assistance in order to protect their physical or psychological welfare.

CONDITIONAL USE

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

CONVENTIONAL DEVELOPMENT

Any development other than planned development.

COURT

Any open, unoccupied area which is bounded by three or more attached building walls.

COVERAGE

That area of a lot which is occupied by a building or structure, but not including covered walkways, steps, patios or a parking lot or area or any similar improvements thereto.

CUL-DE-SAC

The end or terminal area of a dead-end street.

DEVELOPER

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

DEVELOPMENT

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

DRIVE-IN RESTAURANT

A building where food or beverages are sold in a form ready for consumption and where a portion of the consumption of the same takes place or is designed to take place outside the confines of the building but on the building lot.

DWELLING

Any permanent building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons. Hotels, motels, dormitories, fraternity or sorority houses, rooming or boarding houses and other similar group quarters and institutional living space shall

not constitute a dwelling as defined in this chapter.

DWELLING, SINGLE-FAMILY

A building occupied or intended for occupancy exclusively for one family or one household with direct access from the outside and further provided with cooking, sleeping and sanitary facilities for the exclusive use of the occupants of the unit.

DWELLING UNIT

One or more rooms providing living facilities for one family, including equipment for cooking or provisions for the same and indoor bathroom facilities.

EFFICIENCY APARTMENT or EFFICIENCY GARDEN APARTMENT

A dwelling unit consisting of not more than one habitable room plus a kitchen or kitchenette and sanitary facilities.

EQUINE ANIMAL

A horse, donkey, mule or pony.

ESSENTIAL SERVICES

The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground, surface or overhead gas, electrical, steam or water storage or transmission systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, light stations, telephone lines, hydrants, tanks and other similar equipment and accessories herewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health, safety or general welfare. "Essential services" shall include firehouses or stations and first aid and emergency first aid squads. Requirements for underground utilities shall be subject to the requirements of the Public Utility Commission as well as other Township ordinances where appropriate.

EXTENDED CARE FACILITY

A long-term care facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit or a home for the aged or a governmental medical institution.

FAMILY

Any number of persons related by blood, marriage, or adoption or up to four unrelated persons living together as a single housekeeping unit and using certain rooms and housekeeping facilities in common. "Family" shall also include foster children placed with a family in such dwelling by the Division of Youth and Family Service or a duly incorporated child-care agency and as provided for in N.J.S.A. 40:55D-66.1.

FARM

See "agricultural use."

FENCE

An artificially constructed barrier of any material or combination of materials erected to enclose, screen or separate areas.

FLEX-SPACE BUILDINGS

Businesses using structures wherein office space is combined with a warehouse and/or the distribution of a product or products wherein such warehouse and/or distribution is necessary and

incidental to the main office use. In such case, the warehouse shall not exceed 90% of the floor area of the building.

FLOOR AREA

The total enclosed floor area of all floors or stories of a structure used for residential, industrial, office, business or commercial activities, which, in the case of the latter, includes customer facilities, showcase facilities and storage and sales facilities.

GARAGE, PRIVATE

A building or space used as an accessory to the main building and in which no occupation, business or service for profit is carried on but which is used primarily for vehicle storage.

GARAGE, PUBLIC

A building or space other than a private garage which is used for storage, repair, rental, adjusting or equipping of automobiles or other motor vehicles, other than an automotive service station as herein defined.

GARDEN APARTMENT

A building occupied or intended for occupancy as separate living quarters for two or more families, or two or more households, with direct access either from the outside for each family or household or through a common hall, and further provided that separate cooking, sleeping and sanitary facilities are provided for the exclusive use of the occupants of each dwelling unit. Generally, each apartment unit is located on a single floor, but this feature is merely descriptive and not a mandatory requirement. Additional features of a garden apartment may be provided in common, such as off-street parking, yards and open space. The standards for garden apartment shall be substituted for the term "dwelling, multifamily" or the term "multiple-family dwelling" throughout this chapter.

GOLF COURSE

A tract of land laid out to play golf in accordance with United States Golf Association standards and improved with tees, greens, fairways and hazards and that may include a clubhouse and shelter and operated as a commercial enterprise or as a country club. The golf course may include as accessory uses a pro shop, maintenance facilities, sand, chipping and green practice areas and a practice range for the golfers using the eighteen-hole golf course but not a commercial driving range. The golf course owner shall also own the accessory uses such as a pro shop, maintenance facilities and chipping and driving practice area and golf course clubhouse.

GREENHOUSE

A building constructed mainly of glass or other translucent material in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants.

HEALTH CLUB

An establishment that provides facilities for aerobic exercises, indoor lap pools, running and jogging, exercise equipment, and ancillary facilities such as lockers, showers, and saunas. **[Added 4-25-2011 by Ord. No. 2011-01]**

HEIGHT OF BUILDING

The vertical distance from the average ground elevation around the foundation of the building to the highest point of the roof beams of a flat roof and to the mean height between eaves and ridge for gabled, hipped or pitched roofs.

HISTORIC SITE OR BUILDING

Any building, structure, area or property that is significant in the history, architecture, archaeology or culture of this state, its communities or the nation and has been so designated by one of the above.

HOME OCCUPATION OR PROFESSION

An occupation for gain or support conducted solely by members of the family residing in the dwelling unit, such as dressmaking, baking, millinery, craft workshops or an office of a member of a recognized profession, such as doctor, lawyer, architect, engineer, land surveyor, planner or similar profession in character by virtue of training and experience.

HOTEL

A facility offering transient lodging accommodations to the general public and not for permanent residency and providing additional services such as restaurants, meeting rooms and recreation facilities. Each hotel unit shall consist of at least one bedroom, bathroom and closet area. Cooking facilities within the separate rental units are specifically prohibited. No hotel or any rental space thereon, other than permanent concessionaires within a hotel or motel, shall be occupied by the same guest or guests for a consecutive period exceeding 14 days.

HOUSEHOLD

A family, or not more than four persons, living together as a single housekeeping unit.

IMPERVIOUS LOT COVERAGE

The square footage or other area measurement by which all buildings and impervious surfaces cover a lot as measured in a horizontal plane to the limits of the impervious area(s). All surfaced parking areas and all required parking areas which are permitted to remain unsurfaced shall be included in the computation of impervious lot coverage.

INDUSTRIAL

Those type, class or particular establishments which manufacture, assemble or fabricate products.

INSTITUTIONAL

A use by a public or nonprofit quasi-public body for educational, religious, charitable or civic purposes.

INTERESTED PARTY

Any person whose right to use, acquire or enjoy property is or may be affected by any action taken under this chapter.

INTERMEDIATE CARE FACILITY

A facility which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designated to provide but who, because of their mental or physical condition, require care and services (above the level of room and board) which can be made available to them only through institutional facilities such as these.

JUNKYARD

Any area or structure used primarily for the collection, storage and sale of wastepaper, rags, scrap metal or discarded material and for the collection, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

KIOSK BUSINESS

Business conducted within a freestanding structure, or within an attached structure having exposure on at least two sides and containing less than 100 square feet in gross floor area.

LAND

A lot or geographic parcel, including improvements and fixtures on, above or below the surface.

LIGHT INDUSTRIAL MANUFACTURING

Manufacturing or assembly plants, those that do not present a fire or explosive potential or emit toxic matter, noise, odor, vibration, glare, smoke, particulate matter or other elements which may be discernible and may have a nuisance potential.

LOT

A designated parcel, tract or area established by a plat or otherwise permitted by law and which may be used, developed or built upon as a unit.

LOT AREA

An area of land which is determined by the limits of the lot lines bounding that area.

LOT AVERAGING

A form of development wherein individual lot areas and bulk requirements may be reduced, provided that the number of lot-averaged lots does not exceed the number of lots obtainable using conventional zoning in conformance with subdivision requirements, land use ordinances and NJDEP restrictions. [Amended 9-14-2005 by Ord. No. 2005-19]

LOT COVERAGE

That percentage of the lot covered by building area.

LOT DEPTH

A mean horizontal distance between the front and rear lot lines measured at right angles to the street in the general direction of its side lot lines.

LOT WIDTH

The horizontal distance between the lot side lines measured at the street right-of-way line or at the building setback line when the lot is located upon a cul-de-sac. A corner lot fronting upon two streets shall be measured at right angles between one side line and one street right-of-way line at the other street right-of-way line. It shall meet the lot width requirements on one street.

MAJOR SUBDIVISION

Any subdivision not classified as a minor subdivision.

MASTER PLAN

A composite of mapped and written proposals recommending development of the Township of Andover as duly adopted by the Planning Board.

MEDICAL OFFICES

An office or offices for the practice of general or specialized medicine and/or therapeutic services by licensed or state-certified practitioners. [Added 10-27-2008 by Ord. No. 2008-17]

MINOR SUBDIVISION

As defined in Chapter 159, Subdivision of Land, § 159-4 of this Code.

MOTEL

An establishment providing transient accommodations containing six or more rooms with at least 25% of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building and providing additional services such as restaurants, meeting rooms and recreational facilities. Each motel unit shall consist of a bedroom, bathroom and closet space. No unit shall have individual cooking facilities. No motel or any rental space thereon, other than permanent concessionaires within a hotel or motel, shall be occupied by the same guest or guests for a consecutive period exceeding 14 days.

NONCONFORMING LOT

A lot of record existing at the time of passage of this chapter which does not have the minimum width or depth or contain the minimum area for the zone in which it is located.

NONCONFORMING STRUCTURE

A building which in its design or location upon a lot does not conform to the regulations of this chapter for the zone in which it is located.

NONCONFORMING USE

Use of a building or of land that does not conform to the regulations of the zone in which it is located.

NURSING HOME

An extended or intermediate 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.

OFFICIAL COUNTY MAP

The map, with changes and additions therein, adopted and established from time to time by resolution of the Board of Chosen Freeholders of the county pursuant to N.J.S.A. 40:27-5.

OFFICIAL MAP

A map adopted in accordance with the Municipal Land Use Act, *Editor's Note: See N.J.S.A. 40:55D-1 et seq.* or any prior act authorizing such adoption, which map shall be deemed to be conclusive with respect to the location and width of the streets, public parks and playgrounds and drainage rights-of-way shown thereon.

OPEN SPACE

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

An area to be developed as a single entity according to a plan containing residential housing units which have a common or public open space area as an appurtenance.

OWNER

An individual, firm, association, syndicate, copartnership or corporation having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to develop the same under this chapter.

PATIO HOME

A single-family attached one-story dwelling unit, located on a separate lot with open space setbacks on three sides and with a court. Patio homes that are attached to a similar house on an adjacent lot are included in this definition.

PARKING AREA, PRIVATE

Any open area used for the temporary storage of automobiles and other vehicles for the private use of the owners or occupants of the lot on which the area is located.

PARKING AREA, PUBLIC

Any open area, other than a road or other public way, used for the temporary storage of automobiles and other vehicles and available to the public, whether for a fee or without compensation or as an accommodation for clients, customers or employees.

PARKING SPACE

An off-street space for the parking of one motor vehicle.

PEAT

Organic matter of geological origin, excluding coal, formed from dead plant remains in water and in the absence of air. It occurs in bogs, swampland or marsh and contains not less than 70% by dry weight of decomposed organic matter or, conversely, it has an ash (mineral) content not exceeding 25% by dry weight.

PEAT HARVESTING OPERATION

An operation that drains a swamp, bog or marsh, removes the peat that had formed under the water and then permits the area harvested to reach its natural water table.

PERSON

An individual, proprietorship, partnership, corporation, association or other legal entity.

PLACE OF WORSHIP

A. A church, synagogue, temple, mosque or other facility that is used for prayer by persons of similar beliefs.

B. A special purpose building that is architecturally designed and particularly adapted for the primary use of conducting on a regular basis formal religious services by a religious congregation.

PLANNED COMMERCIAL DEVELOPMENT

A tract of land at least 25 acres in area within the Planned Commercial Development District, developed according to a plan as a single entity, whether owned by one or more parties, and containing one or more buildings with appurtenant common areas, and accommodating more than one of the uses within the Planned Commercial Development District.

PLANNED DEVELOPMENT

Planned unit development, planned unit residential cluster, planned commercial development or planned industrial development.

PLANNED INDUSTRIAL DEVELOPMENT

An area of a minimum contiguous size as specified by this chapter to be developed according to a plan as a single entity containing one or more structures with appurtenant common areas to accommodate industrial uses and any other uses incidental to the predominant use as may be

permitted by this chapter.

PLANNED RESIDENTIAL DEVELOPMENT

An area of 200 or more contiguous acres to be developed as a single entity according to a plan containing one or more residential structures and uses incident to residential use as is permitted pursuant to this chapter.

PLANNING BOARD

The Planning Board of Andover Township.

PRINCIPAL STRUCTURE

The primary or predominant use of a lot or plot.

PROFESSIONAL, BUSINESS, AND ADMINISTRATIVE OFFICES

An office or offices for those professional, scientific and technical services, including, but not limited to, the practice of law, real estate and appraisal services, accounting, architecture, landscape architecture, engineering, land use planning, interior design, land surveying, graphic design, computer systems design and consulting, marketing and sales management services, administrative management, human resources consulting, environmental consulting services and advertising and public relations services.[Added 10-27-2008 by Ord. No. 2008-17]

PUBLIC AREA

- A. Public parks, playgrounds, trails, paths and other recreational areas.
- B. Other public open spaces.
- C. Scenic and historic sites.
- D. Sites for schools and other public buildings and structures.

PUBLIC DEVELOPMENT PROPOSAL

A master plan, capital improvement program or other proposal for land development adopted by the appropriate public body, or any amendment thereto.

PUBLIC DRAINAGEWAY

The land reserved or dedicated for the installation of stormwater sewers or drainage ditches or required along a natural stream or watercourse for preserving the channel and providing for the flow of water to safeguard the public against flood damage, sedimentation and erosion.

PUBLIC OPEN SPACE

An open space area conveyed or otherwise dedicated to the Township or a Township agency, board of education, state or county agency, or other public body for recreational or conservation uses.

QUALIFYING MAP

A map required to be submitted by the applicant to the reviewing municipal board for all cluster subdivisions. The qualifying map shall depict a conventional subdivision with lots meeting the standard yard requirements of the zone. The total number of lots in a cluster subdivision shall not exceed the number of standard lots which would otherwise have been permitted under this chapter, taking into account the physical features of the property.

QUORUM

The majority of the full authorized membership.

RECREATION, COMMERCIAL

Facilities of a recreational nature, such as a riding academy, bowling alley, golf course or tennis club operated for profit, open to the public.

RESEARCH LABORATORY

An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, which may include engineering and product development.

RIGHT-OF-WAY

A. The strip of land on which a road, path or public utility is located, owned by or dedicated to the public, or subject to an easement in a public agency.

B. Generally, the right of one to pass over the property of another.

ROADSIDE STAND

An open or covered structure which fronts on a public street and which is operated for the purpose of direct-to-consumer commodity sales of products produced by operators, owned or leased, on the premises.

SEXUALLY-ORIENTED BUSINESS

A. A commercial establishment which, as one of its principal business purposes, offers for sale, rental or display any of the following: books, magazines, periodicals or other printed material, or photographs, films, motion pictures, videocassettes, slides or other visual representations, which depict or describe a specified sexual activity or specified anatomical area; or still- or motion-picture machines, projectors or other image-producing devices which show images to one person per machine at any one time and where the images so displayed are characterized by the depiction of a specified sexual activity or specified anatomical area; or instruments, devices or paraphernalia which are designed for use in connection with a specified sexual activity; or

B. A commercial establishment that regularly features live performances characterized by the exposure of specified anatomical areas or by a specified sexual activity or which regularly shows films, motion pictures, videocassettes, slides or other photographic representations that depict or describe a specified sexual activity or specified anatomical area.

SHOPPING CENTER

A group of commercial establishments planned, constructed and managed as a total entity, with customer and employee parking provided on site, provision for goods delivery separated from customer access, and landscaping and signage provided in accordance with an approved plan.

SIGN

Any device, structure or object for visual communication that is used for the purpose of bringing the subject thereof to the attention of others. The flag, badge or insignia of any public, quasi-public, civic, charitable or religious group shall not be considered a sign. The term "sign" shall also include advertising structures commonly known as billboards which direct attention to a business, commodity, service or activity conducted, sold, offered or existing elsewhere than upon the same lot where such sign is displayed and which are prohibited by this chapter.

SIGN AREA

The area defined by the outside edge of the frame. Where there is no frame or edge to the sign, the area shall be defined by a projected, enclosed, four-sided (straight sides) geometric shape which most closely outlines the sign.

SIGN, DIRECTIONAL

An off-premises sign which indicates direction to a permitted use under the provisions of this chapter for special permit signs. Temporary signs giving direction to activities and events as enumerated in this chapter and on-premises signs, as regulated herein, directing and controlling traffic shall also be considered directional signs.

SIGN, DIRECTLY ILLUMINATED

Any sign designed to give forth any artificial light directly, or through any transparent or translucent material, from a source of light connected with such sign.

SIGN, FACADE AREA FOR

The area of a building wall fronting on a street, including windows and doors.

SIGN, FLASHING

Any directly or indirectly illuminated sign on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use.

SINGLE-FAMILY DETACHED

See the definitions of "dwelling, single-family," "townhouse" and "patio home."

SITE PLAN

A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, drainage roads, rights-of-way, boundaries, all essential dimensions and bearings, and any other information required by Chapter 131, Site Plan Review, or deemed necessary by the appropriate board in unusual or special cases.

SPECIAL EVENT

A display of persons or materials, which display is not an adjunct to any business utilizing any rental space within the structure. A special event does not include sidewalk sales.

SPECIFIED ANATOMICAL AREA

Less than completely and opaquely covered human genitals, pubic region, buttock or female breast below a point immediately above the top of the areola or human male genitals in a discernibly turgid state, even if covered.

SPECIFIED SEXUAL ACTIVITY

The fondling or other erotic touching of covered or uncovered human genitals, pubic region, buttock or female breast or any actual or simulated act of human masturbation, sexual intercourse or deviate sexual intercourse.

SPORTS FACILITIES

Facilities within an enclosed building with suitable acoustical construction so as to abate noise beyond the interior of the building accommodating training and playing of sports such as tennis, basketball, baseball, softball, volleyball, handball courts, skateboarding, martial arts instruction and indoor target ranges. [Added 4-25-2011 by Ord. No. 2011-01]

STANDARDS OF PERFORMANCE

Standards adopted by this chapter regulating noise levels, glare, earthborne or sonic vibrations,

heat, electronic or atomic radiation, noxious odors, toxic matters, explosive and inflammable matters, smoke and airborne particles, waste discharge, screening of unsightly objects or conditions and such other similar matters as may be reasonably required by the Township ordinances or required by applicable federal or state laws.

STORY

That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

STORY, HALF

A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story.

STREET

A public thoroughfare which has been dedicated or deeded to the public for public use, or a private street approved by official action or filed on a plat in the Sussex County Clerk's office before the appointment of a Planning Board in Andover Township.

STREET LINE

That line determining the limit of the highway rights of the public, either existing or contemplated.

STRUCTURE

A combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above, or below the surface of a parcel of land.

TOPSOIL

The outer layer of the earth's crust, usually unconsolidated, which differs from the material beneath it, also usually unconsolidated, in color, structure, texture, physical constitution, chemical composition, biological character, probable chemical processes, in reaction and morphology.

TOWNHOUSE

A building designed for or occupied by no more than one family or household and attached by a fireproof party wall to other similar buildings or structures by party walls extending from the foundation to the roof and providing at least two direct means of access from the outside and provided with separate cooking, sleeping and sanitary facilities and separate facilities for electric service, heating facilities and gas service. For the purpose of this chapter, "townhouse" may include a building in fee simple, condominium or cooperative ownership or any combination thereof.

TRAILER

A wheel-based vehicle that is designed to be transported by traction and which is used or may be used as a dwelling or for the transportation or storage of goods, materials, livestock or any object. The regulations in this chapter that apply to trailers shall also apply to the following vehicles as herein defined below:

- A. **BOAT TRAILER** — A trailer designed for the purpose of transporting a boat overland.
- B. **HORSE TRAILER** — A trailer designed for the purpose of transporting horses or animals overland.
- C. **HOUSE TRAILER** — A large trailer outfitted as a home meant to be parked more or less

permanently on a location.

D. **MOTORIZED HOME** — A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.

E. **PICKUP COACH** — A structure designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation uses.

F. **TENT TRAILER** — A trailer with a built-in or attached tent designed and equipped to render it suitable for use as a temporary dwelling for travel, recreational and vacation uses.

G. **TRAVEL TRAILER** — A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, or as an office for business use.

USE

The specific purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained.

VARIANCE

Permission to depart from the literal requirements of this chapter.

WAREHOUSE

A structure or room for the storage of merchandise or commodities. In retail sales establishments, the portion of the building used for storage or warehousing of merchandise or commodities shall not exceed 40% of the area of the building.

YARD

A. **FRONT YARD** — An area, unoccupied except by a use as hereinafter specifically permitted, extending across the full width of a lot and lying between the abutting street right-of-way line and the nearest part of the principal structure on the lot.

B. **REAR YARD** — An area, unoccupied except by a use as hereinafter specifically permitted, extending across the full width of a lot and lying between the rear lot line and the nearest part of the existing or proposed principal structure on the lot.

C. **SIDE YARD** — An area, unoccupied except by a use as hereinafter specifically permitted, extending from the front yard to the rear yard of a lot and lying between the side lot line and the nearest part of the principal structure on the lot.

Article III. General Regulations

§ 190-5. Effect on other ordinances.

Any restrictions or requirements with respect to buildings or land, or both, which appear in other ordinances of the Township as established by law and which are greater than those set forth in this chapter shall take precedence over those herein. Otherwise the provisions of this chapter shall apply.

§ 190-6. Conformity with regulations; reconstruction.

A. No building shall be erected and no existing building shall be moved, structurally altered,

added to, enlarged or rebuilt nor shall any land be used for any purpose other than those included among the uses listed as permitted uses in each zone by this chapter and meeting the requirements as set forth by the schedule, nor shall any open space contiguous to any building be encroached upon or reduced in any manner except in conformity with the yard, lot area, building location, percentage of lot coverage, off-street parking space and such other regulations designated in the schedule and this chapter for the zone in which such building or space is located. In the event of any such unlawful encroachment or reduction, the building shall be deemed to be in violation of the provisions of this chapter.

- B. No building shall be erected and no existing building shall be moved, structurally altered, added to, enlarged, or rebuilt nor should any land be used for any purpose or in any other manner than as permitted in this chapter and Chapter 74, Land Use Procedures, of the Code of the Township of Andover and any conditions of any applicable variance, site plan or subdivision approval by the approving board.
- C. Any single-family dwelling which was in existence on the date of the adoption of this chapter and which is totally destroyed either by fire or by accident may be reconstructed upon its former location provided that the exterior dimensions of such dwelling, as reconstructed, are no greater than the exterior dimensions of the original structure. Such reconstruction shall not constitute a violation of any of the yard, area, height or building area requirements of the zone within which such dwelling is located.

