

ARTICLE XVII
Regulations Applicable in All Districts

§ 225-132. Accessory uses.

- A. Customary accessory uses shall be permitted subject to the following conditions:
- (1) No structure shall be within 20 feet of any street line;
 - (2) No structure line shall be permitted between the building setback line and the street line; and
 - (3) No structure shall be located within 10 feet of any property line.
- B. Driveways.
- (1) No driveways shall be within five feet of any property line unless such driveway is shared by an adjacent house.
 - (2) No driveway shall be constructed in such a way as to create a drainage problem on an adjacent property.
- C. Other accessory use controls. No commercial or industrial activities except customary home occupations and professional offices shall be permitted unless specifically stated in the applicable zoning district.¹
- D. Solar energy systems. **[Added 4-18-2011 by Ord. No. 14-2011; amended 9-19-2011 Ord. No. 44-2011]**
- (1) Solar energy systems shall be accessory uses to the permitted principal and other accessory uses on a lot and shall not involve the production of power for off-premises consumption nor shall such a use constitute the principal use of any lot. This prohibition shall not be interpreted to preclude the occasional sale of excess power from a solar energy system back to the public electric utility provider. For systems intended for uses other than the ones stated, or for any commercial projects, site plan approval is required. [See Subsection D(6) below.]
 - (2) A person who owns a preserved farmland may construct, install and operate solar energy systems on the preserved

1. Editor's Note: Original Section 502, Apartments, Townhouses and Multiplex Dwelling, and original Section 503, Cluster Development Controls, as amended 11-3-1980 by Ord. No. 8-1980, which immediately followed this section in the original ordinance, were repealed 7-18-1990 by Ord. No. 17-1990.

portion of the farm or on any portion excluded from preservation in accordance with § 225-133.1.

- (3) Either rooftop and building-mounted solar collectors or ground-mounted arrays and freestanding solar collectors are permitted to be installed, but not both.
- (4) Rooftop and building-mounted solar collectors are permitted in all zoning districts, subject to the following requirements:
 - (a) Installation of rooftop and building-mounted solar collectors shall require a zoning permit from the Zoning Officer and a building permit from the Construction Office prior to installation.
 - (b) Solar panels shall not be installed so as to be located above the highest point of the roof surface or structure. In no event shall the placement of solar panels or any part of the solar energy system result in a total height greater than what is permitted in the zoning district in which they are located for the principal building.
 - (c) No part of the solar panels or solar energy system shall extend beyond the edge of the roof.
 - (d) All visible solar collector parts, including frames and support structures, shall be black in color. **[Amended 7-17-2017 by Ord. No. 21-2017]**
 - (e) A rooftop and building-mounted solar collection system shall be no larger than 1,200 square feet. **[Amended 9-8-2016 by Ord. No. 4-2016; 7-17-2017 by Ord. No. 21-2017]**
 - (f) Rooftop-mounted solar collectors shall not be located on facades that front or face on a public right-of-way, unless, upon review by the Township Planner and designated Township official, it can be certified that the design meets § 225-132D(4)(b), (c), (d), (e), (g), and (h) of this chapter. **[Added 9-8-2016 by Ord. No. 4-2016²; amended 7-17-2017 by Ord. No. 21-2017; 2-19-2019 by Ord. No. 4-2019]**
 - (g) Rooftop solar collectors shall be contiguously connected, installed and arranged in a manner to mimic the roof

2. Editor's Note: This ordinance also redesignated former Subsection D(4)(f) as Subsection D(4)(i).

shape and design. **[Added 9-8-2016 by Ord. No. 4-2016; amended 7-17-2017 by Ord. No. 21-2017]**

- (h) The location and arrangement of the rooftop solar collection system shall be subject to zoning approval. **[Added 9-8-2016 by Ord. No. 4-2016; amended 7-17-2017 by Ord. No. 21-2017]**
 - (i) See Subsection D(19) for zoning permit application requirements.
- (5) Ground-mounted arrays and freestanding solar collectors are permitted as accessory structures in all zoning districts only if roof mounting is determined to be impractical by the property or homeowner, subject to the following requirements:
- (a) Installation of ground-mounted arrays and freestanding solar collectors shall require a zoning permit from the Zoning Officer and a building permit from the Construction Office prior to installation.
 - (b) Ground-mounted arrays and freestanding collectors shall be located on properties of one acre or greater.
 - (c) The total surface area of all ground-mounted and freestanding solar collectors on the lot shall not exceed 800 square feet.
 - (d) The location of the ground-mounted arrays and freestanding collectors shall be set back a distance of 50 feet from all property lines.
 - (e) Ground-mounted arrays shall not be located between the principal building and the street and shall not be located in any minimum required side or rear yards. All ground-mounted solar energy systems shall be screened from view from adjacent properties and streets with a year-round vegetative screen and/or buildings. An appropriate species of natural buffering vegetative material that will block the view of the solar collectors from abutting residential zones or properties shall be provided. **[Amended 9-8-2016 by Ord. No. 4-2016]**
 - (f) Ground-mounted arrays shall not exceed 10 feet in height, when oriented at maximum tilt.

