

CHAPTER 68
LAND DEVELOPMENT ORDINANCE

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BOROUGH OF WOODLYNNE
ORDINANCE-1981

AN ORDINANCE OF THE BOROUGH OF WOODLYNNE, IN THE COUNTY OF CAMDEN AND THE STATE OF NEW JERSEY, ADOPTING A LAND DEVELOPMENT ORDINANCE, PURSUANT TO THE MUNICIPAL LAND USE LAW OF THE STATE OF NEW JERSEY.

ARTICLE I

GENERAL PROVISIONS

SECTION 68-1. Short Title.

This Ordinance shall be known and may be cited as the "Land Development Ordinance of the Borough of Woodlynne, New Jersey."

SECTION 68-2. Purpose.

This Ordinance is intended to regulate the use and development of land within zoning districts which are based on the Borough of Woodlynne Land Use Plan Element, in accordance with the provisions of the New Jersey Municipal Land Use Law.

SECTION 68-3. Word Usage-

- 12-1
- A. Words used in the present tense include the future; the singular number includes the plural as well as the singular.
 - B. The word "lot" includes the word "plot".
 - C. The word "building" includes the word "structure".
 - D. The term "such as," where used herein, shall be considered as introducing a typical or illustrative rather than an entirely exclusive or inclusive designation of permitted or prohibited uses, activities, establishments or structures.
 - E. "Shall" and "will" are mandatory and "may" is permissive.

SECTION 68-4. Terms Defined.

All such words as defined in the Municipal Land Use Law, if not contained below, are hereby incorporated herein and declared to be a part of this Ordinance. The following words, terms and phrases used in this Ordinance shall have the meanings hereinafter indicated:

ACCESSORY USE OR BUILDING-A subordinate use or building, the purpose of which is incidental to that of a main use or building on the same lot.

ALLEY- A minor way or roadway dedicated or open to public use which is less than fifty (50) feet in width.

AUTOMOBILE WRECKING-See "junkyard".

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

BUILDING HEIGHT-The vertical distance measured from the mean elevation of the finished grade along the front of the building to the highest point of the roof for flat roofs, to the mean height level; between the eaves and ridge, for gable and hipped roofs and to the deck line for mansard roofs.

BULK-The term used to describe the size of the buildings or other structures and their relationships to each other, to open areas such as yards and to lot lines and includes the size, height and floor area of the building or other structure.

CERTIFICATE OF OCCUPANCY-A certificate issued by the Construction Official upon completion of construction or alterations of any building or structure. Said certificate shall acknowledge compliance with all requirements of this Ordinance, such adjustments thereto as granted by the Zoning Board of Adjustment, and/or any other applicable requirements.

DENSITY-A number expressing dwelling units per gross acre of land.

DWELLING-Any building or portion thereof occupied as a home or residence for one (1) or more persons.

DWELLING, DETACHED-DUPLEX- A building occupied as a home or residence of two (2) housekeeping units under one (1) roof each housekeeping unit occupying a single dwelling one (1) of which shall be partly above the other.

DWELLING, MULTIPLE-A building having common halls and entrances, occupied as the home or residence of three (3) or more housekeeping units under one (1) roof, each housekeeping unit occupying a separate dwelling.

DWELLING, SINGLE-ATTACHED-A building occupied as a home or residence of one (1) housekeeping unit and having a party wall or walls in common with an adequate house or houses.

DWELLING, HOUSEKEEPING UNIT-A detached building designed for or occupied exclusively by one (1) housekeeping unit or dwelling unit.

DWELLING, TWIN-A building occupied as a home or residence of two (2) housekeeping units under one (1) roof, side by side, with a common fire wall, each housekeeping unit occupying a separate dwelling.

FENCE-An artificially constructed barrier of wood, masonry, stone, wire, metal or any other manufactured material or combination of materials erected for the enclosure of yard areas or other open spaces.