§ 190-7. Applicability.

No land may be used and no structure may be erected, raised, moved, extended, enlarged, altered, demolished or used for any purpose other than that permitted herein for the zone in which it is located, and all construction shall be in conformity with the regulations provided for the zone in which such construction is located.

§ 190-8. Construction permit.

No building or part thereof shall be erected, constructed, altered, repaired or moved until a construction permit has been issued by the Construction Official.

§ 190-9. Zoning permit.

- A. A zoning permit shall be obtained by the owner and/or occupant of real estate within the Township of Andover in the following instances:
 - (1) Before changing the use of any building, structure, lot or parcel of land, or portion thereof, or allowing such change.
 - (2) Before constructing, erecting, altering or enlarging or permitting the construction, erection, alteration or enlargement of any building or structure on a lot.
 - (3) Before occupying any building, structure, lot or tract of land where the use has been changed.
- B. A zoning permit shall be required for alterations or renovation which would intensify the use by increasing the units occupied in the building or by changing the parking, traffic pattern or lighting.

- C. No zoning permit shall be required for the alteration of a single-family dwelling to be used solely for residential purposes. A zoning permit shall be required for an addition to a single-family residence.
- D. The zoning permit shall show that every building or structure, or premises or part thereof, and the proposed use thereof are in conformity with the provisions of this chapter or in conformity with the provisions of a variance previously granted according to law and all other applicable Township and state laws, rules and regulations.
- E. All zoning permits shall be used in triplicate, and one copy shall be posted conspicuously on the premises affected whenever construction work is being performed thereon. No owner, contractor, workman or other persons shall perform any building operations of any kind unless the zoning permit covering such operation has been previously issued. Furthermore, no building operations of any kind shall be performed after notification of the revocation of said zoning permit. Every zoning permit for a residence or residential dwelling unit shall set forth the maximum occupancy of said residence or dwelling unit for a multiple housing complex, such as garden apartments or townhouses.
- F. A record shall be kept of all zoning permits issued, and the original applications therefor shall be kept on file in the same manner as applications for building permits. No owner, tenant or other persons shall use or occupy any building or structure thereafter erected or altered, the use of which shall be changed after passage of this chapter, without first obtaining a zoning permit.
- G. A zoning permit, unless revoked, shall continue in effect so long as there is no change of use of the premises.
- H. The Zoning Officer shall act upon all such applications within 15 days after receipt of a fully filled in application or shall notify the applicant in writing of his refusal to issue such permit and the reasons therefor.
- I. Failure to notify the applicant in case of such refusal within said 15 days shall entitle the applicant for a zoning permit to file an appeal to the Zoning Board of Adjustment as in the case of a denial.
- J. The Zoning Officer may waive plans on minor alterations not affecting structural change.
- K. Fee schedule for application for zoning permit:

	Application Fee	Late Filing Fee
Additions, alterations and accessory structures: farm and residential		
Up to \$5,000	\$10	\$10
Up to \$20,000	\$20	\$15
Over \$20,000	\$30	\$20
New homes	\$50	\$25

Home occupations	\$25	\$20
Commercial alterations: signs, accessory structures, new buildings		
Up to \$10,000	\$25	\$20
Up to \$100,000	\$50	\$30
Over \$100,000	\$75	\$50

- L. If it shall appear at any time to the Zoning Officer that the application or accompanying plans is in any material respect false or misleading or that the work being done upon the premises is materially different from that called for in the application previously filed with him or may be in violation of any provision of this chapter or that the conditions imposed by either the Planning Board or Board of Adjustment are not being met within the time or in the manner required by the approving authority, he may forthwith revoke the zoning permit.

§ 190-10. Violations and penalties.

- A. Any person violating this chapter and any zoning, site plan, subdivision or land use ordinances and any conditions of approvals of the Planning Board or Zoning Board of the Township of Andover may be subject to a penalty of \$2,000 per day for any such violation, and each and every day such violation continues shall be a separate and distinct violation, or may be imprisoned for a period not to exceed 90 days, or both.

[Amended 9-10-2007 by Ord. No. 2007-16]

- B. In addition to the foregoing, the Township shall be entitled to apply to the Superior Court for an injunction to prohibit the commencement and/or continuation of such construction, use or activity undertaken in violation of this chapter.

§ 190-11. One principal structure permitted.

A lot used for a single-family residence purpose shall contain only one principal structure. Every principal structure shall be built upon a lot with frontage upon the public street.

§ 190-12. Residential off-street parking standards.

When parking areas or driveways in residential zones are graded towards the road, they shall be paved or covered with shale, stone or like material to a minimum depth of two inches.

- A. Provision shall be made for off-street parking spaces in accordance with Article VII, at least one of which may be in an enclosed garage, for each single-family detached dwelling. Such off-street parking areas and all driveways shall be constructed in accordance with the specifications in Subsection B. Nonresidential uses permitted in residential zones shall provide the number of parking spaces required by the specific use as prescribed in Article VII.
- B. Residential off-street parking spaces and driveways which slope towards the street at an average grade of more than 3% within 50 feet of the street shall be constructed in accordance with the following specifications, except as provided in Subsection E below:

- (1) Base material: minimum four inches of soil aggregate, Type 5, Class A.
 - (2) Surface material: FABC-1 two inches thick as per the New Jersey Department of Transportation Specifications.
- C. Driveway grades shall not exceed 15% at any point along its entire length. In addition, the driveway grade shall not exceed 8% for a distance of eight feet from the curblin and a vertical curve provided between said eight-percent grade and any increase in grade. Driveways shall be no more than 8% within 12 feet of the garage.
- D. The side slopes of driveways shall be topsoiled, seeded, fertilized and mulched to prevent erosion. If banks reach or exceed a slope of 2:1, crownvetch or some other stabilizing material shall be planted or retaining walls constructed based on the recommendations of the Township Engineer.
- E. Notwithstanding the foregoing provisions, driveways in excess of 100 feet in length with grades not exceeding 4% may be constructed of shale, stone or other material of two inches in lieu of the requirements in Subsection B(1) and (2). All other requirements of Subsections C and D shall apply. Driveways in excess of 100 feet in length exceeding a grade of 3% shall be constructed in accordance with standards and specifications as recommended by the Township Engineer.

§ 190-13. Accessory buildings.

Any accessory building attached to the main building shall comply in all respects with the requirements of this chapter applicable to the main building. An accessory building shall be located at least 10 feet from the main building. It shall comply in all respects with the requirements of the schedule applicable to accessory buildings. Height of unattached accessory buildings shall be 20 feet maximum. No accessory building shall encroach upon the front yard setback for the principal structure.

§ 190-14. Corner lots and through lots.

Corner lots shall provide the minimum front yard requirements for the respective zone for both intersecting streets. Through lots shall provide the minimum front yard requirements for the respective zone for both streets on which they front.

§ 190-15. Yards and open space.

No other space provided about any buildings for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space for any other building, and no yard or other open space on another lot shall be considered as providing a yard or open space for a building on any other lot.

§ 190-16. Clear sight triangle at intersections.

At the intersection or interception of two or more streets, no hedge, fence, wall or sign higher than 2 1/2 feet above curb level, nor any obstruction to vision between the height of 2 1/2 feet to seven feet above the curb level, other than a post or a tree, shall be permitted within the triangular area formed by the intersecting street lines and straight line joining the street lines at points which are 25 feet distant from the point of intersection measured along said street line.

§ 190-17. Height limitations.

- A. The height limitations shall not apply to chimneys, silos, church spires, gables, cupolas, standpipes, monuments, cables, scenery lofts or water tanks and similar structures and necessary mechanical appurtenances for the zone in which the building is located.
- B. The height limitations shall not apply to television antennas, radio antennas, communications antennas utilized for communications with emergency services (police departments, fire departments and rescue squads), and communications antennas utilized by private businesses for communications with vehicles registered to the business. All such uses are to be conducted under proper and current FCC license.
- C. Notwithstanding the provisions of Subsections A and B above, the following regulations govern the uses enumerated in Subsection A and B above as set forth below:
 - (1) No structure set forth in Subsection A above shall exceed 50 feet in height except for concrete and asphalt product and production facilities within the General Industrial Zone district in accordance with the standards set forth in § 190-55.2

[Amended 4-26-2010 by Ord. No. 2010-05]

- (2) No structure set forth in Subsection B above shall exceed 50 feet in height in the following residential zone districts: R-0.5, R-1.0, R-1.5, R-2.0, R-2.5, R-3.5 and the Multifamily Residential (MFR) Zone District. No structure set forth in Subsection B above shall exceed 75 feet in height in any other zone district. However, commercial radio antennae licensed by the Federal Communications Commission (the FCC) may be constructed with a height of up to 200 feet on any site on which an FCC licensed radio antenna with a height of 200 feet or greater exists on May 1, 1998.
- (3) Each building or structure or combination thereof in excess of the height regulations shall be set back from the property lines, at minimum, a distance equal to its height.
- (4) When connected to and made part of a principal building, the structure shall not cover, at any level, more than 10% of the area of the roof on which it is located.
- (5) The height limitations contained in N.J.A.C. 16:62-1.1 et seq. related to zone districts in proximity to airports shall be complied with. The applicant shall prove by certification of a professional engineer and land surveyor, together with maps and other technical evidence, to the satisfaction of the reviewing municipal board or official, that this regulation is complied with.
- (6) The height limitation set forth in Subsection C above shall not apply to radio antennas licensed pursuant to an amateur radio license issued by the Federal Communications Commission (FCC) which shall be regulated solely by federal law.

§ 190-18. Dangerous conditions.

No permit shall be granted for a structure or use if the design or construction of the same involves or is likely to involve exceptional risk of traffic congestion, public safety or hazard. No lighting of any kind shall be permitted which interferes with or is likely to involve a risk of traffic safety.

§ 190-19. Commercial and oversize vehicles in residential zones.

- A. Not more than one commercial-type vehicle, not to exceed 13,500 pounds, as per the manufacturer's rated capacity, which must be owned or used by a resident of the premises, shall be permitted to be parked in a residential zone, provided it is not parked on the street or right-of-way. No vehicles, whether commercial or not, larger than 21 feet in length shall be parked or stored in a residential zone.
- B. The following types of vehicles shall be prohibited in all residential zones at all times regardless of size or weight:
 - (1) Any vehicle containing or carrying hazardous materials, perishable foods, garbage, rubbish, refuse, or live animals, except trash and recycling collection vehicles making pickups and residents with their pets.
 - (2) Any vehicle using equipment that emits noise, such as generators, refrigeration equipment or backup alarms.
 - (3) Any vehicle which emits odors, such as tar kettles or spray equipment, except lawn care service company vehicles.
- C. The provision of this section shall not be deemed to apply to the following:
 - (1) One school bus operated by the resident.
 - (2) Farm vehicles on property used for agricultural use.
 - (3) Motor homes as per § 190-20.
 - (4) Vehicles undergoing emergency repairs, not exceeding 24 hours in duration.
 - (5) Service vehicles making deliveries and pickups, such as furniture delivery vehicles, not exceeding 24 hours in duration.
 - (6) Moving vans and moving trucks and trailers for the residence at which they are moving the possessions to or from for a period not exceeding 48 hours in duration.
 - (7) One boat and boat trailer provided they are parked on the side or rear yard.

§ 190-20. Motorized homes, mobile homes and travel trailers.

Notwithstanding any other provisions of this chapter, the parking of mobile homes and travel trailers in any zone is prohibited, except that the prohibition should not extend to one unoccupied travel trailer or motor home owned or rented by the property owner and one travel trailer or motor home occupied by nonpaying guests of the property owner for a period not longer than two weeks in any calendar year, if parked within the side or rear yard setback requirements of the zone in which it is parked.

§ 190-21. Outdoor storage.

[Amended 4-26-2010 by Ord. No. 2010-05]In the business, commercial and industrial zones, except for concrete and asphalt product and production facilities within the General Industrial Zone district in accordance with the standards set forth in § 190-55.2, no article or material shall be kept or stored, except articles for sale, outside the confines of a building unless it is so screened by special

planting or a fence, as approved by the Land Use Board, so that it is not visible from any adjacent residential zone or public street, except such storage as is normal and incidental thereto. This shall not be construed to prohibit the storage or display of shrubbery grown on the premises. Outdoor storage as permitted and regulated in this section is only permitted in the side and rear yards. Seasonal farm produce grown on the premises is a specifically permitted outdoor use and may be displayed in the front yard of any lot without being screened.

§ 190-22. Prohibited uses.

Any use not specifically permitted in a zoning district established by this chapter is specifically prohibited from that district, and the following uses and activities are specifically prohibited on all and every property in Andover Township:

- A. All billboards of any type plus signboards, advertising signs or devices not expressly related to the business being conducted on the premises or otherwise specifically permitted by this chapter.
- B. Carousel, roller coaster, Ferris wheel, train rides, midways, sideshows, boxing or wrestling exhibitions and the like. Scholastic sports shall be permitted.
- C. Trailer coach or mobile home parks.
- D. Junkyards, automobile wrecking or disassembly yards, or the sorting or baling of scrap metal, paper, rags or other scrap or waste material.
- E. Any use which emits excessive or objectionable amounts of dust, fumes, noise, odor, smoke, vibration, glare or waste products.
- F. The use of any building or premises in such a manner that the health, safety or welfare of the community may be damaged.
- G. Outdoor drive-in theaters.
- H. Drive-in restaurants.
- I. The mining, quarrying or other removal of solid rock, stone or ores and minerals.
- J. Crushers, asphalt and concrete plants except as a conditional use in the General Industrial Zone district in accordance with the standards set forth in § 190-55.2.

[Amended 4-26-2010 by Ord. No. 2010-05]

§ 190-23. Interpretation of district boundaries.

Where uncertainty exists as to any of the boundaries as shown on the map, the following rules shall apply:

- A. Zone boundary lines are intended to follow the center line of the streets, railroad rights-of-way, streams and lot or property lines as they exist on plats of record on the date of passage of this chapter unless the boundary lines are fixed by dimensions shown on the Zoning Map.
- B. Where boundaries are not fixed by dimensions and where they approximately follow the

lines, and where they do not scale more than 25 feet distant therefrom, the lot lines shall be construed to be such boundaries unless specifically shown otherwise.

- C. In unsubdivided land and where a zone boundary divides a lot, the location of the boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the scale appearing thereon.

§ 190-24. Existing platted lots.

Any lot or plot legally established and existing at the time of passage of this chapter that fails to comply with the minimum requirements of this chapter may be used for any use not otherwise prohibited in such district in which it lies, provided that all the following requirements are complied with:

- A. Such lot is in single ownership at the time of the adoption of this chapter.
- B. Maximum lot coverage shall be no more than 10% of the lot.
- C. The yard, floor area and height requirements as set forth in § 190-34 are complied with for the zone in which the lot is located. Lots greater than 10,000 square feet and less than 20,000 square feet shall be required to meet the yard, floor area and height requirements for the zone in which they are located as set forth in § 190-34.
- D. Any lot containing less than 10,000 square feet may be used for single-family residence if served by a central water system, when a variance is applied for and approved by the Board of Adjustment.
- E. Any lot containing less than 10,000 square feet for which a variance is approved shall have a maximum lot coverage of no more than 10% of the lot.

§ 190-25. Preexisting lots.

Any lot legally established and existing on February 15, 1989, that fails to comply with the minimum requirements of this chapter may be used for any use not otherwise prohibited in the zone district in which it lies, provided that the following requirements are complied with:

- A. The lot is an existing platted lot as defined in § 190-24 above; or
- B. The lot:
 - (1) Contains a minimum of one acre; and
 - (2) Was created by the Andover Township Planning Board as the result of an approved subdivision.
- C. The yard, floor area and height requirements set forth in § 190-34 are complied with for the zone in which the lot is located, with the exception of lot area and lot width.

§ 190-26. Conservation of energy.

Within the limits of practicability and feasibility, buildings shall be oriented on the lots to maximize solar gain. Also within said limits, buildings and structures shall use renewable energy sources.

§ 190-27. Expansion of existing nonconforming residential structure.

An existing residential structure permitted in the zone but which violates existing yard requirements may be expanded without obtaining a variance, provided that:

- A. The violation of the setback requirements of this chapter by the existing structure is not further increased and other yard requirements, not previously violated, are complied with.
- B. Both vertical and horizontal expansion of that portion of the structure violating the existing setback requirement is permitted, provided the expansion meets 2/3 of the side yard setback requirements of the zone and 3/4 of the front yard and rear yard setback requirements of the zone. The Zoning Officer may, at his discretion, require screening.
- C. The previous encroachment preexisted the present yard requirements and complied with the former yard requirements or was granted a variance therefrom.
- D. The number of dwelling units does not exceed the number allowed in the zone.
- E. Excepted from the zoning requirements for building setback are eaves, fireplaces, chimneys, and stairs, provided they do not extend more than four feet beyond the principal or accessory structure.

§ 190-28. Peat harvesting operations.

- A. The applicant for a peat harvesting operation shall file an application with the Planning Board for classification of the operation as a peat harvesting operation.
- B. Application requirements:
 - (1) An aerial photo of the entire property plus 200 feet beyond the property lines. The scale of the photo should be one inch equals 200 feet.
 - (2) Scaled property lines of the property shown on the map of a scale one inch equals 200 feet.
 - (3) The areas proposed to be worked during the coming year and all areas already worked and presently being worked, if applicable.
 - (4) Haul roads.
 - (5) Areas where lakes have been or will be created.
 - (6) Areas that will be turned back to the growth of sedge and other natural plants.
 - (7) Existing and proposed diking on the property, including the method of the same.
 - (8) Such other information as reasonably required by the Planning Board to classify the operation and make a determination on the application.
- C. Soil erosion and sediment control plan required prior to action on the application by the Planning Board. A soil erosion and sediment control plan shall be submitted by the applicant prior to action by the Planning Board.

- D. Action by Planning Board on the application. In the event the Planning Board classifies the proposed operation as a peat harvesting operation, it shall direct the Township Zoning Officer to issue a zoning permit to the applicant for the peat harvesting operation, provided the use is permitted in the zone. The Planning Board shall act upon the application by resolution, and the resolution may suggest reasonable conditions of approval which the Zoning Officer may attach to the zoning permit.
- E. Performance guarantees. A bond or letter of credit shall be posted with the Township of Andover to cover the cost of repairing and maintaining dikes and seeding the dikes in the amount of \$10,000 initially. The amount of the guarantee shall be reviewed each year by the Township Committee upon the advice of Township Engineer and Planning Board Attorney to determine if the amount and form of the guarantee are sufficient. The required guarantee may be amended by the Township Committee, if necessary.

[Amended 4-13-2009 by Ord. No. 2009-11]

- F. Annual reports. The applicant shall file an annual report with the Zoning Officer, including the following:
- (1) An aerial photo showing the entire property, plus 200 feet beyond the property line. The scale of the photo shall be one inch equals 200 feet.
 - (2) A map showing the scale property lines, the area presently being worked and the area proposed to be worked during the coming year, haul roads, areas to be converted into lakes and areas to be returned to the growth of sedge and other natural plants, and proposed diking.
- G. Application and inspection fees. Upon application to the Planning Board for classification of a peat harvesting operation and to the Zoning Officer for a zoning permit, the applicant shall pay an application fee to the Township of Andover to cover the cost of initial review of the proposed operation in the sum of \$500. In addition, the applicant shall deposit the sum of \$2,500 with the Township to cover engineering and extraordinary legal review fees for the initial application. Upon the issuance of a permit, the applicant shall pay a fee of \$550 to cover the periodic field checks by the Engineer during the first year of operation. Annually thereafter a permittee shall pay an annual fee of \$100 and shall reimburse the Township for the cost of all periodic inspection fees as well as for any extraordinary costs or expenses, including legal fees, necessitated as a result of unforeseen difficulties or exigencies or necessitated by or resulting from any violation of any provision of this chapter.

[Amended 4-13-2009 by Ord. No. 2009-11]

- H. Revocation of permit. After reasonable notice of an opportunity to be heard before the Township Committee, the permit of any person or entity may be revoked or suspended for such period as the Township Committee may determine for any violation of the terms hereof or any terms and conditions of any approved plan and permit granted hereunder.

§ 190-29. Right to farm.

- A. The right to farm land within the Township of Andover is hereby recognized to exist as a natural right and is also hereby recognized to exist as a permitted use throughout the Township of Andover on all parcels defined as a farm in this chapter.

B. The right to farm includes:

- (1) The ability to market that particular farm's output, including the construction of buildings and parking areas for on-site farm markets and pick-your-own sales.
- (2) The ability to replenish soil nutrients as recommended by the New Jersey Agricultural Experiment Station.
- (3) The ability to use federal government approved products according to label instructions as recommended by the New Jersey Agricultural Experiment Station, the United States Environmental Protection Agency and the New Jersey Department of Environmental Protection for the control of pests and diseases affecting plants and livestock and for the control of weed infestation.
- (4) Clearing of woodlands to expand agricultural production, vegetative and terrain alterations, the installation of physical facilities for soil and water conservation and the harvesting of timber.
- (5) The erection of farm structures whose designs are in accordance with the New Jersey Agricultural Experiment Station. A private land grant college design will be exempt from the requirement for an architect's seal of approval.
- (6) The use of irrigation pumps and equipment. A priority water use for agriculture, second only to human consumption and household needs, is herein recognized.
- (7) On-site handling and disposal of organic wastes and materials in accordance with acceptable management practices.
- (8) Aerial and ground seeding and spraying on farms in accordance with acceptable management practices.
- (9) Producing from the land agricultural products such as vegetables, greens, hay, fruit, fibers, wood, plants, shrubs, flowers and seeds.

C. The right to farm also includes the use of land for the grazing by animals.

D. Right to farm in Andover Township does not include intensive hog farming or extensive animal feedlot operations.

E. Farming activities may be conducted on holidays, Sundays and weekdays, in the evening and during the day, and the normal noise, odors, dust and fumes that are caused by said activities are also specifically permitted when reasonable and necessary for that particular farming, livestock or fowl production and when conducted in accordance with generally accepted agricultural practices.

F. The aforementioned rights are subject to the restrictions and regulations of state and Township health and sanitary codes. All state and federal laws and regulations shall govern the right to farm. In the event of a conflict between this section and any state or federal law or regulation, the state or federal law or regulations shall control. In the event any part of this section shall be deemed to be illegal or invalid, that part shall be deemed severable and the remainder of this section shall remain valid and in full force and effect.

- G. It is herein recommended that all farm and agricultural operators devise and implement a conservation plan in cooperation with the Sussex County Soil Conservation District.

§ 190-30. Merger of undersized lots.