- (g) All visible solar collector parts, including frames and support structures, shall be black.
 - (h) Ground-mounted arrays shall be excluded from the calculation of the lot (impervious) coverage if mounted on a lawn or a vegetated area.
 - (i) Submission of a plot plan survey that shows the location of the proposed ground-mounted array and freestanding solar collectors. Submission of a licensed survey of the property showing one-foot contour lines shall be required. **[Amended 9-8-2016 by Ord. No. 4-2016]**
 - (j) See Subsection D(19) for zoning permit application requirements.
- (6) Ground-mounted arrays and freestanding solar collectors are permitted to be installed on nonpreserved farmland that has a minimum ten-acre lot area and subject to the requirements found in this subsection. A site plan review and approval is required that shall address, and not be limited to, buffering, care and maintenance of all property associated with the installation, security, visual impacts, drainage, traffic to and from the site. Installations shall be subject to the following requirements:
- (a) The location of ground-mounted arrays and freestanding collectors shall be set back a distance of 100 feet from all property lines.
 - (b) Ground mounted arrays shall not exceed 10 feet in height when oriented at maximum tilt.
 - (c) A fifty-foot-wide densely planted perimeter landscaped buffer that includes a combination of evergreen trees and shrubs with a six-foot-tall black vinyl-coated chain-link fence. Plantings shall not be a lesser height than that of the solar array at time of plantings.
 - (d) No more than 75% of the total lot area shall be utilized for a solar array installation.
 - (e) All proposed ground-mounted equipment shall be screened from public view with a densely planted landscaped buffer.

- (f) The clearing of natural vegetation and trees shall be addressed in accordance with Subsection D(15) and (16) below.

(7) Historic districts.

- (a) Ground-mounted arrays and freestanding collectors are permitted in historic districts, subject to the requirements found in this subsection and the following:

- [1] Solar panels on roof surfaces shall not be visible from a public way. However, solar shingles may be added to a roof surface visible from a public way if low or nonreflective shingles are used.

- [2] Set solar panels and solar devices back from the edge of a flat roof to minimize visibility. Panels and devices may be set at a pitch and elevated, if not visible from public streets.

- [3] Select solar panels, solar devices, mechanical equipment and mounting structures with nonreflective finishes, such as an anodized finish.

- [4] Paint mechanical equipment attached to the building fascia the same color as the fascia in order to blend into the building.

- [5] Locate detached arrays of solar panels and solar devices at a historic site in the rear or side yard if the arrays are not visible from the public streets and do not detract from other major character-defining aspects of the site. The location of detached solar arrays should also consider visibility from adjacent properties, which shall be reduced to the extent possible while still maintaining solar access.

- [6] Use solar devices in nonhistoric windows, walls, siding or shutters which do not face public streets.

- [7] For new structures within the Historic District, include building-integrated solar panels and other solar devices into the initial design.

- [8] Use solar panels and solar devices that are similar in color to roof materials.

- (b) The installation of solar arrays and collectors shall not be permitted if it results in the removal of historic roofing

materials in order to add solar panels; disturbing the original roofline, dormers, chimneys or other original features to add solar panels, and alters the character-defining elements such as historic windows, walls, siding or shutters which face public streets or contribute to the character of the building.

- (8) Applications for a solar energy system shall include information demonstrating compliance with the provisions of this section.
- (9) To the extent reasonably possible, solar panels, regardless of whether they are roof-mounted or ground-mounted, shall be oriented and/or screened year round so that glare is directed away from adjoining properties and streets.
- (10) To the extent reasonably possible, solar energy systems shall be designed using such features as colors, materials, textures, screening and landscaping so as to blend into their settings and avoid visual blight.
- (11) Solar energy systems shall not be used for the display of advertising.
- (12) Where site plan approval is required elsewhere in this chapter for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of solar collectors.
- (13) All solar collector installations must be performed by a qualified solar installer, and prior to operation the electrical connections must be inspected by the Construction Office or other appropriate electrical inspection agency as determined by the Township. In addition, any interconnection to the public utility grid must be inspected by the appropriate public utility.
- (14) When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New Jersey State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Gloucester County and other applicable laws and regulations.
- (15) Clearing of natural vegetation for the installation of a solar energy system shall be limited to that which is necessary for the construction, operation and maintenance of the system

and as otherwise prescribed by applicable laws, regulations and ordinances.

- (16) The applications for a solar energy system shall conform to the provisions of § 174-14E, Tree removal and § 225-138G, Tree Protection/Compensatory Plantings. Any trees to be removed to accommodate the installation of a solar energy system shall be accompanied by a plan demonstrating the need to remove the trees. An applicant shall locate a solar energy system so that tree removal is not required to the extent practical.
- (17) Any ancillary buildings and any outside storage associated with a solar energy system must, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment (i.e., in an agricultural setting accessory buildings could be designed to look like barns). Appropriate landscaping and architecture shall be provided to screen accessory structures from roads and adjacent residences.
- (18) The solar energy systems shall remain painted or finished in the color black. Finishes shall be matte or nonreflective.
[Amended 2-6-2017 by Ord. No. 2-2017]
- (19) The application for a zoning permit shall include all of the following documents and information which the Zoning Officer may submit to the Planning Board for a courtesy review. The information must demonstrate compliance with the provisions of this section. In the event the Zoning Officer does not believe the provisions of this section will be satisfied, an applicant may request a variance.
- (a) A zoning permit shall be required for the installation of a solar energy system.
- (b) Structural engineering information and data for rooftop and ground-mounted arrays from a licensed New Jersey Engineer.
- (c) The zoning permit application shall be accompanied by a plot plan survey which includes the following:
- [1] Property lines and dimensions.
- [2] Location, dimension, and types of existing major structures on the property.

- [3] Location, dimension, and type of the proposed solar energy system.
 - [4] Orientation of the solar energy system.
 - [5] The right-of-way of any public road that is contiguous with the property.
 - [6] Overhead utility lines and easements.
 - [7] Proposed screening for ground-mounted systems and equipment.
 - [8] Location and size of existing trees within and next to the area of the proposed ground-mounted system, as well as any tree proposed to be altered or removed.
- (d) Fee. The application for a zoning permit for a solar energy system must be accompanied by the zoning permit fee.
 - (e) Expiration. A permit issued pursuant to this subsection shall expire if:
 - [1] The solar energy system is not installed and functioning within 24 months from the date the permit is issued; or
 - [2] The energy system is out of service or otherwise unused for a continuous twelve-month period.
- (20) Any solar energy system that has generated no electricity for a period of 12 months shall be deemed to be abandoned and shall be decommissioned within six months of such abandonment and subject to the following requirements:
- (a) Decommissioning shall include the removal of the entire solar panel array and all associated facilities and equipment connected thereto from the premises and the cleaning and restoration of the area to a pre-installation condition.
 - (b) If said decommissioning has not been completed within the requisite six month period, then the Township's Zoning Officer shall provide written notice by certified mail to the landowner requiring that decommissioning be completed within 30 days of the receipt of said notice.
 - (c) If the decommissioning has not been completed within 30 days of the receipt of said notice, the Township may either

undertake the decommissioning and charge the landowner and/or facility owner and operator for all of the costs and expenses thereof, including reasonable attorney's fees, or take appropriate legal action to compel the decommissioning. All costs incurred by the Township shall be billed to the landowner and, if not paid within 60 days of billing, shall become a lien against the property.