FLOOD PLAIN-The relatively flat land area adjoining a river, stream, water course, or lake which has been or is likely to be flooded.

FLOODWAY-The channel of a river or other water course and the adjacent land areas required to carry and discharge a flood.

FLOOR AREA-The sum of the gross area of the several floors of a building or buildings, measured from the face of exterior walls or from center lines of walls separating two (2) buildings.

GARAGE-Building used or designed for housing or storing of self-propelled motor vehicles or unit portions thereof designed for use on public highways.

GARAGE, PRIVATE-A garage intended for and used by the motor vehicles of the families resident upon the premises.

HEIGHT OF BUILDING-The vertical distance measured to the highest point from the mean elevation of the finished grade five (5) feet away from the foundation along the side(s) of the building facing a street or to the street line, whichever is closer to the foundation. On a corner lot, the height shall be measured on the street having the greatest slope.

HOME OCCUPATION-Any gainful employment or occupation of one (1) or more members of the resident family, which employment or occupation shall constitute, either entirely or partly, the means of livelihood of such member or members and which shall be clearly secondary or accessory to the primary residential use of the principal structure. Such occupation may be pursued in the principal dwelling structure or in a secondary building which is accessory to such principal structure. Home occupations are normally in the field of work of the artisan and may include such activities as dressmaking, millinery, watchmaking, electrical and radio repair and carpentry, where not more than three (3) persons are employed full time. The retail sale of goods and services in structures designed or altered to make such activities the primary use of any structure shall not be construed to be a "home occupation" under the terms of this Ordinance.

HOUSEKEEPING UNIT-One (1) or more persons living as a single, nonprofit household, as distinguished from individuals or groups occupying a hotel, club, fraternity or sorority house. The housekeeping unit shall be deemed to

include housekeeping facilities and services.

JUNKYARD-The use of any lot for the storage, keeping or abandonment of junk, including scrap metals or other scrap material or building material, or for the dismantling, demolition or abandonment of structures, automobiles or other vehicles, equipment and used machinery or parts thereof; provided, however, that this definition shall not be deemed to include any of the foregoing uses which are accessory and incidental to any agricultural or industrial use permitted in any zone. The term "junkyard" as herein defined includes automobile wrecking yards and the accumulation of used building material that could be used in any structure.

LIMITED MANUFACTURING-The fabrication, assembly or processing of goods or materials or the storage of bulk goods and materials where such activities or materials create no hazard from fire or explosion or produce no toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, offensive noise or vibration, glare, flashes or objectionable effluent.

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

LOT AREA-The total horizontal area included within lot lines. Where the front lot line is the center line of a street or lies in part or in whole in the street area, the lot area shall not include that part of the lot in use or to be used as a street.

LOT DEPTH-The shortest horizontal distance between the front lot line, or the boundary of the street right-of-way if the front lot line lies within an

area used or to be used as a street, and the rear lot line. In the case of a triangular lot having no rear line, the distance shall be measured to a line parallel to the front lot line which shall not be less than ten (10) feet in length measured between its intersections with the side lot lines.

LOT FRONTAGE-That portion of a lot extending along a street line; in odd shaped or triangular shaped lots, the length of the frontage may be considered to be the same as the lot width, except that such length of frontage shall not be less than one-half ($\frac{1}{2}$) of any minimum frontage herein required and that the actual length of the setback line shall be not less than forty (40) feet.

LOT WIDTH-The mean horizontal width measured at right angles to the lot depth.

MINOR SITE PLAN-A development plan of one or more lots which (1) proposes new development within the scope of development specifically permitted by this Ordinance as a minor site plan; (2) does not involve planned development, any new street or extension of any off-tract improvement which is to be prorated pursuant to Section 30 of the Municipal Land Use Law, 40:55D-42, and (3) contains the information reasonably required in order to make an informed determination as to whether the requirements established by this Ordinance for approval of a minor site plan have been met.