- A. All adjoining lots in single ownership which do not meet the present requirements of this chapter shall merge to form one lot unless:
- (1) Each lot qualifies as an existing platted lot under § 190-24, Existing platted lots;
 - (2) The lots are exempted from the effects of zoning ordinance amendments under the provisions of N.J.S.A. 40:55D-49 or 40:55D-52;
 - (3) The lots together form an L-shaped lot fronting on two different streets, which streets are constructed and passable; or
 - (4) The lots are back to back and front on different streets which are constructed and passable.
- B. All lots which have merged to form one lot shall not be conveyed separately without subdivision approval being obtained from the appropriate Township board. No improvements shall be constructed on a lot not meeting the present requirements of this chapter unless:
- (1) The right to construct is protected under the provisions of N.J.S.A. 40:55D-49 or 40:55D-52; or
 - (2) A variance has been obtained from the appropriate Township board.

§ 190-30.1. Resubdivision of residential lots.

[Added 3-28-2006 by Ord. No. 2006-8] No residential lot created as part of an approved subdivision shall be further subdivided for the purpose of creating, on said lot or on a portion thereof, a street designed to provide access to a proposed development on an adjoining property or access through one or more adjoining properties to a proposed development on another property.

§ 190-31. Air Safety Zone Districts.

- A. Zone districts for the land around the airports in the Township of Andover, including the Newton Airport and the Aeroflex Airport, are required by the Air Safety and Hazardous Zoning Act, N.J.S.A. 6:1-80 et seq. and N.J.A.C. 16:62-1 et seq., as required by said state laws and regulations. These regulations are enacted governing land use within the Air Safety Zone Districts contained in this chapter, § 190-34 et seq. Said Air Safety Zone Districts are designated as follows: R-0.5/A, R-2.0/A-1, B/A, BPO/A, BPO/R/A, CR/A-2 and I/A-2.
- B. Area and yard requirements. The area and yard requirements for the Air Safety Zone Districts are contained in the table of zoning regulations located at the end of this chapter.
Editor's Note: See Table 5, Schedule of General Zoning Regulations for Andover Township.
- C. Vertical development (height) standards in the Air Safety Zone Districts.
- (1) Pursuant to N.J.A.C. 16:62-1.1 et seq., the following vertical (height) limits are established as maximum height limits for any vertical development, including any

structure, road or tree or other object of natural growth, in the Air Safety Zone District, except where this chapter shall establish more stringent height limitations, in which case the more stringent limitations shall apply. For purposes of this regulation, a public road shall be considered a fifteen-foot vertical development and a private road a ten-foot vertical development.

- (2) Vertical development standards are vertical standards measured in respect to elevations whose datum is the horizontal plane established by runway elevations. For example, if a point in an airport hazard area permits at a specific point development up to "X" feet, that means "X" feet above the runway horizontal plane and not "X" feet above the natural grade of the land at that point in the airport hazard area. Airport hazard areas are established by N.J.A.C. 16:62 and are depicted at the end of this subsection (Figures 1 to 6).
- (3) The vertical standards within the runway subzone of an airport hazard area are determined first by establishing the elevations at the runway center lines at the ends of the runway subzone of the airport hazard area. From those elevations at the runway subzone ends, a line is run 90° outward from each side of the runway center line for a distance of 125 feet. Within the area defined by those four points, no development is allowed above the natural grade of the soil except for runway and flight safety equipment.
 - (a) The vertical standards within the remainder of the runway subzone of an airport hazard area are determined by establishing places from the edges of the longitudinal zero foot development restriction line established in Subsection C(2) above which slope upward at a rate of seven feet horizontally to one foot vertically. This upward plane ceases when it reaches the outer longitudinal borders of the runway subzone of any airport hazard area at the elevation of 150 feet above its starting point at the longitudinal zero foot development line.
 - (b) The methodology used to establish the vertical standards within the runway subzone of an airport hazard area is further graphically depicted in Figure 5.
- (4) The vertical standards within the runway end subzone of an airport safety area are determined by first establishing a place with a rising slope of one foot upward to 20 feet outward from the end of the runway end subzone. This place is bisected by the extended runway center line and is 250 feet in total width at its innermost dimension and widens uniformly along its length of 3,000 feet so as to have total width of 850 feet at its outermost dimension where it intersects with the outermost portion of the runway end subzone at the elevation of 150 feet above its starting point at the zero foot development line.

D. Permitted uses in the Air Safety Zone Districts. The specific uses permitted in the aforesaid zone districts are listed in the tables located at the end of this chapter. However, all residential dwellings which were in existence on March 20, 1985, located within the following zone districts are permitted uses: R-0.5/A, R-1.5/A-1, R-1.5/A-2, BPO/R/A, CR/A-1 and CR/A-2, except in the clear zone.

E. Prohibited uses. Pursuant to N.J.A.C. 16:62-1.1 et seq., the following uses are prohibited in the Air Safety Zone Districts:

(1) Residential dwelling units except:

(a) As specifically permitted in Subsection D above; and

(b) Residential dwellings specifically permitted in R-0.5/A and R-1.0/A, CR/A and BPO/R/A Zone Districts.

(2) Planned unit developments and multifamily dwellings.

(3) Hospitals.

(4) Schools.

(5) Aboveground bulk tank storage of compressed flammable or compressed toxic gases and liquids.

(6) Within the runway and subzones only, the aboveground bulk tank storage of flammable or toxic gases and liquids.

(7) Uses that may attract massing birds, including landfills.

(8) Above-grade major utility transmission lines and/or mains.

F. Zoning Map. Pursuant to the Air Safety and Hazardous Zoning Act of 1983, c. 260, N.J.S.A. 6:1-80 et seq. and N.J.A.C. 16:62-1.1 et seq., there are hereby established two Air Safety Zone Districts on the Zoning Map of the Township of Andover. The Air Safety Zone Districts consist of a runway subzone and two runway end zones and a clear zone. The shape of these zone districts and the subzones is shown on the Zoning Map of the Township of Andover.

G. Expansion of preexisting structures.

(1) Preexisting residential structures located within the following zone districts may be expanded on the approval of a building permit by the Township Construction Official. R-0.5/A, R-1.0/A-1, R-1.0/A-2, BPO/R/A, CR/A-1 and CR/A-2, except those located within the clear zone.

(2) A preexisting land use, with the exception of those uses set forth in Subsection G(1) immediately preceding, and not a permitted use under Subsection D and in existence at the time of the adoption of this amendment to this chapter, shall constitute a nonconforming use.

(a) In the event an application is made to expand that use, the applicant shall obtain approval from the Andover Township Zoning Board of Adjustment of a variance permitting the same. In the event said proposed expansion of the nonconforming use is no greater than 10% of the existing structure or use, approval of the Zoning Board of Adjustment only is required. However, if the expansion exceeds 10% of the existing nonconforming use, the applicant shall also, in addition to the approval of the Andover Township Zoning Board of Adjustment, obtain the approval of the New Jersey Commissioner of Transportation pursuant to N.J.A.C. 16:62-9.1.

(b) Expansion of a vertical development not in accordance with Subsection C above, or

expansion of structure located within the clear zone, shall be permitted only after the grant of a permit from the Commissioner of Transportation pursuant to N.J.A.C. 16:62-9.1.

- H. Conditional use. Any use which will create a concentration of persons within the Air Safety Zone of over 2,500 persons shall be a conditional use and shall meet the following condition: no use within the Air Safety Zone shall create an unwarranted concentration of persons within the Air Safety Zones to such an extent that the concentration constitutes an air hazard or constitutes a danger to the health, safety or welfare of the persons concentrated within the zone.

Figure 1. Graphic depiction of the general construction of the runway subzone of an airport hazard area.

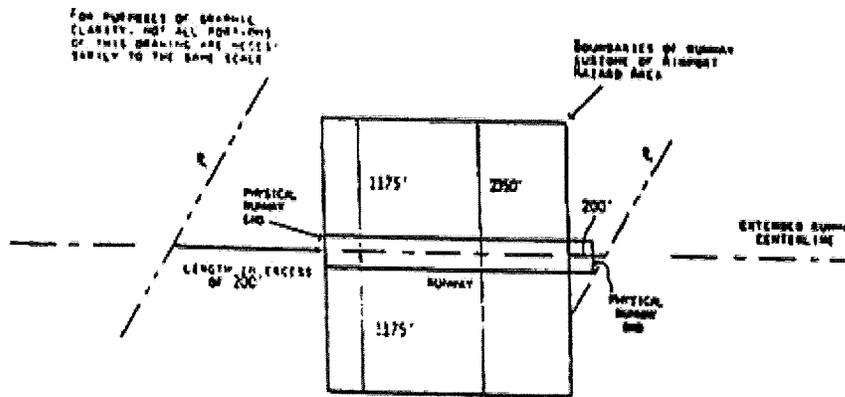


Figure 2. Graphic depiction of the general construction of the runway endzone(s) of an airport hazard zone.

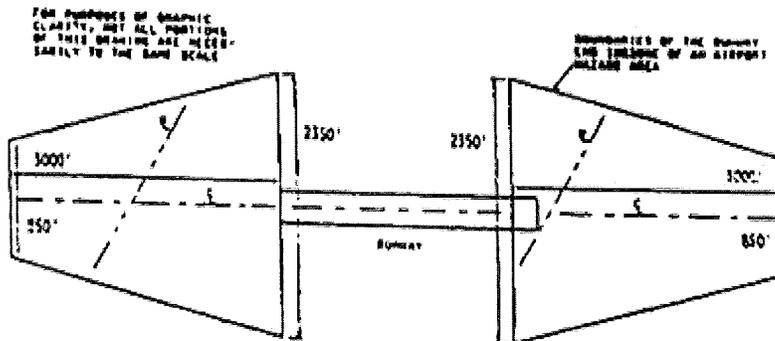


Figure 3 Graphic depiction of the general overall construction and outermost boundaries of an airport hazard area.

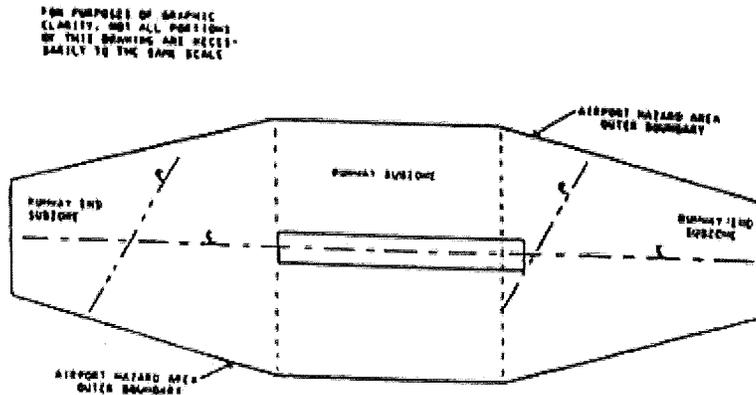
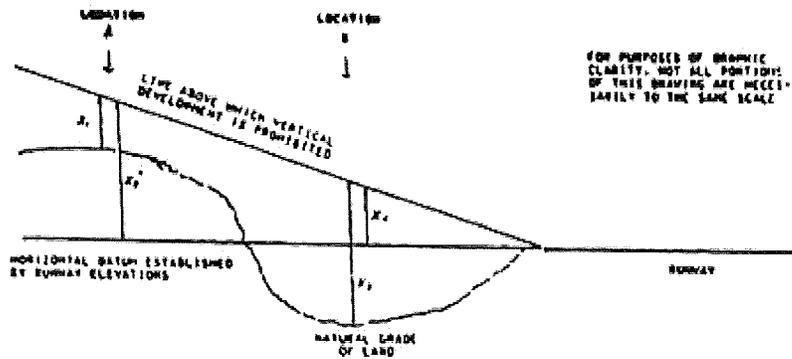


Figure 4



THE MINIMUM OBSTRUCTION CLEARANCE STANDARDS RELATE DIRECTLY TO THE HORIZONTAL DATUM ESTABLISHED BY RUNWAY ELEVATIONS, AND NOT THE HEIGHT ABOVE THE NATURAL GRADE OF THE LAND. FOR EXAMPLE, AT LOCATION A AN OBSTACLE MAY REQUIRE A HEIGHT RESTRICTION X_1 FEET, BUT AT THAT LOCATION THE DEVELOPABLE HEIGHT RESTRICTION ABOVE THE NATURAL GRADE OF THE LAND IS ACTUALLY X_2 FEET. AT LOCATION B THE OBSTACLE HEIGHT RESTRICTION MAY BE X_3 FEET, BUT THE DEVELOPABLE HEIGHT RESTRICTION MAY BE X_4 FEET.

Figure 5 Vertical and horizontal planes of runway subzone of airport hazard area

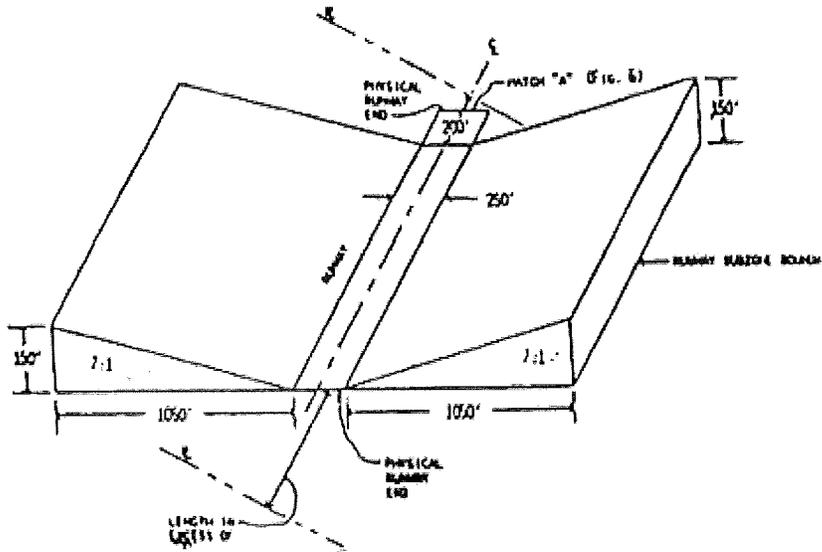


Figure 6 Graphic depiction of the clear zone

Dimension Inner width 250 feet
Outer width 450 feet
Length 1000 feet.

FOR PURPOSES OF GRAPHIC CLARITY, NOT ALL PORTIONS OF THIS DRAWING ARE NECESSARILY TO THE SAME SCALE

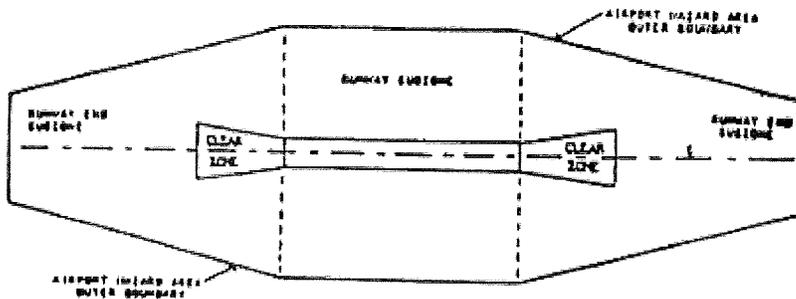
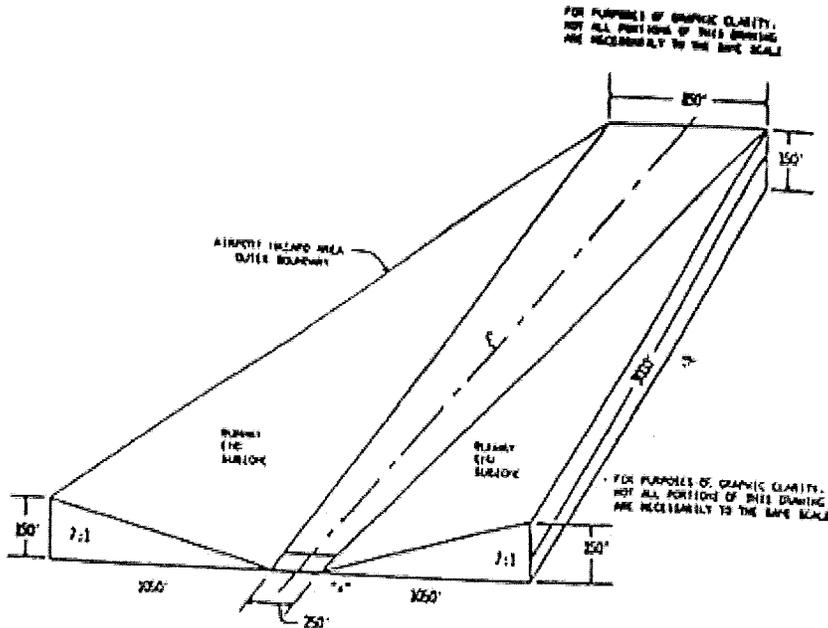


Figure 7 Vertical and horizontal planes of runway end subzone of airport hazard area



§ 190-32. Sexually-oriented businesses.

- A. Purpose. It is recognized and documented by numerous expert studies and reports throughout the country that sexually-oriented businesses, because of their very nature, have serious objectionable characteristics that result in a deleterious effect upon adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of surrounding neighborhoods.
- B. No sexually-oriented uses, as defined in Article II, are permitted within the boundaries of Andover Township.

§ 190-32.1. Growth share.

[Added 4-13-2005 by Ord. No. 2005-6]Growth share shall apply to all zones as the minimum obligation. Additional obligation may be assigned under certain circumstances to advance the purposes of zoning and to promote the public good.

- A. Residential subdivisions of two lots/units to eight lots/units or development on an existing vacant lot shall be required to provide a cash contribution of \$4,375 or 1% of the equalized assessed value, whichever is greater, to the Housing Trust Fund for each new housing unit.
- B. Residential subdivisions of nine lots/units or more shall be required to construct one affordable unit for every eight market housing lots/units.
- C. Residential subdivisions of 10 to 13 market lots/units shall be required to comply with Subsection B plus a cash contribution of \$4,375 or 1% of the equalized assessed value,

whichever is greater, for each housing lot/unit of 10 and up to 13, or construct one additional affordable housing unit in lieu of paying any fees for lots 10 through 13.

- D. Residential subdivisions of 14 to 18 market lots shall be required to comply with Subsection B plus construct one additional affordable housing unit.
- E. Residential subdivisions of 19 market lots or more shall follow the pattern established in Subsections C and D.
- F. Nonresidential development shall provide one affordable housing unit for every 25 jobs projected in accordance with Appendix E of N.J.A.C. 5:94-1, et seq., titled "UCC Use Groups for Projecting and Implementing Nonresidential Components of Growth Share."
- G. Permitted housing types for affordable units. More than one affordable unit may be on a building lot. A market unit and an affordable unit may be on the same lot. Single-family homes with a minimum lot size of 1/2 acre, duplex and triplex structures are permitted. Apartments over retail and offices are permitted in zones where retail and offices are permitted.
- H. Alternative mechanisms permitted under COAH's regulations shall be permitted in place of on-site construction of affordable units, including the purchase of an existing market-rate house at another location in Andover Township and conversion to an affordable deed-restricted housing unit conforming to COAH rules; funding a Regional Contribution Agreement (RCA); participation in gut rehabilitation; and a contribution to the Housing Trust Fund for the municipal housing rehabilitation obligation. An applicant shall only be entitled to satisfy its obligation to construct one affordable housing unit on site for every eight market units or one affordable unit per every 25 jobs via one or more of the alternative mechanisms stated within this subsection, if the applicant demonstrates to the Board that the requirement to construct one affordable unit for every eight market units or one affordable unit for every 25 jobs created on site would be a taking without just compensation and that the reasons established would be consistent with the Master Plan, zoning ordinances, COAH regulations and court decisions.
- I. Compliance. Full compliance with the affordable housing requirements of a project shall be automatic, essential and nonremovable conditions of approval. The applicant must demonstrate to the Board by way of a developer's agreement that the affordable housing obligation will be satisfied prior to obtaining the first building permit, with compliance being a continuing condition during construction.
- J. Lot area and bulk requirements as per the residential zone district in which the subdivision occurs.
- K. Thirty-year deed restriction as required by COAH on the affordable units.
- L. Affordable units: 50% of the units shall be low income and 50% moderate income.
- M. Bedroom mix shall be in accordance with current COAH rules.
- N. The affordable housing structures shall be consistent in size (except for single family) and architectural features with the neighborhood or as approved by the Planning Board.
- O. Septic systems for the affordable housing units on the same lot may only share the leach

field, which must be maintained with an annual maintenance fee from each unit. Each owner shall maintain other septic system components.

§ 190-32.2. Development fees.

[Added 4-13-2005 by Ord. No. 2005-7; amended 5-11-2009 by Ord. No. 2009-16]

A. Purpose.

- (1) In *Holmdel Builder's Association v. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27D-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- (2) Pursuant to P.L.2008, c.46 section 8 (N.J.S.A. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from nonresidential development.
- (3) This section establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing. This section shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

B. Basic requirements.

- (1) This section shall not be effective until approved by COAH pursuant to N.J.A.C. 5:96-5.1.
- (2) Andover Township shall not spend development fees until COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

C. Definitions. The following terms, as used in this section, shall have the following meanings:

AFFORDABLE HOUSING DEVELOPMENT

A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one-hundred-percent affordable development.

COAH or THE COUNCIL

The New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional land use consideration in the state.

DEVELOPER

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

DEVELOPMENT FEE

Money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

EQUALIZED ASSESSED VALUE

The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (N.J.S.A. 54:1-35a through N.J.S.A. 54:1-35c).

GREEN BUILDING STRATEGIES

Those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

D. Residential development fees.**(1) Imposed fees.**

- (a) Within the Andover Township district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted.
- (b) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application. Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1 1/2 of the equalized assessed value on the first two units; and the specified higher percentage up to 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

(2) Eligible exactions, ineligible exactions and exemptions for residential development.

- (a) Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- (b) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

- (c) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- (d) Single-family additions less than 1,000 square feet shall be exempt from paying a development fee.
- (e) One- and two-family owner-occupied residential structures demolished and replaced as a result of a fire, flood or natural disaster shall be exempt from paying a development fee.

E. Nonresidential development fees.

(1) Imposed fees.

- (a) Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
- (b) Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
- (c) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

(2) Eligible exactions, ineligible exactions and exemptions for nonresidential development.

- (a) The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the development fee of 2.5%, unless otherwise exempted below.
- (b) The fee of 2.5% shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- (c) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.
- (d) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the

basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.

(e) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by Andover Township as a lien against the real property of the owner.

F. Collection procedures.

- (1) Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- (2) For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- (3) The construction official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.
- (4) Within 90 days of receipt of that notice, the municipal Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- (5) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- (6) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- (7) Should Andover Township fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A. 40:55D-8.6).
- (8) Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the

certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

(9) Appeal of development fees.

- (a) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by Andover Township. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
- (b) A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by Andover Township. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

G. Affordable Housing Trust Fund.

- (1) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the chief financial officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- (2) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (a) Payments in lieu of on-site construction of affordable units;
 - (b) Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - (c) Rental income from municipally operated units;
 - (d) Repayments from affordable housing program loans;
 - (e) Recapture funds;
 - (f) Proceeds from the sale of affordable units; and
 - (g) Any other funds collected in connection with Andover Township's affordable housing program.
- (3) Within seven days from the opening of the trust fund account, Andover Township shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank and COAH to permit COAH to direct the

disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).