§ 225-133. Agricultural regulations. [Amended 6-15-1992 by Ord. No. 10-1992; 12-30-1994 by Ord. No. 20-1994; 3-9-2009 by Ord. No. 06-2009]

- A. For the purposes of this chapter, agricultural uses shall be permitted in any zoning district, provided that the regulations of this section are met. Agricultural uses shall include the following:
- (1) The tilling of the soil, the raising of crops, fruits and vegetables, greenhouses and nurseries;
 - (2) The storage, packing and marketing of fruits and vegetables produced on the premises;
 - (3) The hatching and raising on a commercial scale of poultry, rabbits, and fish or seafood;
 - (4) The raising and grazing of horses, cattle, sheep and goats, including supplementary feeding of such animals, provided that such raising or grazing is not a part of, nor conducted in conjunction with, a livestock slaughterhouse or animal by-products business;
 - (5) The keeping and raising of hogs, provided that there shall be no feeding of any market or house refuse, garbage, or offal, other than that produced on the premises;
 - (6) The slaughtering, dressing and marketing of poultry, cattle, sheep, hogs and rabbits incidental to the operation of a farm;
 - (7) Dairy farming and dairy products;
 - (8) Public and private stables, and riding academies;
 - (9) Beekeeping; and
 - (10) Dwellings used in conjunction with the agricultural use.
- B. Agricultural uses shall conform to the following regulations in addition to any other pertinent regulations in this chapter:

- (1) Raising of livestock and poultry on parcels of land less than six acres in area shall be limited to keeping and raising of two head of livestock or 50 fowl per clear acre. The land shall not be used for any other purpose under this subsection than the raising of livestock and poultry. The land shall be devoted to only the indicated number of livestock or fowl, including the shelter, if any, for such farm animals and shall not be used for any other purpose. Any residence on the same lands shall be on a minimum of one additional acre. Therefore, not less than a total of two acres shall be necessary to raise the livestock or fowl indicated herein with a residence on the same lands. All swines shall be specifically prohibited on parcels of land less than six acres in area.
 - (a) "Livestock" for the purpose of the subsection shall be defined as cattle, horses, or other nondomesticated animals of similar size.
 - (b) "Fowl" shall herein be defined for purposes of this subsection as chickens, turkeys, ducks, geese or any other such farm birds raised on the premises.
 - (c) The prohibitions set forth in this subsection are not intended to include domesticated animals which shall be for purposes of this subsection defined as dogs, cats, or other pets which may be maintained both inside or outside.
 - (d) "Clear acre" shall be defined as an acre of land exclusive of any residence.
- (2) Farm buildings shall not be constructed closer than 85 feet to a front property line nor closer than 100 feet to a side or rear property line, including temporary feed storage.
- (3) Farm dwellings shall conform to the area and yard requirements of the district regulations in which they are located.
- (4) No manure storage shall be established closer than 85 feet from a front property line nor closer than 10 feet from any other property line.

- (5) ³The display and sale of farm products shall be permitted, provided that:
- (a) At least 50% of such products shall have been produced on the property on which they are offered for sale. It is permitted to sell processed farm products through a farm stand or farm market, such as, but not limited to, jellies, baked goods and cider.
 - (b) Any signage for a farm stand shall comply with the Sign Ordinance.
 - (c) A minimum of three off-street parking spaces shall be provided.
 - (d) Sale of farm products shall be conducted from a temporary portable stand, dismantled at the end of the growing season, or from a permanent building under the following conditions:
 - [1] Such buildings or structures shall be located at least 50 feet from the right-of-way line of the road;
 - [2] Off-street parking spaces shall be provided at a ratio of one space for each 300 square feet of gross floor area of the farm stand or market, but shall in no circumstances be less than three parking spaces; and
 - [3] The farm stand or market shall be closed for a period of 90 consecutive days out of each year or operation.
- (6) The operation of a vineyard and winery shall be permitted including uses and activities that support and are compatible with a vineyard and winery, such as, but not limited to, a winery tasting building, storage and processing building, art shows, outdoor concerts, banquets, seminars, wine tasting, catered events like wedding receptions and other similar events and activities. A vineyard and winery may be open for the entire year.⁴

§ 225-133.1. Solar energy on preserved farmland. [Added 4-18-2011 by Ord. No. 17-2011]

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3. **Editor's Note: Former Subsection B(5), regarding additional dwellings, was repealed 3-5-2012 by Ord. No. 25-2012. This ordinance also provided for the renumbering of former Subsection B(6) and (7) as Subsection B(5) and (6), respectively.**
4. **Editor's Note: Original Section 505, Special regulations for gasoline service stations and/or car washes, which immediately followed this section in the original ordinance, was repealed 7-18-1990 by Ord. No. 20-1990.**