MINOR SUBDIVISION-A subdivision of land for the creation of the number of lots specifically permitted by this Ordinance as a minor subdivision, provided that such subdivision does not involve (1) a planned development, (2) any new street, or (3) the extension of any off-tract improvement, the

cost of which is to be prorated pursuant to Section 30 of the Municipal Land Use Law, 40:50D-42.

NONCONFORMING STRUCTURE-A structure the size, dimension, or location of which was lawful prior to the adoption, revision, or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

NONCONFORMING USE-A use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

NURSING HOME-Any building in which more than one (1) room or an area exceeding four hundred (400) square feet is used for the accomodation, reception or treatment of the aged or sick who are residents therein, excluding members of the resident's family.

PARKING SPACE, AUTOMOBILE-That area required for the parking or storage of one (1) automobile, including necessary aisle or driveway space providing access thereto. For the purpose of this chapter, the minimum gross area per automobile parking space shall not be less than two hundred (200) square feet, which shall be deemed to include not less than two hundred (200) square feet for each dead-storage bay and not less than one hundred (100) square feet for the necessary aisle or driveway space accessory thereto.

PORCH-A roofed open structure projecting from the front, side or rear wall of a building. A porch may be screened, or glass enclosed.

PROFESSIONAL OFFICE-The office of a member of a recognized profession. When conducted in a residential district, a professional office shall be incidental to the residential occupation, shall be conducted by a member of the resident family entirely within a residential building, and shall include only the offices of doctors or physicians, dentists, optometrists, ministers, architects, landscape architects, professional engineers, lawyers, artists, authors, musicians and such other similar professional occupations as may be so designated by the Planning Board, upon finding by such Board that such occupation is truly professional in character, by virtue of the need for similar training and experience as a condition for the practice thereof and that practice of such occupation shall in no way adversely affect the safe and comfortable enjoyment of property rights in any zone to a greater extent than for the professional activities listed herein. The issuance of a state or local license for regulation of any gainful occupation need not be deemed indicative of professional standing.

SERVICE STATION-Lands and buildings where motor fuel, lubricants, miscellaneous accessories and minor repair services for motor vehicles are dispensed, but where no vehicular painting and/or bodywork is done and where no junked or unregistered motor vehicles are kept or stored.

SETBACK LINE-A line within any lot, usually marking the limits of a required yard space, parallel to any street line between which line and the street line no building or portion thereof may be erected, except as provided in this chapter.

SIGHT TRIANGLE-A triangular area abutting two intersecting streets where vision is unobstructed. The sight triangle is formed by the intersecting street sidelines and a line connecting a point on each sideline a set distance from the intersection.

SIGN-Any outdoor advertising sign or outdoor advertising structure.

A. BILLBOARD or COMMERCIAL ADVERTISING SIGN-An advertising sign, structure or symbol erected and maintained by an individual or corporation engaged in the sale or rental of space thereon to a clientele of manufacturing, service or commercial enterprises, upon which space there is displayed, by means of painting, posting or other means, advertising copy describing a wide variety of products or services which are not made, produced, assembled or sold from the lot or premises upon which advertisement is displayed.

B. ENTERPRISE IDENTIFICATION SIGN-Any sign, symbol, trademark, structure or similar device used to identify the product made or the activity being pursued by any industry, business service or commercial enterprise, which sign is displayed upon the lot or premises occupied by such an enterprise for the purpose of apprising the passerby of the location of said enterprise and the type of activity in which it is engaged.

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. No story shall be deemed to be a first story if its floor level is more than six (6) feet above the level from which the height of the building is measured. A mezzanine floor shall be counted as a story if it covers over one-third (1/3) of the area of the floor next below it. For the purpose of this Ordinance, a split-level dwelling shall be considered a one-story structure.

STORY, HALF-A story of which any two (2) exterior sides meet a sloping roof not more than two (2) feet above the floor of such story, or that portion of any structure herein defined as a basement.