- (4) All interest accrued in the Housing Trust Fund shall only be used on eligible affordable housing activities approved by COAH.

H. Use of funds.

- (1) The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the Housing Trust Fund may be used for any activity approved by COAH to address the Andover Township's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to, preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.
- (2) Funds shall not be expended to reimburse Andover Township for past housing activities.
- (3) At least 30% of all development fees collected or such amount as approved through the COAH waiver process and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.
 - (a) Affordability assistance programs may include down-payment assistance, security-deposit assistance, low-interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs.
 - (b) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
 - (c) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- (4) Andover Township may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- (5) No more than 20% of all revenues collected from development fees may be expended on

administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

- I. Monitoring. Andover Township shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with Andover Township's housing program, as well as to the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.
- J. Ongoing collection of fees. The ability for Andover Township to impose, collect and expend development fees shall expire with its substantive certification unless Andover Township has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its Development Fee Ordinance. If Andover Township fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (N.J.S.A. 52:27D-320). Andover Township shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance; nor shall Andover Township retroactively impose a development fee on such a development. Andover Township shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

§ 190-32.3. Regulations for development within steep slope areas.

[Added 2-28-2006 by Ord. No. 2006-7; amended 5-29-2007 by Ord. No. 2007-7]

- A. Purpose and findings of fact. The purpose of this section is to provide for reasonable control of development within the steep slope areas of the Township in order to minimize the adverse impact caused by the development of such areas, including, but not limited to, erosion, siltation, flooding, surface water runoff, alteration of natural drainage patterns, pollution of potable water supplies, and destruction of unique land forms and scenic vistas.
- B. Applicability.
 - (1) Applicants for site plan, major subdivision or minor subdivision approval involving the disturbance of steep slopes, as defined in § 190-32.3D, shall submit a steep slope disturbance application containing all information required under this section to the appropriate board. Any application for steep slope disturbance which requires a variance

pursuant to § 190-32.3G shall require the submission of a site plan application to the Planning Board. The Board shall not approve an application for steep slope disturbance unless the approval requirements of this section are met.

- (2) Applicants for construction permits involving the disturbance of steep slopes but not involving a site plan, major subdivision or minor subdivision, or a variance pursuant to § 190-32.3G, shall submit a steep slope disturbance application to the Township Engineer, in order to ensure that the proposed development of the lot will respect steep slopes and the natural features of the tract and minimize adverse impacts associated with such clearing and/or construction. The application shall not be approved unless the approval requirements of this section are met.

C. Steep slope disturbance application procedures.

- (1) Applicants seeking approval for the disturbance of steep slopes shall submit information regarding steep slope conditions as required as per § 190-32.3E to the appropriate authority as part of the required submissions. An application for the disturbance of steep slopes shall not be approved unless the requirements of § 190-32.3F have been met.
- (2) In connection with the approval of steep slope disturbance hereunder, the approving authority may require that the applicant convey to the Township a conservation easement prohibiting further disturbance of steep slopes of 15% or greater.

D. Steep slope identification.

- (1) All applications involving construction, grading or clearing of any lot shall be evaluated by the applicant to determine the presence of steep slopes as defined in the following categories:
 - (a) Fifteen percent to 24.99%.
 - (b) Twenty-five percent to 34.99%.
 - (c) Thirty-five percent plus.
- (2) Each category shall be separately identified on a plan showing existing and proposed topographic information.

E. Steep slope disturbance application contents. Where an application involving the construction, grading or clearing of any lot is being made in conjunction with this section, the following shall be required:

- (1) A legibly drawn plan at a scale as per site plan or subdivision requirements and in no case smaller than one inch equals 50 feet and no larger than one inch equals 10 feet shall be submitted by a New Jersey licensed engineer, land surveyor or architect which provides sufficient on-site detail to evaluate the proposed development.
- (2) The plan shall contain, at a minimum, the following items:
 - (a) Existing and proposed topographic information using two-foot contour intervals for steep slopes less than 25% and ten-foot contour intervals for steep slopes 25% or

greater.

- (b) Existing and proposed drainage patterns within 100 feet of the lot(s) proposed for development.
- (c) Proposed limit of disturbance line(s).
- (d) Location of proposed structures, driveways and other impervious surfaces.
- (e) Details concerning architectural design and how the proposed construction will relate to, complement and minimize adverse impacts upon the existing natural features of the lot.
- (f) Details concerning proposed permanent soil erosion measures, including supporting calculations.
- (g) Location of existing and/or proposed wells and septic systems.
- (h) Soil types contained on the lot, with specific reference to highly erodible soils as defined by the United States Department of Agriculture Soil Conservation Service.
- (i) Calculations of:
 - [1] The area of proposed steep slope disturbance for each of the slope categories specified in § 190-32.3D;
 - [2] The total area within each of the slope categories; and
 - [3] The percentage of the total area constituted by the proposed disturbed area for each of the slope categories.
- (j) Identification of the limits of proposed areas of conservation easements required pursuant to § 190-32.3C(2) and/or § 190-32.3G.

F. Permitted limit of disturbance.

- (1) To the greatest extent possible, grading, the siting of any structure or the platting of any parcel for subdivision shall avoid disturbance of slopes 15% or greater, Where it is not feasible or practical to avoid disturbance of slopes 15% or greater, the applicant shall propose and implement measures to minimize the adverse impact caused by the development of such areas, as identified in § 190-32.3A.
- (2) Limited disturbance of steep slope areas within a subject property is permitted only under the following conditions:

Steep Slope Category	Maximum Disturbance
20% to 24.99%	15%
25% to 34.99%	3%
35%+	0%

- G. Variance required. Disturbance of steep slope areas in amounts greater than indicated in § 190-32.3F, Permitted limit of disturbance, shall require a variance from the approving board. As a condition for the granting of any such variance, the board may require the dedication to the Township of conservation easements covering some or all of the undisturbed areas of the site, regardless of whether such areas contain steep slopes.
- H. Exemptions. A variance pursuant to § 190-32.3G shall not be required for additions to or accessory structures relating to an existing single-family home where the proposed construction involves less than 1,500 square feet of total site disturbance and does not otherwise require variance relief.
- I. Minor steep slope areas. The applicable board or the Township Engineer may choose to exempt small isolated pockets of steep slope areas that are man-made and/or do not represent the character of the area and are under 2,000 square feet in size, where such action would be in the interest of good planning and would not seriously impair the purposes of this section, and where strict compliance would result in unreasonable practical difficulties to the applicant. Where, however, the applicable board or the Township Engineer finds such pockets to represent the character of the area and to be of such size, configuration and location so as to constitute a substantial contiguous area, the reviewing authority may consider them significant and subject to regulation under this section. In such a case, they would be included in the calculation of steep slope area.
- J. Time for approval.
- (1) Where an application for steep slope disturbance is submitted as part of an application for major subdivision, minor subdivision or site plan approval, the time of approval shall be governed by the timing requirements applicable to major subdivisions, minor subdivisions or site plans; provided, however, that the time of approval for an application involving variance relief pursuant to § 190-32.3G shall be 120 days.
 - (2) Where an application for a steep slope disturbance is not submitted in connection with a major subdivision, minor subdivision or site plan application, the applicable board or the Township Engineer shall act on the application within 45 days from the date of submission of a completed application or within such additional time as consented to by the applicant.
 - (3) Failure of the applicable board or the Township Engineer to act within the prescribed time, or any extension thereof, shall be deemed to be an approval of the application.

Article IV. Establishment of Zones

§ 190-33. Zoning districts.

[Amended 10-27-2008 by Ord. No. 2008-17; 4-26-2010 by Ord. No. 2010-05; 11-29-2010 by Ord. No. 2010-10; 4-25-2011 by Ord. No. 2011-01]For the purpose of this chapter, the Township of Andover is hereby divided into the following zones, differentiated according to use, area and bulk requirements, to be designated as follows:

- | | |
|-------|---------------------------|
| R-0.5 | Single-Family Residential |
| R-1.0 | Single-Family Residential |

R-2	Single-Family Residential
R-2.5	Single-Family Residential
R-3	Single-Family Residential
SR	Special Residential
MFR	Multifamily Residential
ML	Mount Laurel
CB	Community Business
HC	Highway Commercial
I	Industrial
PCD	Planned Commercial Development
R-0.5/A	Single-Family Residential 0.5/Airport
R-2.0/A-1	Single-Family Residential 2.0/Airport-1
B/A	Business/Airport
BPO/A	Business Professional Office/Airport
BPO/R/A	Business Professional Office/Residential/Airport
CR/A-2	Community Recreation/Airport-2
I/A-2	Industrial/Airport-2
PO/R	Professional Office/Residential
GI	General Industrial
C/I	Commercial/Industrial

Article V. Use and Bulk Regulations

§ 190-34. Tables.

The use and bulk requirements for each zone are as set forth in Tables 1 through 5, located at the end of this chapter.

§ 190-35. Lot averaging development.

[Amended 9-14-2005 by Ord. No. 2005-19]

A. A. On any tract of 25 acres or more in size in the R-3, R-2.5, and R-2 Zones, lot averaging

development as defined in Article II is permitted. The minimum lot size may be reduced as indicated in Table 5 (located at the end of this chapter). The number of lot-averaged lots shall not exceed the number of lots obtainable using conventional zoning in conformance with subdivision requirements, land use ordinances, and NJDEP restrictions.

- B. Preservation areas. Any development using the lot averaging option shall permanently deed restrict environmentally sensitive areas, including wetlands, floodplains and steep slopes. Building envelopes shall be located so as to protect environmentally sensitive areas.
- C. All lots created using the lot averaging development option shall be deed restricted to preclude future subdivision of the lot.
- D. All developments using the lot averaging development provision shall be required to demonstrate to the satisfaction of the reviewing board that the total number of lots and residential units proposed could be approved in a conventional subdivision of the property without utilizing the lot averaging development provisions. A qualifying map shall be presented to the reviewing board for review and approval prior to any approval of a lot size averaging subdivision plan.
- E. The conserved land or any portion of thereof may be dedicated to the Township if the Township of Andover accepts the dedication.

§ 190-36. Private housing of equine animals.

- A. The private housing of equine animals is a permitted accessory use in the R-1, R-2, R-2.5 and R-3 Zones as indicated in Table 1 at the end of this chapter, provided the lot is large enough to provide one acre for the house and two acres for the first horse, with one additional acre for each additional horse. Private housing of equine animals is prohibited in all R-0.5 Zones.

[Amended 5-11-2009 by Ord. No. 2009-15]

- B. Structures. Housing of equine animals must be provided in permanent, anchored barns for all horses on the property at which the horses are kept beyond two days and two nights. Each horse must be provided with a box stall or straight stall. Horses shall not be housed in horse travel trailers. Barns shall be further regulated according to the following:
 - (1) Each box stall should be at least 100 square feet.
 - (2) Each straight stall should be at least five feet by eight feet.
 - (3) The minimum floor area of a barn should be 125 square feet.
 - (4) Enclosed roofed storage must be provided for hay, straw, feed and tack.
 - (5) Rodent-proof feed containers must be provided and used.
 - (6) Barns must be located in the rear yard.
 - (7) Barns must be located no closer than 75 feet to the sides or back property line boundaries.

C. Disposition of manure.

- (1) Manure may not be kept in any area of the fifty-year floodplain or within 50 feet of any brooks or watercourses.
 - (2) The manure disposal area must be in a low-profile position, cause no nuisance, and be at least 50 feet from a property line and no closer than 200 feet to any other existing residential purpose permanent building or structure, attached garage, swimming pool, tennis court or patio located on adjoining premises.
 - (3) The manure must be collected from the barn area and maintained or disposed of in a sanitary manner. If stored, a covered enclosure or covered pit should be provided to prevent offensive odors, fly breeding and other nuisances.
- D. Horse vans and trailers. Vehicles intended for the transportation of recreational horses, such as vans and trailers, may be stored on the premises provided they do not violate the provisions of any other ordinance of Andover Township.
- E. Lessons and boarding. Giving riding lessons or instructions, leasing of horses or other similar activities or boarding or housing other people's horse or horses is not allowed under private housing of equine animals. This is not to preclude having a riding instructor come to the private residence to give lessons to the members of that household.
- F. Site plan. No site plan shall be required for the private housing of the land occupant's own horses, but a sketch plat shall be submitted to the Building Inspector showing the location of brooks and other watercourses, barn, fenced-in area, manure storage area and distances from the same to the adjacent property lines.

§ 190-37. Nursing homes.

- A. Minimum lot area: five acres.
- B. Maximum density: a minimum of 3,630 square feet of land for each bed.
- C. Spacing between buildings. The term "parallel" as used in this subsection shall include the meaning "approximately or approaching parallel position." The following minimum distances shall be maintained:
- (1) Between all main buildings and detached accessory buildings: 50 feet.
 - (2) Between end of buildings where walls are parallel to each other with driveways between the buildings: 60 feet.
 - (3) Between end of buildings where walls are parallel to each other: 30 feet.
 - (4) From the front facade of a structure to the facing front facade of an opposite structure where walls are parallel: 100 feet.
 - (5) When a structure fronts on an interior roadway, the structure shall be set back a minimum of 50 feet from the right-of-way line.
 - (6) From the rear facade of a structure to the rear facade of an opposite structure, where

walls are parallel: 70 feet.

- (7) From the front facade of a building to the side wall of an adjoining building where walls are parallel but do not overlap: 20 feet with no intervening driveway.
- (8) The front facade of a building shall not overlap the side wall of an opposite building by more than eight feet, unless such buildings are joined together. In no case shall windows in any wall be obstructed by any abutting walls.
- (9) No building shall be erected closer than 75 feet to a public street or right-of-way.
- (10) No structure shall be closer to a property line than 50 feet.

D. Buffers. Where adjoining one-family residential lots exist, or where the adjoining property is zoned for residential use, a buffer strip shall be maintained at the property line within the required setback area. This buffer strip shall be left in its natural state or planted to establish a visual screen, in accordance with the recommendations from the Board.

E. Driveways and parking.

- (1) Internal access roads, or driveways, shall be paved 14 feet wide for a one-way roadway and 26 feet wide for a two-way roadway. Parking is prohibited in all access roads and driveways.
- (2) There shall be a minimum of two means of access to the site from a public street or streets, one of which shall be in the Township, or, in the alternative, the interior roadway shall form a loop connecting to a single access to a public street in the Township. This access road shall be paved to a width of 26 feet at the entrance, with a reservation of a right-of-way 40 feet in width.
- (3) Concrete sidewalks five feet wide shall be required from each building entrance to the parking areas and shall connect with such sidewalks from other buildings as required by the Board. Concrete or Belgium block curbs shall separate all grass and paved areas, and concrete or asphalt sidewalks and curbing shall be erected along all public street frontages, where required by the Board.
- (4) All parking areas shall be paved in accordance with the standards contained in Chapter 131, Site Plan Review, § 131-371.
- (5) All street and driveway construction shall comply with the standards contained in Chapter 131, Site Plan Review, § 131-40.

F. No laundries are permitted on site. [Note: The reason is that the area depends on the groundwater for its potable water supply. Laundries can result in diminution in the quality and quantity of this groundwater.]

§ 190-38. Mount Laurel Zone.

[Amended 6-13-2011 by Ord. No. 2011-06]

A. Purpose. It is the intent of the ML Zone regulations to provide a realistic opportunity for the construction of a variety of housing types and income levels in the Township, particularly

low- and moderate-income housing by providing specific land use regulations addressing those needs. These regulations are designed to implement the affordable housing strategies set forth in the Andover Township Housing Element and Fair Share Plan, dated December 16, 2008, which is a component of the Township's Master Plan and which has received substantive certification from the Council On Affordable Housing (COAH) on October 26, 2009. Any provisions of this chapter or any other ordinance in conflict with the ML zoning regulations and which impose higher standards not related to health and safety shall be inapplicable.

B. Commercial uses.

- (1) Any commercial use permitted in the HC Zone shall be permitted in the ML Zone under the same bulk requirements as permitted in the HC Zone, subject to the conditions of this section.
- (2) An applicant may construct a mixed-use development consisting of commercial uses and low- and moderate-income housing provided that a limit of 6,600 square feet of commercial space per acre for the part of the site used for commercial purposes shall apply.
- (3) Commercial uses in the ML Zone shall be located within 500 feet of Route 206.
- (4) Any mixed-use development in the ML Zone pursuant to Subsection B(2) above shall conform to the requirements set forth in Article XIII, Affordable Housing.

C. Bulk regulations.

- (1) Minimum tract size: 20 acres.
- (2) Maximum density: six units per gross acre.
- (3) The following regulations with respect to the location of the improvements shall apply:
 - (a) No improvements shall be constructed in wetlands, floodplains, or in areas where the slope exceeds 25%.
 - (b) The construction of improvements in areas having slopes between 15% and 24% is discouraged and shall be avoided to the greatest extent possible.
- (4) Minimum tract setback.
 - (a) All development shall maintain a twenty-five-foot minimum buffer to all exterior property lines.
 - (b) A minimum buffer of 100 feet shall be maintained from arterial roads for all new residential buildings.
 - (c) Said buffer shall be bermed or landscaped and remain unoccupied except for entrance roads or utilities.
- (5) Area, bulk and yard requirements.

Requirement	Single-Family	Multifamily
Minimum lot area (square feet)	15,000	NA
Minimum lot width (feet)	100	NA
Minimum front yard (feet)	30	NA
Minimum side yard (feet)	20	NA
Minimum rear yard (feet)	35	NA
Maximum building coverage (percent)	25	NA
Maximum height (feet)	35	35
Maximum number of units per new residential building (s)	NA	12
Maximum number of units per existing residential building(s)	NA	24

(6) Distance between buildings. The Board may reduce the following distances by not more than 1/3 if there is an angle of 20° or more between buildings and if extensive landscaping or buffers are placed between buildings. The minimum distance between buildings shall be as follows:

- (a) Windowless wall to windowless wall: 30 feet.
- (b) Window wall to windowless wall: 40 feet.
- (c) Window wall to window wall:
 - [1] Front to front: 85 feet.
 - [2] Rear to rear: 60 feet.
 - [3] End to end: 40 feet.
- (d) Any building face to local street curb: 25 feet.
- (e) Any building face to collector street curb: 40 feet.
- (f) Any building face to arterial street curb: 50 feet.
- (g) Any building face to common parking area: 12 feet.

D. Other regulations.

- (1) Location of units. Low- and moderate-income housing units shall be integrated throughout the development. The units shall be at least equally accessible to common

open space and community facilities.

- (2) Minimum off-street parking requirements. Each dwelling unit shall provide off-street parking in the following manner:
 - (a) Off-street parking shall be provided as required by the Residential Site Improvement Standards (RSIS).
 - (b) All common off-street parking shall be located within 300 feet of the dwelling unit served.
 - (c) Parking shall not be permitted within the required buffer areas.
- (3) Minimum floor area for dwelling units. Minimum floor area for dwelling units is as follows:
 - (a) One bedroom: 550 square feet.
 - (b) Two bedrooms: 660 square feet.
 - (c) Three bedrooms: 850 square feet.
- (4) Low- and moderate-income housing requirements.
 - (a) All development in the ML Zone shall be required to provide dwelling units to be affordable to low- and moderate-income households as defined by N.J.A.C. 5:97 as may be amended and supplemented.
- (5) Waiver of fees.
 - (a) Notwithstanding any ordinance requirement of the Township of Andover, the applicable approving agency may waive the following fees for every unit designated as lower-income housing:
 - [1] Subdivision and site plan application fees.
 - [2] Building permit fees, except state and third party fees.
 - [3] Certificate of occupancy fees.
 - [4] Sewer connection and application fees.
 - [5] Engineering fees applicable to lower-income housing.
 - (b) The Township may endorse and support any application for waiver of water connection and application fees.
- (6) Common open space requirements.
 - (a) A minimum of 40% of the land area of any development, other than single- or two-family housing, and which may include environmentally restricted land, shall be designated for conservation, open space, recreation and/or other common open space.

- (b) All property owners and tenants shall have the right to use the common open space.
- (c) Common open space may be deeded to the Township, if accepted by the governing body, or to an open space organization or trust, or to a private nonprofit organization charged with the provision of recreation activities for the residents of the development.
- (d) All common open space deeded to an open space organization, trust or private organization shall be owned and maintained as provided for in N.J.S.A. 40:55D-43.
- (e) Utilities. All projects within the ML Zone shall be served by a central sewer system and a central water system.

§ 190-39. Planned commercial development.

- A. Definition. For purposes of this chapter, "planned commercial development" shall mean a tract of land at least 25 acres in area within the Planned Commercial Development District, developed according to a plan as a single entity, whether owned by one or more parties, and containing one or more buildings with appurtenant common areas.
- B. Hotels and motels are permitted as part of a planned commercial development, as follows:
 - (1) Such facility must have a minimum of 50 units.
 - (2) The following accessory uses are permitted in conjunction with a hotel or motel:
 - (a) Convention and conference facilities;
 - (b) Restaurants, kitchens, and cafeterias;
 - (c) Bars and nightclubs;
 - (d) Gift shops, newspaper stands and cigar stores;
 - (e) Barbershops and beauty parlors; and
 - (f) Swimming pools, saunas, gymnasiums and health clubs.
- C. The property may be developed for business purposes in accordance with the requirements of the HC Zone.
- D. Retail and service activities, banks and financial institutions and/or restaurants shall comprise not less than 10% of the total gross floor area within any planned commercial development, excluding hotel and/or motel floor areas.
- E. Any use that remains open in a building after normal shopping hours, such as restaurants, theaters and the like, shall be so located that direct access to the parking area is available from said uses and the balance of the building can be secured.
- F. The following uses are specifically prohibited within the zone district:
 - (1) Any type of industrial operation or use, such as manufacturing, fabrication, assembly, disassembly, extraction or alterations of materials.