- A. Notwithstanding any law, rule or regulation to the contrary, a person who owns preserved farmland may construct, install, and operate solar energy facilities, structures, and equipment on the farm, whether on the preserved portion of the farm or on any portion excluded from preservation, for the purpose of generating power or heat, and may make improvements to any agricultural, horticultural, residential, or other building or structure on the land for that purpose, provided that the solar energy or facilities, structures, and equipment:
- (1) Do not interfere significantly with the use of the land for agricultural or horticultural production, as determined by the State Agricultural Development Committee;
 - (2) Are owned by the landowner, or will be owned by the landowner upon the conclusion of the term of an agreement with the installer of the solar energy generation facilities, structures, or equipment by which the landowner uses the income or credits realized from the solar energy generation to purchase the facilities, structures, or equipment;
 - (3) Are used to provide power or heat to the farm, either directly or indirectly or to reduce, through net metering or similar programs and systems, energy costs on the farm; and
 - (4) Are limited:
 - (a) In annual energy generation capacity to the previous calendar year's energy demand plus 10%, in addition to what is allowed under Subsection B of this section; or alternatively, at the option of the landowner;
 - (b) To occupying no more than 1% of the area of the entire farm including both the preserved portion and any portion excluded from preservation.
 - (5) The person who owns the farm and the energy generation facilities, structures, and equipment may only sell energy through net metering or as otherwise permitted under an agreement allowed pursuant to Subsection A(2).
- B. The limit on the annual energy generation capacity established pursuant to § 225-133.1A(4)(a) shall not include energy generated from facilities, structures, or equipment existing on the roofs of buildings or other structures on the farm as of the date of enactment of N.J.S.A. 4:1C-32.4 et al.

- C. A landowner shall seek and obtain the approval of the State Agricultural Development Committee before constructing, installing, and operating solar or generation facilities, structures, and equipment on the farm as allowed pursuant to Subsection A of this section. The State Agricultural Development Committee shall provide the holder of any development easement on the farm with a copy of the application submitted for the purposes of Subsection A of this section, and the holder of the development easement shall have 30 days within which to provide comments to the State Agricultural Development Committee on the application. The State Agricultural Development Committee shall, within 90 days of receipt, approve, disapprove, or approve with conditions an application submitted for the purposes of Subsection A of this section. The decision of the State Agricultural Development Committee on the application shall be based solely upon the criteria listed in Subsection A of this section and comments received from the holder of the development easement.
- D. No fee shall be charged of the landowner for review of an application submitted to, or issuance of a decision by, the State Agricultural Development Committee pursuant to this section.
- E. The State Agriculture Development Committee may suspend or revoke an approval issued pursuant to this section for a violation of any term or condition of the approval or any provision of this section.
- F. The State Agricultural Development Committee, in consultation with the Department of Environmental Protection and the Department of Agriculture, shall adopt, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., rules and regulations necessary for the implementation of this section, including provisions prescribing standards concerning impervious cover which may be permitted in connection with solar energy generation facilities, structures and equipment authorized to be constructed, installed, and operated on lands pursuant to this section.
- G. Land use for taxation purposes.
- (1) No land uses for solar energy generation shall be considered land in agricultural or horticultural use or actively devoted to agricultural or horticultural use for the purposes of the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1, except as provided in this section.

- (2) No generated energy from any source shall be considered an agricultural or horticultural product.
- (3) Land uses for solar energy generation may be eligible for valuation, assessment and taxation pursuant to N.J.S.A. 54:4-23.1 et seq., provided that:
 - (a) The solar energy generation facilities, structures, and equipment were constructed, installed, and operated on property that is part of an operating farm continuing to be in operation as a farm in the tax year for which the valuation, assessment and taxation pursuant to N.J.S.A. 54:4-23.1 et seq. is applied for;
 - (b) In the tax year preceding the construction, installation and operation of the solar energy generation facilities, structures, and equipment on an operating farm, the acreage used for the solar energy generation facilities, structures and equipment was valued, assessed and taxed as land in agricultural or horticultural use;
 - (c) The power of heat generated by the solar energy generation facilities, structure and equipment is used to provide, either directly or indirectly but not necessarily exclusively, power or heat to the farm or agricultural or horticultural operations supporting the viability of the farm;
 - (d) The owner of the property has filed a conservation plan with the soil conservation district, with provisions for compliance with Subsection G(3)(e) of this subsection where applicable, to account for the aesthetic, impervious coverage, and environmental impacts of the construction, installation, and operation of the solar energy generation facilities, structures, and equipment, including, but not necessarily limited to, water recapture and filtration, and the conservation plan has been approved by the district;
 - (e) Where solar energy generation facilities, structure and equipment are installed, the property under the solar panels issued of the greatest extent practicable of the farming of shade crops or other plants capable of being grown under such conditions, or for pasture for grazing;
 - (f) The amount of acreage devoted to the solar energy generation facilities, structures, and equipment does not exceed a ration of one to five acres, or portion thereof, of

land devoted to energy generation facilities, structures and equipment and land devoted to agricultural or horticultural operations;

- (g) Solar energy generation facilities, structures, and equipment are constructed or installed on no more than 10 acres of the farmland for which the owner of the property is applying for valuation, assessment and taxation pursuant to N.J.S.A. 54:4-23.1 et seq.
- (4) No income from any power or that sold from the solar energy generation may be considered income for eligibility for valuation, assessment and taxation of land pursuant to the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq., and notwithstanding the provisions of that act or any rule or regulation adopted pursuant thereto, to the contrary, there shall be no income requirement for property valued, assessed and taxed pursuant to Subsection b of this section.

§ 225-134. Floodplain control regulations.

- A. In addition to the applicable requirements of state and federal floodplain regulations, the following controls shall apply to all portions of the Township located in floodplains as defined herein: Intense storms occurring at less frequent intervals than twice a year produce such flow in the stream that the water overflows its banks and inundates adjacent land areas. The area of inundation is referred to as the floodplain. It can be assumed that once in 50 years a storm will occur which will produce enough flow to occupy a floodplain of a depth equal to the height of the stream bank exposed by the normal average flow in the stream. The adjacent topography determines the width of the floodplain required to accommodate such depth of floodwater. Based upon field observations, soil types, and topography, such a flood-prone area has been defined for the Township. It is generally in the form of a narrow band along the streams.
- B. The following uses are the only uses permitted in areas subject to floodway controls:
 - (1) Parks and outdoor recreational uses so long as their activities do not conflict with riparian rights of other property owners.
 - (2) Farming, forestry and other farm uses, when conducted in conformance with all necessary conservation practices.