STREET-Any street, avenue, boulevard, road, parkway, viaduct, drive or other way (1) which is an existing State, county or municipal roadway, or (2) which is shown upon a plat heretofore approved pursuant to law, or (3) which is approved by official action as provided by this Ordinance, or (4) which is shown upon a plat duly filed and recorded in the office of the County Recording Officer prior to the appointment of a planning board and the grant to such board of the power to review plats; and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

STREET LINE-The dividing line between the lot and the street.

STRUCTURAL ALTERATIONS-Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or in the utility system or mechanical equipment of a structure which change materially alters its usability or capacity of function.

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.

TRAILER CAMP OR COURT-An area devoted to or designed for the accomodation of one (1) or more wheeled vehicles or portion thereof in use or capable of use as residential facilities, which vehicles are commonly known as "house trailers". Any such house trailer which has been rendered incapable of immediate removal to another site shall be considered a residential structure and shall meet all the requirements of this chapter for a residential structure.

TRANSITION STRIP-A concentration of massed trees and shrubbery not less than ten (10) feet wide, placed parallel to a property line for the purpose of screening unsightly uses, dust and noise. Such strip shall be composed of evergreen plants and trees planted with specimens having an initial height of not less than five (5) feet and planted at intervals of not more than ten (10) feet on center. The low-level screen shall consist of evergreen shrubs planted at an initial height of not more than five (5) feet on center. The low-level screen shall be placed in alternating rows to produce a more effective barrier.

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

YARD-An open space, as may be required by this Ordinance of uniform width or depth on the same lot with a building or group of buildings, which open space lies between the principal building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward except as herein permitted.

YARD, FRONT-A yard extending across the full width of the lot and lying between the front or street line of the lot and the nearest wall of part of the building. The depth of the front yard shall be measured at right angles to the front line of the lot.

YARD, REAR-A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest wall or part of the building. The depth of a rear yard shall be measured at right angles to the rear of the lot in the same manner as specified herein for the measurement of lot depth.

YARD, SIDE-An open, unoccupied space between the side line of the lot and the nearest wall or part of the building and extending from the front yard to the rear yard or, in the absence of either of such yards, to the front or rear lot lines as the case may be. The width of a side yard shall be measured at right angles to the side line of the lot. No dwelling or building shall be constructed on any lot or parcel of land less than eight (8) feet from each side building line. Each dwelling or building shall be built in conformity with the established front building line of the presently existing dwelling or building, and each dwelling or building shall consist of at least nine hundred (900) square feet of ground floor space.

ZONING BOARD-Zoning Board of Adjustment, as established under this Ordinance.

ZONING OFFICER-The Zoning Officer shall be the Building Inspector, unless another official is designated by the Mayor and Borough Council of the Borough of Woodlynne.

SECTION 68-5. Administrative Procedure.

The Borough Council, Planning Board, and Zoning Board of Adjustment shall adopt, and may amend reasonable rules and regulations, not inconsistent with the Municipal Land Use Law of 1975, P. L. 1975, c. 291 or this Ordinance for the administration of their functions, powers and duties, and shall furnish a copy thereof to any person upon request and may charge a reasonable fee, as established by Chapter 53 of the Code of the Borough of Woodlynne for such copy. Copies of all such rules and regulations and amendments thereto shall be maintained in the office of the Borough Clerk.

SECTION 68-6. Meetings; quorums. Alternate Members.

- A. Meetings of both the Planning Board and Zoning Board of Adjustment shall be scheduled no less than once a month, and any meeting so scheduled shall be held as scheduled unless cancelled for lack of applications for development to process.
- B. Special meetings may be provided for at the call of the Chairman or on the request of any two (2) Board members, which shall be held on notice to its members and the public in accordance with the requirements of the Open Public Meeting Law, c. 231, P.L. 1975.
- C. No action shall be taken at any meeting without a quorum being present.
- D. All actions shall be taken by majority vote of the members present at the meeting, except as otherwise required by any provision of P. L. 1975, c. 291.