- (2) Any amusement park or amusement center, such as penny arcades or rides or games conducted outdoors or elector, mechanical or video game centers.
 - (3) Establishments commonly called and known as snack bars, dairy bars or fast service food establishments and similar businesses engaged in the sale of food, soft drinks, ice cream, and other similar goods or confections which are so prepared and served as to be intended for immediate consumption from which customers are served while seated or standing outside the confines of the building in which the business is conducted. This shall not be construed to prohibit the fast service food establishments where food is served within the confines of the building for takeout and consumption off the subject site. This also shall not be construed to prohibit fast-food establishments where food is served through a takeout window in the exterior wall of the building which is accessed by a drive-through aisle where the takeout food is intended for consumption off of the subject site.
 - (4) Self-service or commercial laundries which conduct cleaning or laundering on the premises.
 - (5) Massage parlors or stores with individual movie-viewing facilities.
 - (6) Automobile sales or rentals.
 - (7) Flea markets.
 - (8) Kiosk businesses.
 - (9) Sidewalks sales.
 - (10) Freestanding nightclubs.
 - (11) Freestanding bars and taverns.
- G. Findings for planned commercial development. Prior to approval of the planned commercial development, the Planning Board shall find the following facts and conclusions pursuant to N.J.S.A. 40:55D-45:
- (1) That departures by the proposed development from zoning regulations otherwise applicable to the subject property conform to the zoning ordinance standards pursuant to Subsection 52c of the Municipal Land Use Act (N.J.S.A. 40:55D-65c).
 - (2) That the proposals for maintenance and conservation of the landscaped areas and open space are reasonable and the amount, location and purpose of the landscaped areas and open space are adequate.
 - (3) That provisions through the physical design of the proposed development for public services, control over vehicular and pedestrian traffic, and the amenities of light and air, recreation and visual enjoyment are adequate.
 - (4) That the proposed planned development will not have an unreasonably adverse impact upon the area in which it is proposed to be established.
 - (5) In the case of a proposed development which contemplates construction over a period of

years, that the terms and conditions intended to protect the interests of the public and of the residents, occupants and owners of the proposed development in the total completion of the development are adequate.

- (6) That the water supply for the proposed development is adequate. Adequate fire flows are required according to ISO standards. A central water system is required.
- (7) That provision for sewage treatment is adequate to serve the proposed development and to protect the environment. A central sewage treatment plant serving the development is required.

H. Development standards. The planned commercial development shall comply with the following standards:

- (1) A planned commercial development may contain more than one principal building which has architecturally unified establishments. Moreover, any principal building may contain more than one permitted use, provided that the total floor area ratio and lot coverage of the combined uses do not exceed the maximum specified herein.
- (2) Maximum floor area ratio: .30.
- (3) Maximum impervious lot coverage: 65%, plus an additional 5% for amenity areas, plazas, and similar design features approved by the Board.
- (4) Minimum floor area: the gross floor area of at least one building within the development shall be at least 100,000 square feet.
- (5) Maximum building height: two stories and 40 feet.
- (6) Building setbacks. No part of any building or structure shall be closer than the following:
 - (a) From any zone boundary line: 75 feet.
 - (b) From any public thoroughfare: 75 feet.
 - (c) From any other internal road: 10 feet.
 - (d) From any other building: 30 feet.
 - (e) From any property line: 30 feet.
- (7) A planned commercial development shall have a minimum of 500 feet of road frontage on a state highway in Andover Township or an adjacent municipality.

I. Street improvements and traffic circulation.

- (1) It shall be the developer's responsibility to improve along the entire frontage of any state highway on which the subject property has frontage.
- (2) All entrances and exits to the site shall be at locations approved by the Board to ensure maximum traffic and pedestrian safety.
- (3) Direct ingress to or egress from the site shall be from a state highway. Direct access

shall be prohibited within 200 feet of any existing street intersection.

- (4) Marginal roads or access lanes shall be provided to serve the required parking areas approved by the Board. Such roads or lanes shall be curbed and shall have a width between curbs of not less than 30 feet.
- (5) One-way roads or lanes properly designated as such may have a width of not less than 20 feet.
- (6) No direct access to any off-street parking space or stall shall be permitted from roads or lanes.
- (7) Parking shall only be permitted in designated parking spaces. There shall be no vehicle parking on the sides or shoulders of the roads or access lanes.
- (8) An adequate pedestrian circulation system (walkways) will be established separate from roads and parking lots. Ample signs and painted lines on pavement will be used as needed to ensure safe crossing of roadways and aisles.
- (9) Any new street as may be proposed by the applicant and/or required by the Board shall be designed to provide access to properties in addition to the planned commercial development where possible and appropriate, as determined by the Board. Any land area within the tract containing a new street dedicated to Andover Township shall nevertheless be considered part of the tract's acreage for floor area calculation purposes.
- (10) The road design shall comply with the road design for site plans under Chapter 131, Site Plan Review, and Chapter 155, Streets and Sidewalks, unless otherwise specified herein.

J. Landscaping and design.

- (1) Those portions of the entire site that are not used for roads or lanes, off-street parking and buildings, or pedestrian walkways shall be attractively planted and maintained with trees, shrubs, plants and grass lawns as approved by the Board, provided that, to the extent possible, existing topography and natural features such as wooded areas, ponds and lakes shall be preserved in their natural state.
- (2) Every parking lot shall provide, within the lot, landscaped areas at a ratio of one square foot of landscaped area for every 14 square feet of blacktop parking lot area. For the purposes of administering this provision, marginal and service roads and fire lanes shall not be counted as parking area. Good transitions and any other unpaved areas inside the area bounded by the marginal road that are landscaped and not paved may be counted as landscaped areas.
- (3) A planting plan shall be prepared by a licensed landscape architect upon which will be shown the following data:
 - (a) The number of plants, botanic names, common name, size of plant (inches), root condition, spacing and mulch material.
 - (b) Installation details for trees, shrubs, shrub beds and other unique equipment or materials (i.e., fountains or pools).

- (c) Installation notes as needed to adequately clarify the design and construction methods.
- (4) The soil and erosion control plan, as required by Township, state and county agencies, shall be in agreement with the landscape plan.

K. Buffers.

- (1) No part of any on-site parking areas, access aisle or other structure shall be closer than the following dimensional requirements:
 - (a) From any residential zone boundary line: 50 feet.
 - (b) From any other zone boundary line: 30 feet.
 - (c) From any public state highway: 50 feet.
 - (d) From any side property line: 30 feet.
- (2) At least the first 50 feet adjacent to a state highway and at least the first 30 feet adjacent to any existing street or property line and at least the first eight feet adjacent to any proposed street shall not be used for parking and shall be planted and maintained in lawn area or ground cover or landscaped with evergreen shrubbery.
- (3) All areas not used for buildings, parking, loading, streets, access aisles, driveways, pedestrian walkways or detention basins shall be suitably landscaped with grass, shrubs, ground cover and/or additional plantings as approved by the Board. Such landscaped areas shall be maintained by the property owner in good condition.
- (4) No less than 30% of the total tract area shall be landscaped. A detention basin may be considered a landscaped area if its embankment does not exceed a slope of 3:1 and if it is designed and improved as a visual amenity of the development.
- (5) Wetlands and transition areas may be included in the landscaped area.
- (6) The Board may require such visual buffers and barriers as it may deem appropriate.

L. Off-street parking.

- (1) There is required one off-street parking space for each 250 square feet of gross floor area of each building greater than 100,000 square feet.
- (2) Every building less than 100,000 square feet of floor area shall be provided with one off-street parking space for each 200 square feet of gross floor area.
- (3) Parking spaces shall be located within 300 feet of the building which they are intended to serve.

M. Off-street loading.

- (1) Loading and unloading spaces with adequate ingress and egress from streets and with adequate space for maneuvering shall be provided at the side or rear of the building.

- (2) Each space shall be at least 15 feet by 40 feet.
- (3) The number of spaces shall be as set forth in Article VII of this chapter.
- (4) Additional spaces may be necessary and required by the Board, depending upon the specific activity.
- (5) There shall be no loading or unloading from a street.

N. Signs.

- (1) Each planned commercial development may have one freestanding sign at each entrance to the development, provided that each such sign does not exceed 50 square feet in area, does not exceed 20 feet in height, and is set back at least 30 feet from all street and property lines.
- (2) Each rental unit within the planned commercial development may have one major sign attached to the building and not exceeding 5% of the front facade of the business unit or 75 square feet, whichever is less.
- (3) Where an individual activity occupies at least 750 square feet of segregated area and has direct access from the outside, a sign not exceeding four square feet in area identifying the name of the activity shall also be permitted. Such identifying sign(s) shall be at the entrance to the activity suspended in perpendicular fashion from a roof over a common walkway, where and when such common walkway exists. Suspended signs shall be no closer than eight feet at their lowest point to the finished grade below.
- (4) All signs in the planned commercial development shall conform in character to all other signs in the development and shall blend with the overall architectural scheme of the development.
- (5) No signs shall be neon, iridescent, or internally lit.
- (6) Signs shall conform to the standards contained in Article XI.
- (7) Temporary or advertising signs shall not cover more than 10% of the window area of any rental unit.
- (8) All applicants shall submit a sign plan as part of the application.

O. Outdoor storage.

- (1) No merchandise, products, equipment or similar material or objects shall be displayed or stored outside.
- (2) All solid waste not stored within a building shall be stored within an enclosed structure situated on an adequate concrete foundation and screened with a fence and plantings.

P. Lighting.

- (1) Lighting shall comply with the provisions of Chapter 131, Site Plan Review.

- (2) There shall be no direct or sky-reflected glare exceeding 0.2 footcandle measured at the property line of the lot occupied by such use.
- (3) This regulation shall not apply to lights used at the entrances or exits of service drives.

Q. Trash and recyclable materials.

- (1) Every building shall be serviced with an area for recyclable materials as set forth in Chapter 144, Article 1, Recycling, and Chapter 131, Site Plan Review.
- (2) All recycling areas shall be in a location on site as approved by the Board and shall be adequately screened so that no recyclable material is visible.

R. Special events.

- (1) Certain special events, such as antique car shows, jewelry shows, craft shows and the like, shall be permitted within the confines of the mall buildings.
- (2) Hours of the events shall be limited to the normal business hours that the mall is open but in no event shall extend beyond 10:00 a.m. to 9:30 p.m.
- (3) No noise shall be emitted which extends beyond the property lines.
- (4) Prior to holding a special event, a permit shall be applied for and issued by the Zoning Officer at least 10 days prior to the holding of the event. A fee for the special event permit shall be paid in the amount of \$100.
- (5) The Township or the provider shall be reimbursed for any special expenses incurred for municipal services resulting from the special event, including police, Fire Department or emergency squad services. In addition, an escrow deposit in the amount of 100% of the estimated costs of these services shall be paid to the Township with the permit application.

- S. The applicant shall give to the Andover Township Police Department permission to enforce traffic regulations, including but not limited to parking and handicapped spaces on the site.

§ 190-40. (Reserved)

Editor's Note: Former § 190-40, PRC Planned Retirement Community Zone, as amended, was repealed 11-29-2010 by Ord. No. 2010-10.

§ 190-41. Garden apartments.

- A. Minimum tract size: five acres.
- B. Utilities required. All garden apartments shall be served by common water and sewer.
- C. Maximum density:
 - (1) Efficiency garden apartments: 5,445 square feet of lot area.
 - (2) One-bedroom garden apartments: 6,223 square feet of lot area.

- (3) Two-bedroom garden apartments: 7,260 square feet of lot area.
 - (4) Three-bedroom garden apartments: 10,890 square feet of lot area.
 - (5) Garden apartments containing more than three bedrooms are prohibited.
- D. Apartment mix. The total distribution of two- and three-bedroom units shall be limited to a maximum of 35% of the total number of units. No more than 5% of the total number of units shall contain three bedrooms.
- E. Minimum spacing between buildings. The term "parallel" as used in this subsection shall include the meaning "approximately or approaching parallel positions."
- (1) Main building to detached accessory buildings: 50 feet.
 - (2) Ends of building where walls are parallel to each other with driveway between buildings: 60 feet.
 - (3) Ends of buildings where walls are parallel to each other: 30 feet.
 - (4) Front facade of a building to the facing front facade of an opposite building where the walls are parallel: 100 feet.
 - (5) When a building fronts on a new interior roadway, the structure shall be set back a minimum of 25 feet from the right-of-way line.
 - (6) Rear facade of a building to the rear facade of an opposite building where walls are parallel: 70 feet.
 - (7) Front facade of a building to the side wall of an adjacent building where walls are parallel but do not overlap: 20 feet.
 - (8) The front facade of a building shall not overlap the side wall of an opposite building by more than eight feet, unless such buildings are joined together. In no case shall windows in any wall be obstructed by any abutting walls.
 - (9) No building shall be erected closer than 75 feet to a public street or right-of-way. No structure shall be closer to a property line than 50 feet.
 - (10) Where adjoining one-family residential lots exist, or where adjoining property is zoned for residential use, a buffer strip shall be maintained at the property line, within the required setback area, of at least 10 feet in width. This buffer strip shall be left in its natural state or planted to establish a visual screen, in accordance with the recommendations of the Board.
- F. Unit limitation for garden apartments. A garden apartment building shall contain a maximum of 16 units connected in one attached grouping.
- G. Maximum length of structure. No building shall be more than 160 feet in length. Within that distance the facade shall contain breaks or other treatments to subtly and aesthetically interrupt the facade wall.

H. Occupancy restrictions.

- (1) There shall be no living quarters in the space above the second floor.
- (2) There shall be no living quarters in the basement or cellar.
- (3) In every apartment containing one or more bedrooms, access to every living room and bedroom and to at least one bathroom shall be provided without passing through any bedroom.

I. Ventilation of garden apartments. Buildings and units shall be so designed that each apartment shall be provided with no fewer than two exterior exposures for each dwelling unit, and each exposure shall have windows to provide light and ventilation.

J. Landscaping and screening.

- (1) All apartment developments shall be provided with liberal and functional professional landscaping schemes.
- (2) Interior roads and pedestrian walks shall be provided with shade trees.
- (3) Open space adjacent to buildings, malls between buildings utilized by residents, and border strips along the sides of pedestrian walks shall be graded and seeded to provide a thick stand of grass or other plant material.
- (4) Approaches to dwelling structures and entrances to dwelling areas shall be provided with trees and shrubs.
- (5) Areas not used for buildings, terraces, driveways and parking spaces shall be seeded and landscaped and shall be maintained in a stable and well-kept condition.
- (6) Screening or buffers consisting of planting strips or fences shall be required around outdoor utility and refuse disposal areas and around any other similar areas.
- (7) A buffer strip at least 10 feet in width shall be planted along property lines of adjacent single-family homes or districts.
- (8) Clothes drying yards shall be fenced and screened.
- (9) Usable areas for active recreation, such as tennis courts, ballfields, playgrounds and picnic grounds, equal to 15% of the tract shall be provided. Lawns, landscaped areas and areas left in their natural state shall not be included.
- (10) The developer shall furnish, along with the plans and specifications required under this chapter and Chapter 131, Site Plan Review, landscaping plans which shall include plans for lighting the grounds, roads, drives, walks, recreation areas, parking areas and building entrances of the development, as well as the plantings and other landscaping intended for the development.
- (11) Topsoil can be removed from the site during construction but shall be stored on the tract and redistributed on the site.

K. Utilities and facilities.

- (1) Compaction of all garbage and refuse shall be undertaken by management prior to refuse and garbage pickup. In addition, compacted refuse and garbage will be stored in appropriate containers provided for each building and shall be adequate to contain all garbage and refuse produced. Pickup of compacted refuse and garbage shall be made at least twice per week. Individual refuse storage cans for use by occupants shall be prohibited.
- (2) Storm drainage plans shall be approved by the Township Engineer.
- (3) The installation and design of other apartment tract improvements and utilities shall comply with the improvement and design standards established in Chapter 159, Subdivision of Land, and Chapter 131, Site Plan Review, of the Code of the Township of Andover.
- (4) Common water and sewers, as defined in this chapter, shall be provided.
- (5) All electric, gas, television, cable, oil tank and telephone services shall be located underground.

L. Other requirements.

- (1) One permanent identification sign may be erected at the main entrance to the garden apartment site. Such sign shall be of size and design approved by the Board, in accordance with the sign requirements of this chapter. *Editor's Note: See Article XI, Signs.*
- (2) Usable areas for active recreation, such as tennis courts, ballfields, playgrounds and picnic grounds, equal to 15% of the tract shall be provided. Lawns, landscaped areas and areas left in their natural state shall not be included.
- (3) Coin-operated laundry washing and drying machines may be located in the basement or cellar area of the apartment buildings for the sole use of the occupants.
- (4) Each apartment building shall contain a minimum of 300 cubic feet of storage area for each dwelling unit, located in a convenient place in the basement or ground floor, where personal belongings and effects of occupants may be stored without constituting a fire or health hazard. Each storage area should be adequately lighted and have locking equipment.
- (5) Each apartment building shall contain 50 cubic feet of common storage area for each dwelling unit for the storage of bicycles, carriages and similar types of frequently used equipment and utensils.
- (6) In each apartment development, television and cable antenna equipment shall be built into the building, thereby eliminating the need for individual antennas being erected on the roof.
- (7) Floors and dwellings and partitions between apartment units shall be constructed so as to produce an airborne sound transmission loss of at least 50 decibels.
- (8) Application for multifamily residential housing as provided for in this section shall

comply with all Township ordinances, including major subdivision and site plan ordinances.

Editor's Note: See Ch. 159, Subdivision of Land, and Chapter 131, Site Plan Review.

Wherever a conflict exists between ordinances, the stricter interpretation shall apply.

§ 190-42. Agricultural, farm and horticultural uses.

- A. Minimum area: not less than six acres.
- B. Spacing requirements. The following minimum distances shall be maintained:
 - (1) Between residence and barns, outbuildings and accessory buildings, except residence garage: 75 feet.
 - (2) Between all barns, outbuildings and accessory buildings, except residence garage, and property line: 150 feet.
- C. Except as noted above, all other bulk requirements in the applicable zone shall apply.
- D. Prohibited activities. The following agriculture, farm and horticulture activities are prohibited: feed lot operation where animals are confined to limited areas for fattening prior to slaughtering.

§ 190-43. Golf courses.

- A. Minimum area: 90 contiguous acres for a nine-hole golf course and 180 acres for an eighteen-hole golf course.
- B. Spacing requirements. The following minimum distances shall apply:
 - (1) No tee or fairway shall be located closer than 50 feet to an outside property line, and no green shall be located closer than 75 feet to an outside property line.
 - (2) No clubhouse or other facility where food or beverages are served shall be located within 100 feet of an outside property line.
- C. Parking requirements:
 - (1) All parking areas shall be located at least 50 feet from any outside property line.
 - (2) All parking areas shall be attractively landscaped to provide a visual buffer to the view of area residents and the public.
 - (3) Off-street parking shall be provided as shown in the following table:

Use	Required parking spaces
Golf Course	3.0 parking spaces per hole
Clubhouse/retail sales area	1 per 200 square feet
Clubhouse/restaurant area	1 per every 3 seats

Accessory uses

As required under this chapter

D. Other requirements.

- (1) Maximum building coverage: 2%.
- (2) Maximum impervious coverage: 5%.
- (3) There shall be separate points of ingress and egress to the tract.
- (4) No public address system or other amplifying system shall be used in such a manner that sounds may be heard off site.
- (5) Lighting shall be constructed so that all light is directed downward and ambient light shall be contained on the subject tract.
- (6) One identification sign not exceeding eight feet by 10 feet in area may be constructed at the entrance to the facility; otherwise, only directional signs shall be permitted.
- (7) Site plan approval is required.
- (8) The applicant shall provide a water resource monitoring program designed to minimize the use of off-tract surface water and groundwater resources while maximizing the use of stormwater retained on the site. This plan shall provide for ground and surface water quality monitoring for nutrients, pesticides and other parameters to be determined by the approving authority.
- (9) The applicant shall provide a turf management plan which is consistent with the grading and landscaping plans and shall discuss and define the use of drought-tolerant turf and landscaping material, the area to be irrigated, the required capacity of the irrigation system and the need for any water diversion permits. The plan shall also provide a proposed integrated pest management and turf management plan that defines the nature and use of the pesticides and other chemicals and fertilizers involved.
- (10) All plans shall be integrated and coordinated in an effort to absorb and filter fertilizers, pesticides, herbicides and other nonpoint-source pollutants to minimize contamination of streams and groundwater supplies. The course shall be required to have a golf course superintendent, certified by the Golf Course Superintendents Association of America, on staff and an ongoing site management program to monitor water use and weather conditions in conjunction with the application of fertilizer, pesticides and herbicides in order to adhere to the turf management plan and the water resources monitoring program. The monitoring and reporting data shall be submitted to the Township Engineer on a quarterly basis.

§ 190-44. Shopping centers.

A. Principal uses and structures permitted in a shopping center.

- (1) A shopping center, as defined in Article II, may include the following uses:
 - (a) Retail sales of goods.

(b) Retail sales of personal services and minor appliance or office machinery repair.

(c) Business services.

(d) Delicatessens, bakeries, candy stores, food markets and grocery stores.

(e) Banks, including drive-through facilities.

(f) Offices.

(g) Fitness centers.

(2) Permitted accessory uses and structures: other uses customarily incidental to the principal permitted use.

B. General requirements.

(1) Minimum lot area: six acres.

(2) Minimum lot frontage: 400 feet.

(3) Minimum lot width: 400 feet.

(4) Minimum lot depth: 400 feet.

(5) Maximum floor area ratio: .25.

(6) Maximum lot coverage: 60%, plus an additional 5% for amenity areas, plazas and similar design features.

C. Principal building(s).

(1) Minimum distance to property line: 50 feet.

(2) Minimum distance to street line: 75 feet.

(3) Maximum height: 35 feet.

(4) Maximum building size: 65,000 square feet.

(5) Minimum store size: 1,000 square feet.

(6) Distance to other buildings: 20 feet if buildings are separated by a pedestrian walkway; 50 feet if buildings are separated by a roadway.

D. Accessory buildings

(1) Distance to property line: 50 feet.

(2) Maximum height: 25 feet.

E. Parking and circulation.

- (1) The minimum setbacks for parking areas shall be as follows:
 - (a) Distance to street line: 50 feet.
 - (b) Distance to property line: 25 feet.
- (2) Each individual use shall provide parking spaces according to its respective minimum provisions. Where a permitted use includes different specific activities with different parking requirements, the total number of parking spaces shall be obtained by individually computing the parking requirements for each use and adding the numbers together.
- (3) A maximum of 40% of the site parking shall be in the front yard.
- (4) Vehicular and pedestrian connections to adjacent properties shall be provided for existing and future use.
- (5) Defined pedestrianways shall be designed to connect freestanding buildings on the site. Amenities shall be provided and may include, but are not limited to, plazas, benches and landscaping. Pathways shall be a minimum of eight feet wide.
- (6) Curbed pedestrian walks, not less than 10 feet wide, shall be provided along the entire length of any wall of stores that contains public entrance or exit ways and/or display windows. Said walks shall be at least five inches but no more than six inches higher than the abutting paved parking area.
- (7) Each shopping center shall provide roads or access lanes to serve the required parking area as approved by the Board. Such roads or lanes shall be curbed with a width between curbs of not less than 30 feet and shall have no direct access to any off-street parking space stalls. There shall also be a service drive at least 30 feet wide to service each building on the site.
- (8) There shall not be more than one driveway for each 200 feet of road frontage along an arterial roadway. Alternative access and egress shall be encouraged, provided that a driveway on a corner lot shall not be closer than 100 feet to the intersection.
- (9) Each principal use shall provide for off-street loading and unloading with adequate ingress and egress from streets and with adequate space for maneuvering and shall provide such area at the side or rear of the building. Each space shall be at least 15 feet by 50 feet, and a minimum of one space shall be provided for each building.