- C. Areas to be regulated under this section shall be indicated generally on a topographical map prepared by the Township Engineer indicating the fifty-year flood line as determined by the most recent surveyors of the United States Army Corps of Engineers maintained by the Planning Board and available to the Zoning Officer. If the proposed building site is located in such an area, then the Township Engineer must certify that said site is not subject to flooding upon evidence submitted by the applicant. These regulations shall apply in all cases where the applicant is unable to provide sufficient evidence to obtain a certification from the Township Engineer.
- D. Every application for a zoning permit shall state the use to be made of any area subject to floodplain controls.

§ 225-135. Height regulations; exemptions.

- A. Height regulations shall not apply to spires, belfries, cupolas, penthouses or domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, bulkheads, utility poles or towers, silos, grain elevators, and necessary mechanical or ornamental appurtenances, which do not exceed 200 feet above ground level.
- B. Objects which exceed 200 feet in height will be allowed only by special exception. Applicants must show cause for requesting this special exception and satisfy the Zoning Officer that the object will be in keeping with a rural-residential or commercial neighborhood.

§ 225-136. Sewage treatment plants and facilities regulations.

- A. No such facility shall exceed 50 feet in height. No such facility shall be located within 100 feet of any residential use.
- B. Storage areas: All such facilities shall be located in a building which has direct access to a street or driveway. No such building shall be located within 50 feet of any street line.
- C. All uses shall be restricted to activities related to the primary use.

§ 225-137. Steep slope regulations. [Amended 4-2-2007 by Ord. No. 12-2007]

- A. Purpose. The purpose of this section is to prevent the erection of dwellings in areas unsuitable for building sites; to minimize danger to public health by protecting watersheds; to discourage

erosion of soils by maintaining adequate foliage cover on hills; and to promote the perpetuation of open space on hillsides. Slope areas may be located within the confines of any zoning district.

B. Designation of areas.

- (1) The steep slope areas shall include all areas in the Township in which the slope is 20% or over, as indicated on the current topographic maps of the United States Geological Survey.
- (2) Areas subject to steep slope and stream area restrictions shall be indicated on a map maintained by the Planning Commission and available to the Zoning Officer, such map shall be Map 4 of the Environmental Resource Inventory.
- (3) Areas identified on a development application plan or identified in the field as having steep slopes.

C. Uses permitted. The following uses are the only uses permitted in areas subject to steep slope and stream area controls:

- (1) Parks and outdoor recreation uses shall be permitted so long as their activities do not conflict with the use of land as a watershed.
- (2) Buildings may be constructed in accordance with the regulations of the applicable zoning district, except that the minimum lot area shall not be less than two acres, and provided that no portion of the building is constructed within 25 feet of an area where the grade exceeds 20%.
- (3) Tree farming, forestry and other agricultural uses, when conducted in conformance with conservation practices that ensure adequate protection against soil erosion.
- (4) Agriculture uses when conducted in conformance with conservation practices that ensure sufficient protection against soil erosion.

D. Procedures.

- (1) Any person desiring to change or in any way modify an existing use of land in an area subject to these controls shall supply a statement to the Planning Board signifying his intentions that the intended use of the land will be a use permitted by these regulations.
- (2) If such change in use involves the construction of any building, the applicant shall, in addition, furnish the Zoning

Officer with a statement prepared by a registered civil engineer or surveyor to the effect that the proposed building will not be erected on any land within 25 feet of an area where the percentage of grade exceeds 20%. No certificate of occupancy shall be granted until the Zoning Officer has inspected the building site and determined that the regulations imposed by this section have been observed.

- E. Exemption. Any property already fully developed with a residential structure as of the effective date of this section shall be exempt from its provisions.⁵

§ 225-138. Landscaping and buffering. [Added 6-15-1992 by Ord. No. 10-1992; amended 3-7-2005 by Ord. No. 5-2005]

- A. Areas to be landscaped. All areas of a site not occupied by buildings and required improvements shall be landscaped by the planting of ground cover, shrubs and trees in appropriate quantities and locations.
- B. Installation. All plant materials shall be installed in accordance with promulgated guidelines of the American Nurserymen's Association as they may be amended or superseded. Planting materials shall be installed in accordance with an approved landscape plan when required as part of site plan or subdivision review. All plant material shall be guaranteed with an appropriate surety for a period of two years after final inspection.
- C. Landscape buffers along street lines. A landscaped buffer of not less than 25 feet in width shall be provided adjacent to any street line when otherwise required by this chapter.
- (1) Buffers may be comprised of earth berms, fences, and landscaping, which shall be of a sufficient quantity and size to screen parked automobiles from view of those traveling on public streets or sidewalks and those persons at grade or first floor level on adjoining property and to prevent the shining of automobile headlights into the yards of adjacent property or in such a manner as to create a hazard for those traveling on a public street or sidewalk.
 - (2) In general this buffer shall provide a visual screen between parking areas in the immediate vicinity of a street and those

5. Editor's Note: Original Section 515, Conversion of dwelling, which immediately followed this section in the original ordinance, was repealed 6-15-1992 by Ord. No. 10-1992.

traveling along the street or sidewalk with materials no less than four feet above the finished grade of the parking areas.

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

D. Other landscape buffers. A landscaped buffer of not less than 25 feet in width shall be provided along any common property line with a nonresidential lot adjacent to a lot in a residential district, in addition to any required yard setback, unless otherwise modified by this chapter.