E. A member of the board who was absent for one or more of the meetings at which a hearing was held shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his absence from one or more of the meetings; provided however, that such board member has available to him the transcript or recording of all of the hearing from which he was absent and certifies in writing to the board that he has read such transcript or listened to such recording.

F. The Borough Council may, by ordinance, provide for the appointment to the Planning Board of not more than two alternate members. Alternate members shall be appointed by the Mayor, and shall meet the qualifications of Class IV members pursuant to Section 68-36D of this Ordinance, except that one such member may be a member of the Zoning Board of Adjustment. Alternate members shall be designated at the time of appointment by the Mayor as "Alternate No. 1" and "Alternate No. 2". The terms of the alternate members shall be for two (2) years, except that the terms of the alternate members shall be such that the term of not more than one alternate member shall expire in any one year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed two (2) years. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.

Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

SECTION 68-7. Public Meetings and Minutes.

- A. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meetings Law, Chapter 231 of the Laws of 1975. An executive session for the purpose of discussing and studying any matters to come before either Board shall not be deemed a regular or special meeting in accordance with the provisions of NJS.A. 40:55D-9.
- B. Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the Board and of the persons appearing by attorney, the action taken by the Board, the findings, if any, made by it and reasons therefore. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the Municipal Clerk. Any interested party shall have the right to compel the production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party shall be charged a fee as established by Chapter 53 of the Code of the Borough of Woodlynne, for the reproduction of the minutes for his use.

SECTION 68-8. Hearings.

- A. Public hearings and personal notice are required on each application for development and on all variances before the Board of Adjustment and the Planning Board and shall follow the requirements of the Municipal Land Use Law.
- B. The Planning Board and Zoning Board of Adjustment may make rules governing the conduct of hearings before such bodies, which rules shall not be inconsistent with the provisions of N.J.S.A. 40:55D-1 et. seq. or of this Ordinance.
- C. Any maps and documents for which approval is sought at a hearing shall be on file and available for public inspection at least ten (10) days before the date of the hearing during normal business hours in the office of the Municipal Clerk. The applicant may produce other documents, records, or testimony at the hearing to substantiate or clarify or supplement the previously filed maps and documents.
- D. The officer presiding at the hearing or such person as he may designate shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law, P. L. 1953, c. 38 (N.J.S.A. 2A:67A-1 et. seq.) shall apply.

- E. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.
- F. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.
- G. Each Board shall provide for the verbatim recording of the proceedings either by stenographer or by mechanical or electronic means. The Board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his expense; provided that the Borough Council may provide by ordinance for the municipality to assume the expense of any transcripts necessary for appeal to the governing body pursuant to Section 68-16 of this Ordinance of decisions by the Zoning Board of Adjustment pursuant to Section 68-26A4 of this Ordinance, up to a maximum amount as specified by the Ordinance.

The municipal agency in furnishing a transcript of the proceedings to an interested party at his expense shall not charge such interested party more than the maximum permitted in N.J.S.A. 2A:11-15, pursuant to N.J.S.A. 40:55D-10(f). Said transcript shall be certified in writing by the transcriber to be accurate.

SECTION 68-9. Informal Review.

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

SECTION 68-10. Form of Decision; Copies; Publication of Decision.

A. Each decision on any application for development shall be set forth in writing as a resolution of the Board, which shall include findings of fact and legal conclusions based thereon.

Failure of a motion to approve an application for development to receive the numbers of votes required for approval shall be deemed an action denying the application. The Board may provide such written decision and findings and conclusions either on the date of the meeting at which the Board takes to grant or deny approval, or, if the meeting at which such action is taken occurs within the final 45 days of the applicable time period for rendering a decision on the application for development, within 45 days of such meeting by the adoption of a

resolution of memorialization setting forth the decision and the findings and conclusions of the Board thereon. An action resulting from the failure of a motion to approve an application shall be memorialized by the resolution as provided above, notwithstanding the time at which such action occurs within the applicable time period for rendering a decision on the application.