F. Architectural design.

- (1) Buildings shall be located according to topography, with environmentally sensitive areas avoided to the maximum extent possible.
- (2) Uniform streetscape, signage, landscaping and architectural style shall be provided.
- (3) All exteriors of perimeter walls of principal structures shall be of brick or stone facing, solid brick or stone or some other accepted durable material. Asbestos shingle or cinder block exterior finishes are prohibited.

(4) Flat roofs are not permitted, unless they are surrounded by articulated cornices.

G. Other requirements.

- (1) One building may contain more than one individual use, provided that the total floor area ratio and lot coverage of the combined uses do not exceed the maximums defined above.
- (2) More than one principal building is permitted.
- (3) All areas not used for buildings, parking, loading, aisles, driveways and pedestrian walkways shall be suitably landscaped with shrubs, ground cover, seeding or plantings and maintained in good condition.

H. Outdoor storage.

- (1) The outdoor storage and/or display of merchandise, product, equipment, waste or similar material or objects shall be prohibited, except as follows:
 - (a) Shopping carts at supermarkets may be stored within accessory building setback distances.
 - (b) Garbage/recycling containers, containers for flowers, decorative plantings, nursery stock and benches may be displayed or maintained within accessory building setbacks.
 - (c) Outside public telephones shall be attached to the principal building on a property.
 - (d) Outside delivery service receptacles (other than United States postal receptacles) shall be maintained within three feet of a principal building.
 - (e) Other items may be permitted through site plan approval.
- (2) All solid waste not stored within a building shall be stored within an enclosed structure obscured from view from parking areas, streets and adjacent residential uses or districts by a fence, wall, planting or combination of all three. There shall be at least one trash and garbage pickup location, including provision for recyclable materials collection, provided by each building which shall be separated from the parking spaces.

I. Signs.

- (1) Each shopping center may have one freestanding sign, not exceeding 75 square feet in area, provided that no other freestanding signs are erected on the site. Freestanding signs shall be set back at least 15 feet from all street rights-of-way and property lines and shall have a maximum height of 20 feet.
- (2) Where a principal use occupying at least 1,000 square feet in a segregated area in a shopping center has direct access from the outside, a sign not exceeding 20 square feet in area identifying the name of the use shall also be permitted. Such additional signs shall be either flat against the building at the entrance to the use or suspended in perpendicular fashion from a roof over a common way. Suspended signs shall be no closer than 10 feet at their lowest point to the finished grade below.

§ 190-45. Home occupations.

- A. Home occupations are permitted in all residential zones, in accordance with the following requirements:
- (1) Such uses shall be subject to site plan review and approval.
 - (2) The Board may impose reasonable requirements on the use, including but not limited to off-street parking, landscaping, screening and buffering, depending on the nature of the use and the surrounding uses.
 - (3) Not more than one person in addition to members of the family residing on the premises shall be engaged in such occupation.
 - (4) The home occupation shall be clearly incidental and subordinate to the use of the dwelling for residential purposes. The maximum area devoted to the home occupation shall be limited to not more than 25% of the gross floor area of the principal building, not including the cellar, or 400 square feet, whichever is less.
 - (5) There shall be no external evidence of the home occupation.
 - (6) Goods, chattel, materials, supplies or items of any kind delivered either to or from the premises in connection with the home occupation shall take place in noncommercial registered vehicles or typical delivery vans with a maximum length of 20 feet.
 - (7) Any goods or merchandise for sale must be produced on the premises.
- B. Home occupations that meet the following requirements are exempt from site plan review and approval:
- (1) There is no external evidence of the home occupation.
 - (2) There are no retail sales conducted on the site and no clients will visit the site.

§ 190-45.1. PO/R Professional Office/Residential Zone.

[Added 10-27-2008 by Ord. No. 2008-17] Permitted uses and standards for the PO/R Professional Office/Residential Zone are as follows:

- A. Principal permitted uses
- (1) Office buildings, including business, professional, medical and administrative.
 - (2) Home offices.
 - (3) Child-care centers licensed by the Department of Human Services pursuant to N.J.S.A. 30:5B-1 et seq.
 - (4) Essential services.
 - (5) Places of worship and religious institutions.
 - (6) Financial institutions.

B. Permitted accessory uses.

- (1) Fences and walls in accordance with Article XII of Chapter 190.
- (2) Off-street parking.
- (3) Private garages.
- (4) Signs in accordance with Article XI of Chapter 190.
- (5) Uses customarily related to and incidental to the principal use.

C. Permitted conditional uses.

- (1) Expansion of existing single-family detached residential dwellings, provided that any such expansion shall maintain the character and single-family use of the existing dwelling and conform to the setback requirements of the PO/R Zone district.
- (2) Banks with drive-through windows and/or automatic teller machines (ATMs), provided that a landscaped buffer with a minimum depth of 50 feet is provided between any drive-through lane or ATM and the closest residential use or residential zone district boundary.

D. Lot area and bulk standards. The recommended lot area and bulk standards shall be as follows:

- (1) Minimum lot area: One acre (43,560 square feet).
- (2) Minimum lot width: 150 feet.
- (3) Principal building setbacks.
 - (a) Front yard: 50 feet.
 - (b) Side yard: 20 feet (each side).
 - (c) Rear yard: 50 feet.
- (4) Accessory buildings and structures.
 - (a) Side yard: 20 feet.
 - (b) Rear yard: 30 feet.
 - (c) Side and rear yard: 20 feet for parking areas, driveways and traffic aisles.
- (5) Maximum building height: 2 1/2 stories / 35 feet.
- (6) Maximum structure lot coverage: 20%.
- (7) Maximum impervious surface coverage: 60%.

Article VI. Conditional Uses

§ 190-46. Essential services.

- A. Essential services are utility installations, electric stations and uses generally related to the supply of energy to activities and uses in the Township. Because of the wide range of uses which constitute essential services, no specific regulations are contained in this chapter. Each use shall be evaluated by the Board and standards imposed based on the following:
 - (1) Degree an intensity of nuisance characteristics.
 - (2) Probable traffic impact.
 - (3) Character of surrounding existing and future development.
- B. The Board may require alternate site arrangements and provisions for parking, loading, screening, fencing, buffers and lighting.

§ 190-47. Public and private schools.

- A. Public or private institutions of education for primary and secondary compulsory education shall conform to the following criteria:
 - (1) Minimum tract size: 10 acres.
 - (2) There shall be a buffer strip between school playgrounds and adjoining residences, of evergreen or other appropriate planting, as approved by the Board.
 - (3) There shall be no substantial adverse impact upon surrounding properties due to traffic, noise, light, or other factors.
- B. Public or private preschool establishments providing nursery, day-care or similar education-type activities shall conform to the following criteria:
 - (1) There shall be a buffer strip between playgrounds and adjoining residences, of evergreen or other appropriate planting, as approved by the Board.
 - (2) There shall be no substantial adverse impact upon surrounding properties due to traffic, noise, light, or other factors.

§ 190-48. Places of worship and religious institutions.

- A. General. In reviewing the site plan for houses of worship, the Board shall make particular note of ancillary uses, such as social events, recreational activities, convocations and similar activities. Reasonable requirements shall be established to minimize any adverse impact to the surrounding area.
- B. Minimum requirements.
 - (1) Minimum lot area: five acres.
 - (2) Minimum front yard setback: 75 feet.
 - (3) Minimum side yard setback: 50 feet.

- (4) Minimum rear yard setback: 75 feet.
- (5) Maximum impervious surface coverage: 40%.
- (6) Maximum lot coverage: 20%.

§ 190-49. Animal hospitals and kennels.

- A. Minimum lot size: five acres.
- B. Structure setback. Structures housing animals and exercise areas for animals shall be at least 200 feet from any property line.
- C. Minimum yards. Minimum front, rear and side yards shall be at least 200 feet each, except if abutting a residence or a residential zone. In this case the Board may require additional setbacks to provide adequate buffers and to protect adjacent uses from nuisance characteristics.
- D. Maximum height. The maximum height of such uses shall be two stories or 25 feet.

§ 190-50. Country clubs, swimming clubs and neighborhood outdoor recreation facilities.

- A. Minimum lot size: 10 acres.
- B. Minimum frontage: 400 feet.
- C. Minimum setbacks. All structures, parking areas and recreation facilities shall be set back a minimum of 100 feet from all property lines.
- D. Swimming pool setback. Swimming pools, other than private residential swimming pools under 3,499 square feet, shall have a setback from any property line of 300 feet. A pool of greater than 3,500 square feet shall have a setback of 400 feet.
- E. Nuisance restrictions.
 - (1) If outdoor lighting is provided, it shall be shielded and arranged in such a manner that source and object of illumination shall not be visible from any adjoining property.
 - (2) Public address systems or any other amplified sounds are prohibited.
- F. Access. Direct access from a local minor road, as defined in the Master Plan, is prohibited.

§ 190-51. Automobile, truck, farm machinery, construction equipment and recreation vehicle sales.

- A. Minimum lot size: four acres.
- B. Minimum lot width: 300 feet.
- C. Accessory uses. Used cars, machinery, equipment or vehicles shall not be sold, except as an accessory use to a new car, machinery or equipment dealer or in accordance with Chapter 78, Licensing, and Chapter 183, Vehicles, Sales of, of the Code of the Township of Andover.

- D. Minimum building size: 2,500 square feet of usable floor area.
- E. Maximum coverage. The area devoted to outside display of new and used cars, machinery, equipment or vehicles shall not exceed the area of the building or 25% of the total lot area, whichever is greater.
- F. All outdoor display and service areas, including driveways and parking facilities, shall be paved.
- G. Vehicles, machinery and construction equipment shall be kept at least 50 feet from the right-of-way and property lines and be neatly arranged on the lot.
- H. The front yard shall be attractively landscaped.
- I. Lighting. Display lighting shall be shielded and shall be so located and maintained as not to constitute a hazard or nuisance to the traveling public or to neighbors. In particular, so-called "string lights" shall not be permitted.
- J. Additional restrictions. The Board may impose other reasonable restrictions on these uses as part of site plan review.

§ 190-52. Gasoline service stations.

- A. Minimum lot size: 30,000 square feet.
- B. Minimum frontage: 150 feet.
- C. Bulk requirements:
 - (1) Rear yard setback: 50 feet.
 - (2) Side yard setback: 20 feet.
 - (3) Maximum building height: 2 1/2 stories or 35 feet.
- D. Front yard. Pumps shall be located at least 40 feet from the right-of-way line.
- E. The applicant shall meet the requirements contained in § 190-54 with regard to the storage of oil or petroleum of any kind and in any form, including but not limited to oil, petroleum, gasoline, kerosene, fuel oil, oil sludge, oil refuse, oil mixed with other wastes, crude oils and liquid propane.

§ 190-53. Riding academies and stables.

The keeping of horses, ponies or other equine animals where stall space is rented for more than one horse, horses are available for hire, riding lessons or instruction is undertaken on the premises or similar activities are conducted is regulated as follows:

- A. Structures. Housing of equine animals must be provided in permanent, anchored barns for all horses on the property at which the horses are kept beyond two days and two nights. Each horse must be provided with a box stall or straight stall. Horses shall not be housed in horse travel trailers. Barns shall further be regulated according to the following:

- (1) Each box stall should be at least 100 square feet.
- (2) Each straight stall should be at least five by eight feet.
- (3) Minimum floor area of a barn should be 125 square feet.
- (4) Enclosed roof storage must be provided for hay, straw, feed and tack.
- (5) Rodent-proof feed containers must be provided and used.
- (6) Barns must be located in the rear of the property.
- (7) Barns must be located no closer than 75 feet to the side or back property line boundaries.

B. Parking.

- (1) One-half permanent paved parking space shall be required for each horse housed or ridden in the arena on the property.
- (2) Sufficient temporary field parking should be provided for special events.
- (3) Police ordinance requires special permits for show events to be acquired through the Township Committee and Police Department.

C. Minimum land area: nine acres.

D. Minimum frontage: 400 feet.

E. Equine density. For nine acres, up to 20 equine animals are permitted on the lot, five acres of which shall be accessible to the animals. Two additional animals may be permitted for each additional acre accessible to those equine animals.

F. Disposition of manure.

- (1) Manure may not be kept in any area of the fifty-year floodplain nor within 50 feet of any brooks or watercourses.
- (2) Manure disposal area must be in a low-profile position, cause no nuisance, and be at least 50 feet from a property line and no closer than 200 feet to any other existing residential purpose permanent building or structure, attached garage, swimming pool, tennis court or patio located on adjoining premises.
- (3) The manure must be collected from the barn area and maintained or disposed of in a sanitary manner. If stored, a covered enclosure or covered pit should be provided to prevent offensive odors, fly breeding and other nuisances.

G. Horse vans and trailers. Vehicles intended for the transportation of recreational horses, such as vans and trailers, may be stored on the premises provided they do not violate the provisions of any other ordinance of Andover Township.

H. Lessons and boarding. Giving riding lessons or instructions, leasing of horses or other similar activities or boarding or housing other people's horse or horses is permitted if a conditional use permit is issued for a stable and riding academy hereunder. The term

“horses” herein shall be determined to include all equine animals as defined in this chapter.

§ 190-54. Warehousing, storing and wholesaling of certain materials.

The warehousing, storage, wholesaling or retailing of materials listed herein shall not be conducted until a conditional use permit is issued from the reviewing board. Such permit shall be granted only if the applicant meets the conditions listed herein.

A. Conditions of approval.

- (1) The applicant shall include in the publication of application, and in the notice to surrounding property owners and other notice as required by N.J.S.A. 40:55D-12, the specific description of the material to be warehoused, stored or wholesaled.
- (2) The applicant shall prove that the materials can be stored and used safely on the property and in accordance with all applicable governmental laws, rules and regulations. Specific details of the proposed use and storage facilities for the subject materials shall be submitted to the reviewing municipal board.
- (3) The materials or their by-products shall not be disposed of or discharged on the premises and shall not be discharged into on-premises septic or sewage disposal systems.
- (4) There shall be no detriment to the public health and safety of residents in the neighborhood or community.
- (5) No materials or wastes shall be deposited on a lot in such form or manner that they may be transferred off the lot by natural causes or forces.
- (6) All materials shall be stored in a secure manner so that they may not be removed by unauthorized persons.
- (7) No substance or material that has the potential to contaminate a stream, watercourse, groundwater supply or aquifer or otherwise render such stream, watercourse, groundwater supply or aquifer undesirable as a source of potable water or recreation, or which can destroy aquatic life, shall be permitted to enter any stream, watercourse, groundwater supply or aquifer. The applicant shall provide the Board with competent evidence that this condition has been met.
- (8) All materials or wastes that may cause fumes or dust, or which could constitute a fire hazard, or which may be edible or otherwise attractive to rodents or insects, shall be stored indoors and enclosed in appropriate containers adequate to eliminate such hazards.
- (9) The applicant shall prove to the Board that the use does not emit excessive or exceptional amounts of dust, fumes, noise, odor, smoke, vibration, glare or waste products and does not constitute an excessive fire or explosive hazard or a hazard beyond the capabilities of the Township Fire Department.

B. Materials covered:

- (1) Oil or petroleum of any kind and in any form, including but not limited to oil, petroleum, gasoline, kerosene, fuel oil, oil sludge, oil refuse, oil mixed with other wastes, crude oils and liquid propane.

- (2) All pesticides designated as "prohibited," "restricted" or "specifically restricted" pursuant to the New Jersey Pesticide Control Act of 1971, N.J.S.A. 13:1F-1 et seq., as amended, and N.J.A.C. 7:30-1.5 through 7:30-1.7; excepted from this subsection are pesticides used for agricultural uses as defined in this chapter.
- (3) Any use which directly or indirectly utilizes materials listed in N.J.A.C. 7:26-6.13 and 7:26-6.14.
- (4) Substances identified as hazardous by the Federal Environmental Protection Agency as 40 FR 59961, December 30, 1975, proposed pursuant to Section 311(b)(2)(a) of the Federal Water Pollution Control Act, Amendments of 1972, 53 U.S.C. § 1251 et seq., as amended.
- (5) Explosives.
- (6) Gases.
- (7) Acids.
- (8) Plastics.
- (9) Halogenated hydrocarbons and their derivatives.
- (10) Fireworks.
- (11) Weapons.
- (12) Wood distillables.
- (13) Any other dangerous, hazardous or toxic materials.

§ 190-55. Automobile repair services.

- A. Except as otherwise permitted in this section, no repair garage shall store wrecked, damaged, disassembled (either whole or in part) or abandoned motor vehicles, boats or used automotive or marine parts or used supplies or materials thereof.
- B. The temporary storage of wrecked, damaged or disassembled and abandoned motor vehicles is permitted as follows:
 - (1) Such vehicles may be stored on a temporary basis while insurance claims are being processed or while junk title is being obtained from the Division of Motor Vehicles. Temporary storage is also permitted of abandoned motor vehicles pending disposition of court complaints or the processing of junk title being obtained from the Division of Motor Vehicles; provided, however, that such vehicles have been brought or stored there at the direction or request of a local, county, state or federal law enforcement agency.
 - (2) Such vehicles shall be located in a rear yard and screened so that no stored vehicle or equipment shall be visible off premises.
 - (3) On corner lots in those cases where no rear yard exists, storage areas are restricted to the single side yard behind the line projected by the building face and subject further to all

the regulations set forth in this section.

- (4) In no event shall storage be closer than 10 feet to any property line.
- (5) In no event shall the temporary storage of more than 10 such vehicles be permitted simultaneously at any one public garage or gasoline service station. The area of such storage shall be maintained in a clean and safe manner, free from all debris, glass, loose parts and leaking fuel, lubricants and other fluids.

§ 190-55.1. FCC licensed radio stations.

Conditions of approval.

- A. The applicant shall be a radio station licensed by the Federal Communications Commission (FCC).
- B. The FCC licensed radio station shall be existing in Andover Township as of July 1998.
- C. Site plan approval shall be required.

§ 190-55.2. Concrete and asphalt product and production facilities.

[Added 4-26-2010 by Ord. No. 2010-05] Concrete and asphalt product and production facilities in the General Industrial Zone district are subject to the following requirements:

- A. Lot area.
 - (1) Minimum lot area: 20 acres.
 - (2) Minimum lot width: 500 feet.
- B. Coverage standards.
 - (1) Maximum building and structure (principal and accessory) coverage: 15%.
 - (2) Maximum impervious surface coverage: 40%.
- C. Principal building.
 - (1) Front yard setback: 300 feet.
 - (2) Side and rear yard(s) setback: 200 feet.
 - (3) Maximum building height: 75 feet.
- D. Accessory buildings and structures.
 - (1) Storage silos, bins and/or hoppers for containment of raw materials shall not exceed a maximum height of 125 feet and shall be located to provide a minimum setback ratio of 2.5 times the height of the building or structure to a side or rear lot line. Storage silos, bins and/or hoppers for containment of raw materials shall not be located within the restricted one-hundred-foot buffer area to a residential zone district or an existing residential use in accordance with § 131-37M nor shall same be permitted within the

required front yard setback applicable to the principal building.

- (2) Off-street parking may be permitted within 50 feet of a front, side or rear lot line but shall not be permitted within the restricted one-hundred-foot buffer area to a residential zone district or an existing residential use in accordance with § 131-37M.
- E. Outdoor storage. Notwithstanding the restrictions pertaining to outdoor storage as set forth in § 190-21 of this chapter, designated areas for the storage of materials utilized in the production process and finished products may be located in the front, side or rear yard setback applicable to the principal building subject to the following conditions:
- (1) No storage or placement of materials or products or loading/ unloading operations shall be located within the restricted one-hundred-foot buffer area to a residential zone district or an existing residential use in accordance with § 131-37M.
 - (2) Storage or placement of materials or products and loading operations may be located within 50 feet of a front, side or rear lot line, except where the one-hundred-foot residential buffer standard applies. All storage areas must be designed with appropriate design elements, including landscaping, graded berms, solid walls or a combination thereof, to provide a visual screen of said activities from view beyond the boundaries of the site. Said buffer shall consist of a minimum depth of 40 feet and shall extend along the entire length of the storage and/or loading area.
 - (3) All raw materials shall be placed upon an impervious surface and be designed to have a solid wall on the side(s) and rear for containment purposes.
 - (4) The preservation of natural wooded tracts shall be an integral part of all site plans and may be calculated as part of the required buffer area, provided that the growth is of a density and the area is of a width to serve the purpose of a buffer. Where additional plantings are necessary to establish an appropriate tone for an effective buffer, said planting may be required.
 - (5) Trees shall be of a species common to the area, of nursery stock and free of insects and disease. A minimum of 1/3 of the trees provided in the buffer plan must have a caliper of three inches at planting.
 - (6) The buffer area shall remain in place for the duration of the approved activity. Any plant material which does not live shall be replaced within one year or one growing season.
 - (7) Screen plantings and landscaping shall be broken at points of vehicular and pedestrian access to assure a clear sight triangle.

Article VII. Parking and Loading Requirements

§ 190-56. Residential uses.

Each dwelling unit shall be required to supply parking spaces in accordance with the New Jersey Residential Site Improvement Standards.

§ 190-57. Commercial uses.

Commercial, mercantile, retail sale and personal service establishments shall provide one parking space per each 200 square feet of gross leasable floor area. The following specific uses have particular parking space requirements:

- A. Restaurants or similar places dispensing food, drink or refreshments: one space for every three seats at a table, plus one space for every seat or stool at a bar, plus one space for every employee at peak shift.

[Amended 3-9-2009 by Ord. No. 2009-04]

- B. Barber and beauty salon: at least two spaces per barber or beauty chair.
- C. Hotel or motel: at least one space per sleeping room.
- D. Wholesale establishments, building materials establishments and furniture stores: at least one space for each 400 square feet of gross leasable floor space.
- E. Farm stands: at least five spaces minimum.
- F. Shopping centers: at least 5.5 spaces per 1,000 square feet of gross leasable floor area.
- G. Laundromats: at least one space per three machines.
- H. Nurseries, automobile sales and landscape gardener establishments: at least one space per 1,000 square feet of area used for such purposes.
- I. Service stations: one parking space for every two pumps for a quick service station and three parking spaces for every bay for a full service station, plus one space for each employee. Storage of autos for sale is prohibited, except in accordance with Chapter 78, Licensing, and Chapter 183, Vehicles, Sales of, of the Code of the Township of Andover.
- J. Mortuary/funeral home: at least one parking space per four seats in the chapel, plus two spaces for the resident family, plus one garage space for each funeral/mortuary vehicle.

§ 190-58. Offices.

Professional and business offices shall provide at least one space per 200 square feet. Doctors and other medical practitioners' offices shall provide at least one space per 150 square feet of gross leasable floor area.

§ 190-59. Institutional uses.

- A. Churches, auditoriums and theaters shall provide at least one space for each four seats.
- B. Community buildings shall provide at least one space for each 1,000 square feet of gross leasable floor area.
- C. Hospitals, nursing homes and medical institutions, excluding teaching hospitals, shall provide at least one space for each three beds plus at least one space for two employees at maximum shift.