- (1) Buffers shall be comprised of earth berms, fences, and landscaping, which shall be of a sufficient quantity and size to screen parked automobiles from view of those at grade or first floor level on adjacent property and to prevent the shining of automobile headlights into the yards of adjacent property.
- (2) In general, this buffer shall provide a visual screen between the parking areas in the immediate vicinity of the residentially zoned property and an elevation no less than six feet above the finished grade of the parking areas.
- (3) Buffering design is to insure a year round high and low visual screen and consist of evergreen and deciduous trees and shrubs.
- (4) More than one species of evergreen and deciduous trees is to be provided to reduce the effects of potential tree disease.
- (5) Low bushes such as Hollies, Japanese Barberry (*Berberis thunbergii*), William Penn Barberry (*Berberis gladwynensis* 'William Penn'), Rutgers Firethorn (*Pyracantha coccinea* 'Rutgers'), Mohave Firethorn (*Pyracantha coccinea* 'Mohave') and other thorn-bearing bushes shall be utilized to prevent pedestrian traffic through the buffer area.
- (6) Shade trees shall be provided in the buffer at the rate of one tree per 1,000 square feet of buffer area.
- (7) Landscaping buffers shall be designed to block 75% of all views from one side to the other five years after planting.
- (8) Additional buffering features are to be provided as may be found necessary by the Land Development Board having jurisdiction over the application.
- (9) Buffers must contain a meandering design.

- E. Landscaping in parking lots. Interior parking lot landscaping equal to or exceeding 10% of the gross square footage of the paved areas of the site used for drives and parking shall be provided. **[Amended 6-1-2009 by Ord. No. 14-2009]**
- (1) Such landscaping shall be provided in areas of not less than 150 square feet.
 - (2) Shrubbery shall be less than three feet in height and shade trees shall have foliage of seven feet or higher in order not to impede sight distances of motorists and pedestrians.
 - (3) Landscaping in parking lots shall be so designed to avoid blocking required site lighting to the greatest extent possible.
- F. Planting size requirements. The following minimum plant sizes shall be required for any landscape material, measured in accordance with American Nurserymen's Association standards:
- (1) Shade trees: 2 1/2 to three inches in caliper.
 - (2) Ornamental trees: six to eight feet in height.
 - (3) Evergreen trees: six to eight feet in height.
 - (4) Shrubbery, both deciduous and evergreen:
 - (a) Prostrate (spreading): 18 to 24 inches in spread.
 - (b) Small (mature size under three feet in height): 18 to 24 inches in height.
 - (c) Large (mature size three feet or greater in height): 24 to 30 inches in height.
- G. Tree protection/compensatory plantings. **[Added 3-6-2006 by Ord. No. 4-2006; amended 5-1-2006 by Ord. No. 14-2006; 9-17-2007 by Ord. No. 40-2007; 3-17-2008 by Ord. No. 07-2008; 4-18-2011 by Ord. No. 05-2011]**
- (1) Tree protection. The purpose of this section is to establish protective regulations for trees within the Township of Harrison in order to control problems of flooding, soil erosion and air and noise pollution; to protect the public health, safety and welfare of the citizenry of the Township; and to promote quality development in the Township. Trees are declared to be important cultural, ecological, scenic and economic resources. Proper management of this resource will ensure its maintenance and result in greater ecological and

economic returns to the Township. A comprehensive tree protection/compensatory planting program is intended to meet the objectives of preserving, protecting, enhancing and maintaining trees and providing opportunities for continued uses of forest resources which are compatible with the maintenance of the environment. The intent of this section is to encourage the protection of the greatest number of trees and of large specimen trees throughout the Township. To that end, it shall be unlawful to cut down, damage, poison or in any other manner destroy or cause to be destroyed any trees within the Township, except in accordance with the provisions of this chapter.

(2) Applicability. The requirements of this section of the chapter are applicable for all land within the Township which the owner and/or developer plan on removing five or more trees on one lot within one calendar year with a trunk diameter of six inches or more at DBH (diameter breast height). Trees which have been designated as specimen under the provisions of this chapter shall be maintained in a living condition, and it shall be unlawful for any person to remove such a tree without an approved tree removal permit.

(a) A permit to remove a tree(s) will be granted if one or more of the following criteria have been met:

[1] The tree is located in an area where a structure or improvement will be placed according to an approved plan and the tree cannot be relocated on the site because of age, type or size of the tree.

[2] The tree is dead, diseased, injured, in danger of falling, is too close to the existing or proposed structure(s), interferes with existing utility service, creates obstructed or unsafe sight clearance, or conflicts with other ordinances or regulations.

(b) A permit is not required for tree removal if one or more of the following criteria have been met:

[1] The tree is to be removed for harvesting as timber product pursuant to a federal, state and/or county-approved forestry program, or for the purpose of making land available for farming or other useful or productive harvesting activity, and/or when tree removal is permitted by state and/or federal statutes or regulations.

[2] An eminent or emergent condition exists requiring immediate removal of the tree to avoid personal injury and/or property damage.

(3) Definitions. As used in this subsection, the following terms shall have the meanings indicated:

APPROVED PLAN — Any plan for lot development which has been reviewed and approved by the Township or its assigned agents, the Township Land Development Board with jurisdiction over the project, or other governmental entity with the responsibility to review and approve the design plan.

CALIPER — A type of diameter measurement used in the nursery industry. The height measurement shall be taken from ground level for field-grown stock and from the soil line for container-grown stock, which should be at or near the top of the root flare. Caliper measurement of the trunk shall be taken six inches above the top of the root flare up to and including four-inch caliper size. If the caliper at six inches above the ground exceeds four inches, the caliper should be measured at 12 inches above the root flare. Seldom are tree trunks perfectly round. The most accurate measurement will result from the use of diameter tape. Caliper measurements taken with a manual or electronic slot- or pincer-type caliper tools should be the average of the smallest and largest measurements.