§ 190-60. Educational uses.

At least one parking space per employee plus a minimum of five visitor parking spaces for elementary-type schools shall be provided. For high schools, parking shall be provided as required by the Planning Board.

§ 190-61. Industrial uses.

Warehousing, industrial and manufacturing shall provide at least one space per employee or one space for every 500 square feet of gross area, whichever is greater.

§ 190-62. Recreational uses.

- A. Bowling shall provide at least three parking spaces for each lane.
- B. Equestrian stables, academies or riding establishments shall provide one permanent paved parking space for each two horses housed or ridden on the property, whichever is greater. Sufficient temporary field parking should be provided for special events.
- C. Racquet and court establishments shall provide at least six spaces per court.
- D. Swimming pools shall provide at least two spaces per 100 square feet of water area.

§ 190-63. All other uses.

All other uses shall provide parking as required by the Planning Board.

§ 190-64. Loading spaces.

- A. Industrial, warehousing and manufacturing uses. Loading spaces shall be provided in accordance with the following schedule:

Square Feet	Loading Space
10,000 to 25,000	1
25,001 to 40,000	4
Each 50,000 thereafter	1

- B. Commercial uses. Commercial uses with gross floor area greater than 15,000 square feet shall have at least one loading space per 15,000 square feet to 30,000 square feet and one loading space per 25,000 square feet thereafter.

Article VIII. Nonconforming Uses and Structures

§ 190-65. Continuation.

A use, building or structure lawfully in existence at the effective date of this chapter which shall be made nonconforming at the passage of this chapter or any applicable amendment thereto may be continued except as otherwise provided in this section.

§ 190-66. Changes.

No existing building or premises devoted to a nonconforming use shall be enlarged, extended, reconstructed, substituted or structurally altered except when changed to a conforming use, or when required to do so by law, or as allowed in § 190-72.

§ 190-67. Partial destruction.

Any nonconforming use or structure partially damaged by fire, casualty or act of God may be repaired, restored, reconstructed or used as before, provided that the area of such use, building or structure shall not exceed the area which existed prior to such damage. Cessation of use or failure to diligently prosecute the rebuilding of a partially destroyed building or structure for a period of 12 consecutive months shall be interpreted as a rebuttable presumption of the intention to abandon such nonconforming use or structure, and it shall be the burden of the applicant or party supporting the preexisting nonconforming use or structure to demonstrate to the Board of Adjustment that the use or structure was not abandoned under both the objective and subjective tests of New Jersey case law. In the event total destruction occurs, then the provisions of § 190-68 shall apply.

§ 190-68. Damage beyond repair.

When a nonconforming structure or use is destroyed or damaged by fire or other casualty or an act of God beyond repair, the nonconforming structure or use shall thereupon be terminated.

§ 190-69. Normal maintenance and repairs.

Normal maintenance or repair of the nonconforming structure or use is permitted, provided it does not extend or expand the nonconformance.

§ 190-70. Termination.

A nonconforming use which has been terminated or abandoned shall not thereafter be revived. A change of use to a conforming use shall be considered a termination of the nonconforming use, and such nonconforming use shall not thereafter be revived.

§ 190-71. Nonconforming building lawfully under construction.

- A. Any nonconforming structure or use lawfully under construction on the effective date of this chapter pursuant to plans filed with the Construction Official and approved by him and all other municipal boards and agencies as required under law may be completed and may be used for the nonconforming use for which it was designed to the same extent as if such building had been completed and was in use on the effective date of this chapter.
- B. The Township Clerk is directed to give notice at least 10 days prior to the hearing on the adoption of this section to the County Planning Board and to all others entitled thereto pursuant to the provisions of N.J.S.A. 40:55D-15. Upon the adoption of this section after public hearing thereon, the Township Clerk is further directed to publish notice of the passage thereof and file a copy of this section as finally adopted with the Sussex County Planning Board as required by N.J.S.A. 40:55D-16.

§ 190-72. Expansion of nonconforming residential uses.

A nonconforming use or structure may be expanded to provide additional living space in accordance with § 190-27.

§ 190-73. Registration and certification of nonconforming uses.

- A. The prospective purchaser, prospective mortgagee, or any other person interested in any land upon which a nonconforming use or structure exists may apply in writing for the issuance of a certificate stating that the use or structure existed before the adoption of the ordinance which rendered the use or structure nonconforming.
- B. Application pursuant hereto may be made to the Zoning Officer within one year of the adoption of the ordinance which rendered the use or structure nonconforming or at any time to the Zoning Board of Adjustment.
- C. Such application shall contain the name and address of the applicant, the nonconforming use so operated, the date on which the use commenced, the tax lot and block number of its location, any buildings or structures in which such use is contained or which are necessary for the operation of such use, the numbers and types of equipment and/or vehicles utilized in the operation of said use and the time period during which the use was conducted.
- D. The applicant shall have the burden of proof as to all matters alleged. Where application is to the Zoning Officer, it shall be in the form of an affidavit and shall be notarized. Where application is made to the Zoning Board of Adjustment, the application shall be processed as in the case of all other applications to said Board. Notice of such application shall be given in accordance with the provisions of N.J.S.A. 40:55D-12.
- E. If the Zoning Officer fails or refuses to issue a certificate, he shall notify the applicant in writing as to the reasons therefor within 45 days from the date of application. Such denial may be appealed to the Zoning Board of Adjustment in accordance with the provisions of N.J.S.A. 40:55D-72, notice of which shall be given in accordance with N.J.S.A. 40:55D-12.
- F. An application to the Zoning Officer shall be accompanied by payment of a fee of \$25. Applications to the Zoning Board of Adjustment shall be accompanied by a payment of the fee specified in Chapter 74, Land Use Procedures, § 74-57.

Article IX. Zone Map

§ 190-74. Boundaries.

[Amended 11-29-2010 by Ord. No. 2010-10; 4-25-2011 by Ord. No. 2011-01]The boundaries of the Zone Map are hereby established as shown on the map entitled "Zoning Map – Township of Andover, Sussex County, New Jersey," prepared by Golden & Moran Engineering, revised as of May 1, 2011, which accompanies and is hereby made a part of this chapter. *Editor's Note: A copy of the Zoning Map is included at the end of this chapter.*

§ 190-75. Airport Safety Zone Districts.

- A. Pursuant to the Air Safety and Hazardous Zoning Act of 1983, N.J.S.A 6:1-80 et seq. and N.J.A.C. 16:62-2.2 et seq., there are established two Airport Safety Zone Districts on the Zoning Map of the Township of Andover, one for Aeroflex-Andover Airport and one for Newton Airport. Said zone districts have subzone districts as well. The Airport Safety Zone Districts consist of a runway subzone and two runway end zones and a clear zone. The shape of these zone districts and the subzones are shown on the Zoning Map of the Township of Andover and are depicted and defined on Figures 1 to 7 annexed hereto and

made a part hereof. *Editor's Note: Figures 1 to 7 may be found at the end of § 190-31.*

- B. Pursuant to the Air Safety and Hazardous Zoning Act of 1983, N.J.S.A. 6:1-80 et seq. and N.J.A.C. 16:62-1.1 et seq., there are established two clear zones within the Air Safety Zone District for the Aeroflex-Andover Airport and two clear zones within the Air Safety Zone District for the Newton Airport. The location of these clear zones is shown on the Zoning Map of the Township of Andover. The Zoning Map is amended in order to include these clear zones.

Article X. Performance Standards and Guidelines

§ 190-76. Certification of compliance; applicability.

- A. As a condition of approval of any use, occupancy or other structure, and operation of any process or equipment, the application shall certify that the use of such specific types of machinery, equipment, devices, procedures or methods is in compliance with all governmental laws, statutes, rules and regulations regarding the same. Permits and certificates required by other governmental agencies shall be submitted to the Planning Board as proof of compliance with applicable codes.
- B. For use variances which are required to meet those performance standards, the Zoning Board of Adjustment shall not issue a permit for any use, structure, process or equipment until it receives a report or recommendation from the Planning Board regarding compliance with the performance standards established herein.
- C. The regulations contained in this section shall not apply to single-family detached dwellings.

§ 190-77. Temporary certificate of occupancy.

- A. In the event a determination cannot be made at the time of application that a proposed use, process or unit of equipment will meet the standards established in this article, the Planning Board may recommend issuance of a temporary certificate of occupancy. The temporary certificate of occupancy shall be based on submission of evidence that the proposed use, process or equipment will meet the standards established herein after completion or installation and operation.
- B. Within 60 days after a temporary certificate of occupancy is granted, a final certificate of occupancy shall be applied for and satisfactory evidence submitted that all standards established by this article have been met.

§ 190-78. Regulation of nuisance elements.

- A. Definition. A nuisance element is any noise, radioactivity, vibration, glare, smoke, odor, air pollution or dust which exceeds the performance standards established under this article.
- B. Locations for enforcement of performance standards. The determination of the existence of nuisance elements shall be made at the following locations:

**All Residential Zones and
Uses, Excluding Agricultural**

Characteristic	Uses and Commercial Motor Vehicle Operations
Smoke	Vent or stack
Solid particles and fly ash	Vent or stack
Odors	Property line
Liquid wastes	Building wall
Solid wastes	Setback lines
Radiation	Vent or stack
Noise	Property line
Vibration	Property line
Glare	Property line
Rust*	Vent or stack - property line

*For heat, measurement shall be made at the vent or smokestack for heated air and at the property line for heated liquid or solid discharge.

- C. Continued compliance. Continued compliance with the performance standards stated herein shall be a requirement for the continued occupancy of any structure or the operation of any process or equipment.

§ 190-79. Air pollution, toxic materials, smoke, open burning, dust and odors.

- A. Air pollution. No substance shall be emitted into the atmosphere in quantities which are injurious to human, plant or animal life or to property or which will interfere unreasonably with the comfortable enjoyment of life and property anywhere in the Township. All provisions of the New Jersey Air Pollution Control Code, as amended, or the regulations contained in this article, whichever shall be the more stringent, shall be complied with.
- B. Toxic materials.
- (1) Toxic materials are any solid, liquid, mist or gaseous matter containing properties which by chemical means are harmful and impair health or are capable of causing injury to the well-being of persons or damage to property.
 - (2) The ambient air quality standards for the State of New Jersey Air Pollution Control Code, as amended, shall be the guide to the release of airborne toxic materials across lot lines. Where toxic materials are not listed in the ambient air quality standards of the State of New Jersey, the release of such materials shall be in accordance with the fractional quantities permitted of those toxic materials currently listed in the Threshold Limit Values (TLV) adopted by the American Conference of Environmental Hygienists. The industrial performance standard for a toxic substance shall be determined by

applying a multiplier of 2.5 to the industrial TLV. Unless otherwise stated, the measurement of toxic material shall be at ground level or habitable elevation and shall be the average of any twenty-four-hour sampling period.

- C. Smoke. In any nonresidential zone, no smoke, the shade or appearance of which is darker than No. 1 on the Ringelmann Smoke Chart, shall be emitted into the open air from any fuel-burning equipment; provided, however, that smoke emitted during the clearing of a fire box or the building of a new fire, the shade or appearance of which is not darker than No. 2 on the Ringelmann Smoke Chart, may be permitted for a period or periods aggregating no more than three minutes in any 15 consecutive minutes.
- D. Solid particles and fly ash.
 - (1) Solid particles. No discharge of solid particles through a stack, duct or vent shall be permitted that is greater than 50% of the allowable emission in pounds per hour established by Chapters 7 and 8 of the New Jersey Air Pollution Control Code.
 - (2) Open burning. No open burning shall be permitted, except on qualified farms of no less than five acres in size. Such open burning shall be limited to herbaceous or infested plant life, the burning of orchard prunings and the clearing of agricultural land. The owner of the farm must obtain permits from the State of New Jersey Forestry Service and the Andover Township Fire Official.
 - (3) Incinerators. All incinerators shall be approved by the State Department of Environmental Protection.
- E. Dust. Any road, parking area, driveway, truck loading or unloading station or any other exterior area having a substantial movement of vehicles or equipment shall be paved or otherwise stabilized during construction sufficient to prevent the generation of dust from movement of such vehicles or equipment.
- F. Odors. No noxious odors may be emitted into the atmosphere in quantities sufficient to be detected without instruments.

§ 190-80. Liquid and solid wastes.

- A. Liquid wastes. No liquid industrial waste shall be discharged into any sewage collection and disposal system unless the appropriate Township or authority officials shall have first investigated the character and volume of such waste and shall have certified that it will accept the discharge of such waste material into the system. The applicant shall comply with any requirements of such officials, including the pretreating of such wastes, the installation of processing methods, separation or screening of wastes, control of pH, and other methods of improving such wastes prior to discharge, as a condition of approval of such facilities.
- B. Solid wastes. Each proposed use shall:
 - (1) Assume full responsibility for adequate and regular collection and removal of all refuse, except where the Township assumes such responsibility.
 - (2) Comply with all applicable provisions of the New Jersey Department of Environmental Protection.

- (3) Comply with all provisions of the State Sanitary Code, Chapter 8, Refuse Disposal, Public Health Council of the State Department of Environmental Protection.
- (4) Permit no accumulation on the property of any solid waste, junk or other objectionable materials.
- (5) Not engage in any sanitary landfill operation on the property, except as may be permitted by this chapter or other Township codes and ordinances.

§ 190-81. Radiation.

All use of materials, equipment or facilities which are or may be sources of radiation shall comply with all controls, standards and requirements of the Atomic Energy Act of 1954, as amended, and any codes, rules or regulations promulgated under such Act, as well as the Radiation Protection Act, N.J.S.A. 26:2D-1 et seq., as amended, whichever shall be more stringent. In no instance shall any radiation emit from structures, measured at the outside structure wall.

§ 190-82. Noise.

- A. The purpose of this section is to ensure that the environmental character of the area surrounding the proposed use with respect to noise shall not be altered. The standards established herein shall be interpreted in any specific case with this objective in mind.
- B. Measurements, if required under this section, shall be made at the location noted in § 190-78. Measurements, where required, shall be made by a competent acoustical engineer using equipment meeting the United States of America Standards Institute Standard S 1.4-1961, or the latest revision thereof, and S 2.22, or the latest revision. The instrument shall be set to the A-weighted response scale and the meter to the slow response.
- C. The permitted noise level readings of the proposed use, measured at the measuring line, in any zone shall not exceed 55 dBA during the hours of 7:00 a.m. to 9:00 p.m. and shall not exceed 45 dBA during the hours 9:00 p.m. to 7:00 a.m.
- D. In addition, noise control shall be subject to standards established by the New Jersey Department of Environmental Protection. Where standards are established and are more restrictive than contained in this chapter, the more restrictive standards shall be applicable.

§ 190-83. Vibration.

In any zone, no vibrations discernible without instruments at the measuring point shall be permitted.

§ 190-84. Glare.

No single standard for glare is promulgated in this chapter due to the impracticability of establishing such standards. It is the intent of these performance standards to ensure that both direct and indirect glare, to the extent possible, are eliminated or activities producing such glare are carried on within a structure. Necessary glare-producing devices, such as roadway and walkway lighting, shall be designed, constructed and maintained in such a manner as not to be a nuisance to surrounding uses.

§ 190-85. Heat.

Heat is thermal energy of a radiative, conductive or convective nature. In any zone, any use or

process shall not produce a temperature rise discernible at the measuring point, or discharge water into any watercourse which shall produce a temperature increase of greater than 3° in that watercourse measured at a point 10 feet from the point of discharge.

§ 190-86. Fire and explosion hazards.

If it appears that any proposed use, structure, process or resulting product or material may constitute a fire or explosion hazard, the Planning Board may require the applicant to supply proof of:

- A. Approval of the use, structure, process or resulting product or material from the State Department of Labor and Industry indicating that adequate safeguards against fire and explosion have been taken or installed.
- B. Approval from the Township Fire Inspector that the applicant has complied with all applicable Township fire prevention regulations. *Editor's Note: See Ch. 51, Fire Prevention.*

Article XI. Signs

§ 190-87. Purpose.

It is the intent and purpose of this section to:

- A. Encourage and permit signs which, by uniformity of lettering and design and by limitation of size and number, enhance the Township environment and are compatible with its rural character.
- B. Discourage and render unlawful signs which:
 - (1) Obstruct scenic vistas and natural features.
 - (2) Contribute to visual pollution.
 - (3) Contribute to traffic hazards.

§ 190-88. Permit required; fee; exemptions.

- A. Application for permit. Application for a permit shall be made upon forms furnished by the Construction Official. A sign permit is required for the erection, re-erection or alteration of a permanent sign, excluding repainting or relettering of existing signs.
- B. Fees. The fee for a permit to construct a sign shall be as provided in § 30-10C(11) of this Code.
- C. Exemptions. The following signs do not require a permit and are exempt from the provisions of this article:
 - (1) Nameplates and professional practice signs, not exceeding two square feet.
 - (2) Tablets indicating the name of a building and the date of erection, not exceeding three square feet.
 - (3) Public signs erected by the state, county or municipality in the performance of a public

duty.

- (4) Temporary signs indicating garage sales and other similar activities not exceeding 10 square feet. Such signs shall be removed within 24 hours after the event has taken place.
- (5) Signs which are located for policing or parking purposes, not exceeding two square feet.
- (6) Nonilluminated window signs whose total area does not exceed 25% of the total window area.
- (7) Real estate for sale, rent or lease signs, not exceeding four square feet.
- (8) Signs erected upon the premises of houses of worship and charitable and nonprofit organizations, not exceeding 10 square feet.
- (9) Temporary signs indicating grand openings, not exceeding 10 square feet. Such signs shall be removed within 10 days after the grand opening is over.
- (10) Customary warning, trespassing and posted signs.

§ 190-89. Nonconforming signs.

Any sign is defined as nonconforming which does not meet the requirements of this article. Any sign legally constructed and existing at the time of passage of this article that fails to comply with the minimum requirements of this article shall constitute a nonconforming use. A nonconforming sign shall not be altered, rebuilt, enlarged or extended, unless such action creates a conforming use. Article VIII, Nonconforming Uses and Structures, shall apply to nonconforming signs.

§ 190-90. Prohibited signs.

The following types of signs or artificial lighting are prohibited in all zones:

- A. Billboards.
- B. Exposed neon tubing.
- C. Any flashing, moving or animated signs.
- D. Any sign whose lighting or central mechanism causes radio or television interference.
- E. Signs utilizing the color red or green in their illumination within 100 feet of a street intersection.
- F. Signs which resemble, simulate or may be mistaken for a traffic sign within 20 feet of a roadway.
- G. Signs which are a menace to public safety.
- H. Roof signs.
- I. Signs affixed to trees, rocks or other natural things.
- J. Signs affixed or painted on water towers or similar structures.

- K. Freestanding pylon signs located in a public right-of-way or approved sight easement.
- L. String banners, string flags, aluminum ribbons or similar attention-getting devices.

§ 190-91. General sign requirements.

All signs in Andover Township shall conform to the following:

- A. All support, braces, hooks, anchors and other fastening devices of any sign shall be of sturdy and substantial construction, shall be kept in good repair and shall be maintained in a clean, safe and orderly appearance.
- B. The owner of the property upon which a sign is located shall be responsible for maintaining the sign and its surroundings.
- C. Indirect or interior lighting is permissible provided the source of light will not cause glare upon a street or adjacent property.
- D. Permanent signs shall be located only on the premises of the use or activity to which they are calling attention.
- E. No sign shall be placed as to interfere with or be mistaken for a traffic light or similar safety device.
- F. No sign shall be lighted by means of flashing or intermittent illumination. All lights used for the illumination of any use or building or the areas surrounding them or for the illumination or display of merchandise or products of business establishments shall be completely shielded from the view of vehicular traffic using the road or roads abutting such business properties. Floodlights used for the illumination of such premises, or of any sign thereon, whether or not such floodlights are attached to or separate from the building, shall not project above the highest elevation of the front wall of the building.
- G. No sign as permitted shall extend or project above the highest elevation of the wall to which it is attached or above the height of the building as defined in this chapter.
- H. No sign shall extend further than 15 inches from the face of the building upon which it is attached.
- I. The area of a sign shall be computed as the total square foot content of the background and frame upon which the lettering, illustration or display is presented. If there is no background, the sign area shall be computed as the product of the largest horizontal dimension and the largest vertical dimension of the lettering, illustration or display. Each side of a two-sided sign shall be allowed the maximum permitted area.
- J. All signs shall be limited to non-iridescent colors, including the background, with the exception of safety and directional signs of not more than two square feet.

§ 190-92. Special permit required for certain signs.

- A. The following signs or similar signs require a special permit. This permit shall be granted by the Planning Board subsequent to a finding that the sign conforms to the intent and purposes of this article:

- (1) Signs integrated or structurally incorporated into the architecture of a building.
- (2) Signs made of landscape materials or plantings.
- (3) Off- and on-premises directional signs.
- (4) Signs displaying time or temperature.
- (5) Temporary signs on new construction sites, except permitted signs, and one sign not to exceed four square feet stating the contractor's name, address and telephone number.
- (6) Supergraphics.
- (7) Three-dimensional signs.

B. Submission of application; requirements.

- (1) The applicant shall file, at least 14 days before the date of the regular public meeting of the Planning Board, eight copies of a site plan or plat and three copies of an application for a special permit sign, together with all other drawings and documentation required herein or by any rule of the Planning Board, with the Township Clerk. The applicant shall obtain all necessary forms from the Township Clerk. The Secretary of the Board shall inform the applicant of the steps to be taken to initiate applications and of the regular meeting dates of the Board. A fee shall accompany the application in the amount set forth in § 190-112.
- (2) Approval by County Planning Board required. All applications for site plan approval for signs on a county road shall be submitted to the County Planning Board for its review and recommendations and, where applicable, approval where required by state statute or county requirements. The applicant shall furnish proof of such submission within 10 days of the submission of his application to the Township reviewing board by presenting a copy of his site plan with an indication from the county that it has been filed with the county. Any application for site plan approval shall not be deemed complete in the absence of proof that it has been filed with the County Planning Board, if required. If the County Planning Board has failed to grant or deny approval of the site plan at the time of approval of the applicant's application, such approval shall be conditioned on approval of such site plan by the County Planning Board.

C. Notice and publication required. A public hearing, after proper notice and publication by the applicant in accordance with Chapter 74, Land Use Procedures, shall be held on all applications.

D. Plat details. A complete application for a special permit sign shall also consist of the following:

- (1) A plat or map with the following details and information:
 - (a) The boundaries of the tax lot where the proposed sign is to be located and dimensions of said lot.
 - (b) The tax lot and block number of said lot.

- (c) The location of all structures within 100 feet of the proposed sign location, including underground utilities.
 - (d) The location and dimensions of the existing paved surface.
 - (e) The distance from the paved surface of the road.
 - (f) A sketch showing the design of the proposed sign and the dimensions of the same. Said sketch may be contained on the same sheet as the map showing the location of the sign but in a separate area thereof. Said drawing shall be of sufficient size to clearly show the proposed sign design, including the height of the lettering. The materials to be used in the construction of the sign shall be specified thereon, as well as sign colors.
- (2) An affidavit of ownership and consent of the property owner shall be submitted if the applicant is not the owner of the subject property where the sign is to be located.
- (3) Applicant shall submit, in written narrative form, a statement specifying:
- (a) The necessity for the sign.
 - (b) Whether the sign will obstruct the view of motorists in the area.
 - (c) The nature of the sign, e.g., advertising, directional, informational, decorative, etc.
- (4) The Board may require the applicant to submit a survey of the subject premises showing the location and dimension of the road right-of-way, the exact location of the proposed sign and requirements of Subsection D(1) above. Said survey shall be prepared, signed, sealed and certified to by a surveyor or engineer licensed under the laws of the State of New Jersey.

§ 190-93. Facade signs.

- A. No facade sign shall project higher than the highest point of the facade of the building upon which it is to be erected, and it shall not project more than 15 inches from the building line.
- B. Only one facade sign shall be permitted on each establishment, except that a corner establishment may have two.
- C. A facade sign shall not exceed, in area, 15% of the total area of the story or level of building on which it is erected or 64 feet, whichever is lesser, and shall be designed to be architecturally compatible with the building.

§ 190-94. Signs in business, commercial, recreation, industrial and multifamily districts.

Each establishment shall be permitted only one facade sign and only one freestanding general directory or pylon sign, provided that such signs conform to the Schedule of Sign Regulations *Editor's Note: The Schedule of Sign Regulations is included at the end of this chapter.* for the districts and other applicable requirements. Directional signs, such as "loading," "shipping" and "receiving," are permitted, provided that they do not exceed two square feet.

§ 190-95. Signs in residential and agricultural districts.

Signs in residential districts shall conform to the applicable requirements of this article and to the Schedule of Sign Regulations. *Editor's Note: The Schedule of Sign Regulations is included at the end of this chapter.*

- A. One customary professional sign or nameplate sign not more than two square feet in area, which may be illuminated, may be permitted, provided the direct source of light is shielded in such a manner that it is not visible from the street or any adjoining residential property, unless a porch light or lamppost light.
- B. A nonilluminated temporary sign, pertaining to the lease or sale of the premises upon which it is placed, not exceeding four square feet, may be permitted. Such signs shall be removed within seven days after signing the contract for sale, the signing of a sale transaction or the execution of a lease.
- C. Subdivision developments involving six or more residential lots may contain a sign advertising the sale of the dwellings contained therein, as approved by the Planning Board, as follows:
 - (1) One nonilluminated sign no larger than 32 square feet shall be permitted at each entrance of the development. In addition, nonilluminated trade and professional signs no larger than four square feet shall be permitted on the lots being developed.
 - (2) All signs permitted under this subsection shall be removed within seven days after signing the contract of sale, signing of a sale transaction or the execution of a lease of the last house in the development.
- D. A sign deemed necessary to the public welfare by the governing body may be permitted. Signs for public buildings, parks and other public community facilities shall not exceed 20 square feet.
- E. A sign, not more than 10 square feet in area, advertising the name of a house of worship on the premises, its pastor and its coming activities may be permitted.
- F. Agricultural uses may have the following signs:
 - (1) Two signs advertising the sale and price of seasonal and farm produce, provided the total area of such signs does not exceed 10 square feet.
 - (2) One identification sign of not more than two square feet which may be directly illuminated, stating the name of the agricultural use, the address and the name of the owner.
- G. Permitted identification signs for a subdivision development shall not be larger than 25 square feet at each entrance.

§ 190-96. Signs at automobile sales, service and vehicle rental establishments.

The following signs may be permitted:

- A. One freestanding or pylon sign advertising the name of the station or garage, including any company or brand name, insignia or emblem, provided that each sign shall not exceed 25 square feet in area and shall be hung within the property and not less than 10 feet nor more

than 18 feet from the ground to the base of the sign.

- B. One temporary sign located inside the property line and specifically advertising special seasonal servicing, provided that the sign does not exceed seven square feet in area.
- C. Directional signs displayed over individual entrance doors or bays consisting of the words "Washing," "Lubrication," "Repairs," "Mechanic on Duty" or other closely similar words shall be permitted, provided that there shall only be one such sign over each entrance or bay, the letters thereof shall not exceed 12 inches in height, and the total area of each sign shall not exceed two square feet. *Editor's Note: The Schedule of Sign Regulations, which immediately followed this section, is now located at the end of this chapter.*

Article XII. Fences

[Amended 5-28-2003 by Ord. No. 2003-9; 8-22-2006 by Ord. No. 2006-21]

§ 190-97. General requirements.

- A. The finished side of a fence shall face the adjoining property.
- B. Aboveground electric fences, razor wire and barbed wire fences are prohibited in all residential zones. Electric fences are permitted to contain livestock or equine animals, provided they are inside another fence and not accessible from outside. Where an outside fence does not exist or is not feasible, warning signs of the electric fence shall be posted at intervals not to exceed 100 feet.
- C. Fences are permitted as follows:
 - (1) Up to 100% solid, up to four feet high: anywhere on property up to the property line
 - (2) Up to 100% solid, up to six feet high: anywhere behind the back building line to the side and rear property lines.
 - (3) Fencing, which shall not exceed twenty-five-percent solid or eight feet in height, intended solely for the exclusion of deer: anywhere behind the back building line to the side and rear property lines.

§ 190-98. Exceptions.

- A. The fence standards indicated in § 190-97 shall not apply to commercial agricultural uses.
- B. The fence standards in § 190-97 shall not apply to fences around tennis courts. Fences around swimming pools must comply with the Building Code.

Article XIII. Affordable Housing

[Amended 6-22-2005 by Ord. No. 2005-15; 5-23-2006 by Ord. No. 2006-14; 12-14-2009 by Ord. No. 2009-35]

§ 190-99. Affordable housing obligation.

- A. This article is intended to assure that low- and moderate-income units ("affordable units")

are created with controls on affordability over time and that low- and moderate-income households shall occupy these units. This article shall apply except where inconsistent with applicable law.

- B. The Andover Township Land Use Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1 et seq. The Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the ways Andover Township shall address its fair share for low- and moderate-income housing as determined by the Council on Affordable Housing (COAH) and documented in the Housing Element.
- C. This article implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:97, as may be amended and supplemented.
- D. Andover Township shall file monitoring reports with COAH in accordance with N.J.A.C. 5:96, tracking the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring prepared by COAH in accordance with N.J.A.C. 5:96 shall be available to the public at the Andover Township Municipal Building, Municipal Clerk's Office, 134 Newton-Sparta Road or from COAH at 101 South Broad Street, Trenton, New Jersey and on COAH's website, www.nj.gov/dca/affiliates/coah.

§ 190-100. Definitions.

The following terms when used in this article shall have the meanings given in this section:

ACCESSORY APARTMENT

A self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

ACT

The Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.).

ADAPTABLE

Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

ADMINISTRATIVE AGENT

The entity responsible for the administration of affordable units in accordance with this article, N.J.A.C. 5:96, N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et seq.

AFFIRMATIVE MARKETING

A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

AFFORDABILITY AVERAGE

The average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

AFFORDABLE

A sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

AFFORDABLE DEVELOPMENT

A housing development all or a portion of which consists of restricted units.

AFFORDABLE HOUSING DEVELOPMENT

A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one-hundred-percent affordable development.

AFFORDABLE HOUSING PROGRAM(S)

Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

AFFORDABLE UNIT

A housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

AGENCY

The New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

AGE-RESTRICTED UNIT

A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that:

A. All the residents of the development where the unit is situated are 62 years or older; or

B. At least 80% of the units are occupied by one person that is 55 years or older; or

C. The development has been designated by the Secretary of the United States Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b) (2) of the Fair Housing Act, 42 U.S.C. § 3607.

ASSISTED-LIVING RESIDENCE

A facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted-living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

CERTIFIED HOUSEHOLD

A household that has been certified by an administrative agent as a low-income household or moderate-income household.

COAH

The Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

DCA

The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT

A housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load-bearing structural systems.

DEVELOPER

Any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT

The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

INCLUSIONARY DEVELOPMENT

A development containing both affordable units and market-rate units. This term includes, but is not necessarily limited to, new construction, the conversion of a nonresidential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

LOW-INCOME HOUSEHOLD

A household with a total gross annual household income equal to 50% or less of the median household income.

LOW-INCOME UNIT

A restricted unit that is affordable to a low-income household.

MAJOR SYSTEM

The primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include, but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load-bearing structural systems.

MARKET-RATE UNITS

Housing not restricted to low- and moderate-income households that may sell or rent at any price.

MEDIAN INCOME

The median income by household size for the applicable county, as adopted annually by COAH.

MODERATE-INCOME HOUSEHOLD

A household with a total gross annual household income in excess of 50% but less than 80% of the median household income.

MODERATE-INCOME UNIT

A restricted unit that is affordable to a moderate-income household.

NONEXEMPT SALE

Any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary and the transfer of ownership by court order.

RANDOM SELECTION PROCESS

A process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

REGIONAL ASSET LIMIT

The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by COAH's adopted Regional Income Limits published annually by COAH.

REHABILITATION

The repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

RENT

The gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted-living residences, rent does not include charges for food and services.

RESTRICTED UNIT

A dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

UHAC

The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

VERY-LOW-INCOME HOUSEHOLD

A household with a total gross annual household income equal to 30% or less of the median household income.

VERY-LOW-INCOME UNIT

A restricted unit that is affordable to a very-low-income household.

WEATHERIZATION

Building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation.

§ 190-101. Affordable housing programs

Andover Township has determined that it will use the following mechanisms to satisfy its affordable housing obligations:

A. A market-to-affordable program.

- (1) A market-to-affordable program is established to permit the purchase or subsidization of units through a written agreement with the property owner and sold or rented to low- and moderate-income households. Subject to the provisions of Subsection A(2)(c) below, the market-to-affordable programs may produce both low- and moderate-income units. (The program may be limited to only low- or only moderate-income units as per the Fair Share Plan.)
- (2) The following provisions shall apply to market-to-affordable programs:
 - (a) At the time they are offered for sale or rental, eligible units may be new, pre-owned or vacant.
 - (b) The units shall be certified to be in sound condition as a result of an inspection performed by a licensed building inspector.
 - (c) The municipality will provide a minimum of \$25,000 per unit to subsidize each moderate-income unit and/or \$30,000 per unit to subsidize each low-income unit, with additional subsidy depending on the market prices or rents in a municipality.
 - (d) The maximum number of creditable market-to-affordable units shall be equal to no more than 10 for sale units and 10 rental units or a combined total of 10% of the fair share obligation, whichever is greater. (Additional units may be approved by COAH if the municipality demonstrates the successful completion of its initial market-to-affordable program.)
- (3) The units shall comply with N.J.A.C. 5:97-9 and UHAC with the following exceptions:
 - (a) Bedroom distribution [N.J.A.C. 5:80-26.3(b) and (c)];
 - (b) Low/moderate income split [N.J.A.C. 5:80-26.3(a)]; and
 - (c) Affordability average [N.J.A.C. 5:80-26.3(d) and (e)]; however:
 - [1] The maximum rent for a moderate-income unit shall be affordable to households earning no more than 60% of median income and the maximum rent for a low-income unit shall be affordable to households earning no more than 44% of median income; and
 - [2] The maximum sales price for a moderate-income unit shall be affordable to households earning no more than 70% of median income and the maximum sales price for a low-income unit shall be affordable to households earning no more than 40% of median income.

§ 190-102. through § 104. (Reserved)

§ 190-105. New construction.

The following general guidelines apply to all newly constructed developments that contain low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

A. Low/moderate split and bedroom distribution of affordable housing units.

- (1) The fair share obligation shall be divided equally between low- and moderate- income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
- (2) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units.
- (3) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - (a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
 - (b) At least 30% of all low- and moderate-income units shall be two-bedroom units;
 - (c) At least 20% of all low- and moderate-income units shall be three-bedroom units; and
 - (d) The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.
- (4) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

B. Accessibility requirements.

- (1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.
- (2) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - (a) An adaptable toilet and bathing facility on the first floor;
 - (b) An adaptable kitchen on the first floor;
 - (c) An interior accessible route of travel on the first floor;
 - (d) An interior accessible route of travel shall not be required between stories within an individual unit;
 - (e) An adaptable room that can be used as a bedroom, with a door or the casing for the

installation of a door, on the first floor; and

(f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, or evidence that the Andover Township has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:

- [1] Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
- [2] To this end, the builder of restricted units shall deposit funds within the Andover Township's affordable housing trust fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
- [3] The funds deposited under Subsection B(2)(f)[2] above shall be used by the Andover Township for the sole purpose of making the adaptable entrance of any affordable unit accessible, when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
- [4] The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Andover Township.
- [5] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, and that the cost estimate of such conversion is reasonable, payment shall be made to the Andover Township's affordable housing trust fund in care of the Municipal Treasurer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.
- [6] Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.

C. Maximum rents and sales prices.

- (1) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC and in COAH, utilizing the regional income limits established by COAH.
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52% of median income.
- (3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units.

- (a) At least 10% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income. NOTE: N.J.S.A. 52:27D-329.1 (P.L. 2008, C. 46) includes the requirement that all municipal fair share plans provide for the reservation of at least 13% of the affordable units for very-low-income households, i.e., households earning 30% or less of the median income. The new statute states that the requirement is not project-specific. Each municipality's version of this article must reflect the determinations made in the Fair Share Plan as to the percentage of units necessary for very-low-income units in rental projects. Additional incentives to subsidize the creation of affordable housing available to very-low-income households may be included in the zoning section of this article or specified in a developer's or redeveloper's agreement.
- (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
- (5) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:
 - (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one-and-one-half person household;
 - (c) A two-bedroom unit shall be affordable to a three-person household;
 - (d) A three-bedroom unit shall be affordable to a four-and-one-half person household;
and
 - (e) A four-bedroom unit shall be affordable to a six-person household.
- (6) In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted-living facilities, the following standards shall be used:
 - (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one-and-one-half person household; and
 - (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- (7) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and

supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

- (8) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (9) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
- (10) The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.
- (11) Utilities. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

§ 190-106. General guidelines.

The following general guidelines apply to all developments that contain low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

A. Affirmative marketing requirements.

- (1) Andover Township shall adopt by resolution an affirmative marketing plan, subject to approval of COAH, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- (2) The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 2 and covers the period of deed restriction.
- (3) The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 1 comprised of Sussex, Bergen, Hudson, and Passaic counties.
- (4) The Administrative Agent designated by Andover Township shall assure the affirmative marketing of all affordable units consistent with the affirmative marketing plan for the

municipality.

- (5) In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- (6) The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- (7) The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by Andover Township.

B. Occupancy standards.

- (1) In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - (a) Provide an occupant for each bedroom;
 - (b) Provide children of different sex with separate bedrooms; and
 - (c) Prevent more than two persons from occupying a single bedroom.
- (2) Additional provisions related to occupancy standards (if any) shall be provided in the municipal operating manual.

§ 190-106.1. Control periods for restricted ownership units and enforcement mechanisms.

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this article until Andover Township elects to release the unit from such requirements; however, and prior to such an election, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value.
- D. At the time of the first sale of the unit, the purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first nonexempt sale after the unit's release from the requirements of this article, an amount equal to the difference between the unit's nonrestricted fair market value and its restricted price, and the recapture note shall be

secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

- E. The affordability controls set forth in this article shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- F. A restricted ownership unit shall be required to obtain a continuing certificate of occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

§ 190-106.2. Price restrictions for restricted ownership units, homeowner association fees and resale prices.

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

- A. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- D. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

§ 190-106.3. Buyer income eligibility.

- A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's certified monthly income.

§ 190-106.4. Limitations on indebtedness secured by ownership unit; subordination.

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.

- B. With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C. 5:80-26.6(b).

§ 190-106.5. Control periods for restricted rental units.

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this article until Andover Township elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and prior to such an election, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Sussex. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a certificate of occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls of this article, despite the occurrence of any of the following events:
 - (1) Sublease or assignment of the lease of the unit;
 - (2) Sale or other voluntary transfer of the ownership of the unit; or
 - (3) The entry and enforcement of any judgment of foreclosure.

§ 190-106.6. Price restrictions for rental units; leases.

- A. A written lease shall be required for all restricted rental units, except for units in an assisted-living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- C. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this article.

§ 190-106.7. Tenant income eligibility.

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:

- (1) Very-low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
 - (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
 - (3) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very-low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
- (1) The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - (2) The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - (3) The household is currently in substandard or overcrowded living conditions;
 - (4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - (5) The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in Subsection B(1) through (5) above with the Administrative Agent, who shall counsel the household on budgeting.

§ 190-106.8. Administration.

- A. The position of Municipal Housing Liaison (MHL) for Andover Township is established by this article. The Township Council shall make the actual appointment of the MHL by means of a resolution.
- (1) The MHL must be either a full-time or part-time employee of Andover Township.
 - (2) The person appointed as the MHL must be reported to COAH for approval.
 - (3) The MHL must meet all COAH requirements for qualifications, including initial and periodic training. NOTE: if the MHL position is one that will always be included in the job description for a particular position in the local staff, e.g., Township Clerk, that position can be named in this article.

- (4) The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Andover Township, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - (a) Serving as the municipality's primary point of contact for all inquiries from the state, affordable housing providers, administrative agents and interested households;
 - (b) The implementation of the affirmative marketing plan and affordability controls.
 - (c) When applicable, supervising any contracting administrative agent.
 - (d) Monitoring the status of all restricted units in Andover Township's Fair Share Plan;
 - (e) Compiling, verifying and submitting annual reports as required by COAH;
 - (f) Coordinating meetings with affordable housing providers and administrative agents, as applicable; and
 - (g) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by COAH.
- B. Andover Township shall designate by resolution of the Township Committee, subject to the approval of COAH, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:96, N.J.A.C. 5:97 and UHAC.
- C. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of COAH. The Operating Manuals shall be available for public inspection in the office of the Municipal Clerk and in the office (s) of the Administrative Agent(s).
- D. The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:
 - (1) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;
 - (2) Affirmative marketing;
 - (3) Household certification;
 - (4) Affordability controls;
 - (5) Records retention;
 - (6) Resale and re-rental;
 - (7) Processing requests from unit owners; and
 - (8) Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.
 - (9) The Administrative Agent shall have authority to take all actions necessary and

appropriate to carry out its responsibilities, hereunder.

§ 190-106.9. Enforcement of Affordable Housing Regulations.

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an owner, developer or tenant of a low- or moderate-income unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - (1) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the owner, developer or tenant is found by the court to have violated any provision of the regulations governing affordable housing units, the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the court:
 - (a) A fine of not more than \$500 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
 - (b) In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Andover Township Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (c) In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
 - (2) The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- and moderate-income unit.
- C. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
- D. The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money

mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.

- E. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- F. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- G. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low-and moderate-income unit as permitted by the regulations governing affordable housing units.
- H. The owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.

§ 190-106.10. Appeals

Appeals from all decisions of an Administrative Agent designated pursuant to this article shall be filed in writing with the Executive Director of COAH.

Article XIV. Historic Preservation

§ 190-107. Purpose.

It is the intent and purpose of this article to preserve those buildings and sites of historic and architectural significance throughout the Township.

§ 190-108. Historic buildings and sites.

- A. Historic buildings and sites are defined as:
 - (1) Associated with events that have made a significant contribution to the broad patterns of our history.
 - (2) Associated with the lives of persons significant in our past.
 - (3) Having distinctive characteristics of a type, period or method of construction or representing the work of a master builder or possessing high artistic value or representing a significant and distinguishable entity.
 - (4) Having yielded or may be likely to yield information important in prehistory or history.
- B. These historic buildings and sites are listed in the Andover Township Master Plan, 1976, pages 77 to 79, and are shown on Plate XIV Historic Site, page 76. In order to effectuate these goals and objectives, an Historic Preservation Commission or, until such Commission is established, the Planning Board shall act to review site plans and building permits relative to historic sites and buildings.

§ 190-109. Building permit required; maintenance; adaptive use.

- A. Structural changes. No historic buildings or sites shall be altered, renovated, modified or otherwise changed without obtaining a building permit.
- B. Building permits. A building permit shall only be issued after review by the Historic Preservation Commission or Planning Board. The Commission or Planning Board shall be guided in its review by the following criteria:
 - (1) Preservation of architectural integrity.
 - (2) Preservation of building materials and construction techniques.
- C. Maintenance. No historic building or site shall be demolished or permitted to become dilapidated through lack of maintenance.
- D. Adaptive use. Adaptive use of historic sites and buildings is permitted, consistent with uses permitted in the zone district.

§ 190-110. Application procedure.

The applicant shall submit to the Building Inspector plans and specifications of the proposal according to the following guidelines:

- A. Where a simple alteration is proposed, a sketch of all structural changes and of the property showing lot size, surrounding streets and lot and block number. The Historic Preservation

Commission or, in its absence, the Planning Board shall review the material and consider recommendations by the Township Building Official and others as needed.

- B. Where a major alteration is proposed, an architectural drawing prepared, signed and sealed by a licensed architect shall be submitted. In addition, a site plan may be required if a structure is to be added to the site or there is a change of use. The site plan shall be submitted in accordance with Chapter 131, Site Plan Review. The Historic Preservation Commission or, in its absence, the Planning Board shall review the material and consider recommendations by the Township Building Office and others as needed.
- C. The review board may waive sections of Chapter 131, Site Plan Review, if not necessary to the review process.
- D. The applicant is encouraged to informally discuss the proposal with the Township reviewing board to explain the proposal and to be apprised of submission requirements.

Article XV. Zoning Board of Adjustment and Planning Board

§ 190-111. General administration.

- A. Zoning Board of Adjustment. The Zoning Board of Adjustment heretofore established is hereby continued. The membership, powers, expenses and costs, appeals and applications to the Board of Adjustment, time for decision, modification on appeal, stay of proceedings by appeal, exception and other powers are as enumerated in the Municipal Land Use Act of 1975, N.J.S.A. 40:55D-69 through 40:55D-76 inclusive, and by Chapter 74, Land Use Procedures, of the Code of the Township of Andover. The Zoning Board of Adjustment is also governed by its own rules and bylaws.
- B. Planning Board. The Planning Board heretofore established is hereby continued. The Planning Board membership, organization, powers, referral powers, citizen advisory committee, environmental commission, review in lieu of Board of Adjustment and time periods are as enumerated in the Municipal Land Use Act of 1975, N.J.S.A. 40:55D-23 through 40:55D-27 and 40:55D-60 through 40:55D-61 inclusive, and by Chapter 74, Land Use Procedures, of the Code of the Township of Andover. The Planning Board is also governed by its own rules and bylaws.

§ 190-112. Fees and costs.

Fees and costs for applications for development, as well as review fees charged by Township professionals for review of applications, shall be paid in accordance with Chapter 74, Land Use Procedures, §§ 74-56 and 74-57.