DISTURBANCE ZONE — That portion of a lot covered by existing or proposed buildings, structures or improvements and within a certain distance around same as noted below:

- (a) House or building: 15 feet (around all sides).
- (b) Detached garage: eight feet.
- (c) Pool: 12 feet.
- (d) Driveway/sidewalk: five feet.
- (e) Septic fields: 10 feet.
- (f) Underground utility: five feet.
- (g) Paved parking/drive aisle: five feet.
- (h) Shed: five feet.
- (i) Patio/deck: eight feet.

- (j) Improvement (other): five feet; excludes storm water management basins.

DIAMETER BREAST HEIGHT (DBH) — The diameter of a tree measured 4 1/2 feet (54 inches) above the ground level.

SPECIMEN TREE — Any tree with a diameter of 18 inches and greater, regardless of genus and species.

TREE — Any deciduous or coniferous species which has a DBH of six inches or greater.

TREE ESCROW FUND — A fund established by the governing body for the administration and promotion of tree and shrubbery resource sustainability projects and practices, which may be consistent with the Community Stewardship Incentive Program as outlined within the New Jersey Shade Tree and Community Forestry Assistance Act, P.L. 1996, Chapter 135, as it is intended to sustain the overall biomass of the Township.

TREE MANAGEMENT PLAN — A specific plan that contains tree locations and other information in accordance with § 225-138G(4) herein.

TREE PROTECTION ZONE — That portion of a lot outside of the disturbance zone.

TREE REMOVAL — The cutting down of a tree, the transplanting of a tree to a site other than that under development, or the infliction of damage to a tree which is of such severity as to show evidence within a period of two years of irreparable harm leading to the ultimate death of a tree. Examples of serious damage include but are not limited to: damage inflicted to the root system by machinery, storage of materials, and soil compaction; changing the natural grade above or below the root system and around the trunk; damage inflicted on the tree permitting fungus infection or pest infestation; excessive pruning defined as the removing in excess of 1/3 (33%) or greater of the functioning leaf, stem, or root area of a tree; excessive thinning, defined as the removing of undesirable, competitive, diseased or damaged trees so as to cultivate and improve the development of remaining trees on the lot; paving with concrete, asphalt, or other impervious material within proximity as to be harmful to a tree.

TREE REMOVAL PERMIT — The permit issued by the Township Engineer, or his or her designee, to remove or destroy a tree or trees.

- (4) Tree protection management plan. A tree protection management plan must be submitted at the time of site plan or subdivision application, pursuant to this chapter. A tree protection management plan shall contain the following information on a plot plan:
 - (a) Location of all existing or proposed buildings, driveways, grading, septic fields, easements, underground utility lines, rights-of-way, and other improvements.
 - (b) Location of existing wetland buffers, natural features, including wooded areas, watercourses, wetlands, and floodplains.
 - (c) The limits of the tree protection zone.
 - (d) Location of all existing live trees with trunk diameters six inches or greater, measured 4 1/2 feet above ground level. Each tree shall be noted by its species, size and general health condition. Whenever possible, the actual canopy spread shall be shown. If it must be estimated, the canopy shall equal 1 1/2 feet of diameter per one inch of trunk diameter. If the trees to be preserved are part of a wooded area, only the outermost canopy line need be shown, unless disturbance is proposed within 200 feet of the canopy line; then, individual trees located within 50 feet of the proposed edge of the woodland shall be shown.
 - (e) Each tree, or mass of trees, to be removed or transplanted shall be clearly marked.
 - (f) A chart tabulating the diameter inches being removed, and the required compensatory trees.
 - (g) Specifications for the removal of existing trees and for the protection of existing trees to be preserved, including detail(s) of tree protection fencing, as required.
 - (h) Location of compensatory proposed trees.
- (5) Compensatory planting. Tree replacement shall comply with at least one of the following criteria:
 - (a) One-to-one tree replacement: For each tree six inches in DBH or greater that is removed, the applicant shall

prepare a replanting scheme on other treeless areas of the property to compensate the clearing of the tree area. The tree protection management plan shall reflect a one-to-one tree replacement for each tree six inches DBH or greater to be removed.

[1] The following minimum sizes should be utilized for trees and shrubs unless otherwise approved by the municipal agency:

[a] Shade trees: two inches caliper or 10 to 12 feet tall, whichever is greater.

[b] Evergreens, ornamental and foundation trees: 1 1/2 to 1 3/4 inches balled and burlapped or five to six feet tall, whichever is greater.

[c] Shrubs: two to 2 1/2 feet in height or spread, except in the case of dwarf species which do not attain this size.

(b) Tree area replacement/reforestation: For each square foot of tree area to be removed, the applicant shall prepare a reforestation scheme on other treeless open space areas of the property to compensate the clearing of the tree area. The tree protection management plan shall be based on a twenty-foot by twenty-foot grid. Of this number of trees, 10% shall be balled and burlapped two inches to 2 1/2 caliper; 30% shall be bare root 1 1/4 to 1 1/2 caliper and 40% shall be bare-root containing a minimum of six whips. A mixture of trees indigenous to the area and site shall be utilized. Proposed trees shall be planted in natural grass and may be spaced five feet to 20 feet on center.

(c) Tree cost replacement: Should the quantity of the trees to be removed be greater than the quantity of actual tree replacement as identified on the tree replacement/landscaping plan due to limited available planting area, then the outstanding balance of the required replacement trees may be addressed by a contribution to the tree escrow fund maintained by the Township. In calculating the tree escrow contribution, the following shall apply:

[1] The replacement value of all trees to be removed where replacement trees are required by this subsection shall be calculated as follows:

| Tree to be Removed/ Size DBH (inches) | Replacement Tree Value |
|--|-----------------------------------|
| Greater than 6, up to 12 | \$200 |
| Greater than 12, up to 18 | \$600 |
| Greater than 18, up to 24 | \$800 |
| Greater than 24 | \$1,600 |

[2] If the landowner does not replace a tree, but pays the replacement fee, such fee shall be placed into the tree escrow fund established by the Township for the administration and promotion of tree and shrub planting projects on or within public properties or facilities.

- (d) Locations of compensatory trees must be clearly labeled on the tree protection management plan. They may be placed anywhere on the site, but are in addition to other trees required by ordinance such as street trees.
- (6) Approval of tree protection management plan. Each person to whom this section applies must obtain approval of the plan by the Township Engineer prior to the removal of any trees pursuant to this section. The Township Engineer will conduct a site inspection and review and decide upon a tree protection management plan within five business days following the written request for same. Faxed requests will be allowed as beginning the five-day review process, provided that the faxed plan(s) are signed by a licensed New Jersey professional engineer or land surveyor, and also provided that embossed copies of the faxed plan(s) are thereafter delivered to the Township Engineer within the five-day period. If approved, the Township Engineer will issue a letter approving the tree protection management plan.
- (7) Permit and review fees. Any person wishing to obtain a tree removal permit shall make application for review and approval by the Township Engineer. The following fees shall apply to applications for removal of five or more trees with a DBH of six inches or greater. With respect to subdivisions, "lot" means each lot that results or will result from the subdivision.

- (a) Permit, review and inspection fees for individual or multiple lot tree protection management plans. Any person who seeks approvals provided in this section must pay the following fees for each approval requested:
- [1] Tree protection management plan application fee (per lot): \$35.
 - [2] Engineer's review fee upon individual or multiple lot tree management plan (per lot): \$100.
 - [3] Engineer's review fee upon submission of each revised or as-built individual or multiple lot plan (per lot): \$100.
 - [4] Initial site inspection fee: \$200 per lot.
 - [5] Site reinspection fee: \$200 per lot.
- (b) Tree removal permits applications shall be filed at the construction office and shall be completed in full. The application must be deemed complete and all required fees be paid prior to review. The Township Engineer shall have up to seven days to review the complete application.
- (c) Inspections. After the application is reviewed and deemed complete, the Township Engineer or his designee shall inspect the trees and property which are the subject of the permit application within five days.
- (d) Permit approval or denial. The Township Engineer shall approve or deny the tree removal permit within 10 business days after the completion of the inspection. The Township Engineer shall notify the applicant, in writing, of the approval or of the factual basis and criteria for any denial. The final decision of the Township Engineer may be appealed to the Township Committee by filing a written notice within 10 days of the final decision. The Township Committee shall hold a public hearing and issue its decision within 30 days after the notice of appeal is filed, unless the applicant requests, and the Township Committee consents to, an extension of time.
- (e) Option to pay review and inspection costs based on time and materials; payment from application escrows. Applicants for development who have posted review/inspection escrows with the Township in connection with any application for site plan, subdivision, or other

Township approval may elect in writing to have the Township Engineer paid for any tree protection management plan related review and/or inspection pursuant to this section based on time expended and materials used rather than at the flat fee rates set forth in Subsection G(7)(a)[1] through [5] above. Additionally, any such applicant may elect, in writing, that any Township Engineer tree protection management plan-related review/inspection fees (whether based on flat fee or time and materials) be paid from such applicant's review/inspection escrow(s), in which instance such applicant's tree protection management plan(s) will be reviewed/inspected by the Township Engineer as part of such site plan, subdivision, or other Combined Planning Board or Township Committee application, whereupon all of the Township Engineer's fees and costs for tree protection management plan-related review/inspection will be reimbursed from such applicant's review/inspection escrow(s) along with other review and inspection costs and fees relating to such application. **[Amended 3-5-2012 by Ord. No. 16-2012]**

- (f) Exemption. Any owner, developer and/or applicant who is seeking to remove trees in conjunction with a development project, which proposed development application is pending before the Township Combined Planning Board, is exempted from the requirement to obtain a separate tree protection management plan approval and permit as long as the Combined Planning Board specifically addresses tree protection and compensatory plantings in their respective approvals. **[Amended 3-5-2012 by Ord. No. 16-2012]**
- H. Enforcement. The requirements of this section shall be enforced by the Township's Zoning Officer, Construction Code Official, or other designated proper municipal official. Such Township official shall administer and inspect all sites which are subject to this section and/or in conjunction with the tree replacement requirement set forth in § 225-138I, entitled Violations and penalties. **[Added 5-7-2007 by Ord. No. 18-2007]**
- I. Violation and penalties. Any person, developer and/or entity who violates any provision of this section shall, upon conviction thereof, be subject to the following: **[Added 5-7-2007 by Ord. No. 18-2007]**

- (1) A fine not exceeding \$1,000 per violation;
 - (2) Shall replace each tree destroyed or removed in violation of this section in accordance with the tree replacement provision set forth in § 225-138G, Tree protection/compensatory plantings;
 - (3) Each tree destroyed or removed in violation of this section shall be considered a separate offense; and
 - (4) All replacement trees shall be of the same species as the tree(s) that was destroyed or removed, unless replaced with native species of equal value as approved by the authorized Township Official.
 - (5) Exceptions. **[Amended 9-17-2007 by Ord. No. 40-2007]**
 - (a) Any tree removed from an area of property to be dedicated as public improvement, e.g., drainage facilities, public roadways, etc., and/or trees subject to any state or federal program, statute or regulation, shall be exempt from the provisions of this section.
- J. Severability. Should any section, clause, sentence, phrase or provision of this section be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this section. **[Added 5-7-2007 by Ord. No. 18-2007]**
- K. Repealer. All prior ordinances or parts of ordinances inconsistent with this section be and the same are hereby repealed to the extent of such inconsistencies. **[Added 5-7-2007 by Ord. No. 18-2007]**