The adoption of a resolution of memorialization pursuant to this subsection shall not be construed to alter the applicable time period for rendering a decision on the application for development. Such resolution shall be adopted by a vote of a majority of the members of the Board who voted for the action previously taken, and no other members of the Board shall vote thereon. The vote on such resolution shall be deemed to be a memorialization if an action of the Board; except that failure to adopt such a resolution within the 45 day period shall result in the approval of the application for development, notwithstanding any prior action taken thereon. Whenever a resolution of memorialization is adopted in accordance with this subsection, the date of such adoption shall constitute the date of the decision for purposes of the mailings, filings, and publications required by subsections B and C of this section.

- B. A copy of the decision shall be mailed by the Board within ten (10) days of the date of decision to the applicant

or, if represented, then to his attorney, without separate charge. A copy of the decision shall also be mailed to all persons who have requested it and who have paid the fee established by Chapter 53 of the Code of the Borough of Woodlynne. A copy of the decision shall also be filed in the office of the Municipal Clerk, who shall make a copy of such filed decision available to any interested party upon payment of the fee established by Chapter 53.

C. A brief notice of the decision shall be published in the official newspaper of the municipality. Such publication shall be arranged by the Municipal Clerk, provided that the applicant may in any case provide for publication of the decision. The applicant shall pay a fee as designated by Chapter 53 for publication of said notice, unless applicant submits proof acceptable to the Municipal Clerk within ten (10) days of the decision that he has provided for the required publication. The period of time in which an appeal of the decision may be made shall run from the first publication of the decision whether arranged by the Borough or the applicant.

SECTION 68-11. Notice Requirements for Hearings on Applications for Development.

Whenever a hearing is required on an application for development pursuant to Subsection B of this section, the applicant shall give public notice thereof in the official newspaper of

the municipality at least ten (10) days prior to the date of the hearing, and the applicant shall file an affidavit of proof of service with the Board holding the hearing.

- A. All notices as hereinafter required shall state the date, time, and place of a hearing, the nature of the matters to be considered and identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the Municipal Tax Assessor's office and the location and times at which any maps and documents for which approval is sought are available as required by law.

- B. Public notice of a hearing on an application shall be given except for (1) conventional site plan review, if the Planning Board finds that the application for development conforms to the definition of a "Minor Site Plan" pursuant to Section 68-4 of this Ordinance, (2) review of applications for development which conform to the definition of "Minor Subdivision", pursuant to Section 68-4 of this Ordinance, or (3) final approval of site plans and major subdivisions, provided that public notice shall be given in the event that relief is requested pursuant to Section 68-26 or Section 68-43 of this Ordinance as part of an application for development otherwise excepted herein from public notice.

C. Notice of a hearing requiring public notice pursuant to Subsection B of this section shall be given to the owners of all real property located within two-hundred (200) feet in all directions of the property which is subject of such hearing; provided that this requirement shall be deemed satisfied by notice to the (1) condominium association, in the case of any unit owner whose unit has a unit above or below it, or (2) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Such notice shall be given by serving a copy thereof on the owner as shown the said current tax duplicate, or his agent in charge of the property, or by mailing a copy thereof by certified mail to the property owner at his address as shown on said current tax duplicate. A return receipt is not required. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice-president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the

property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

- D. Pursuant to the provisions of N.J.S.A. 40:55D-12c, the construction code enforcement official shall within seven (7) days after receipt of a request therefore make and certify a list from the current tax duplicate of names and addresses of owners to whom the applicant is required to give notice pursuant to Section 68-10B. of this Ordinance. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner not on the list shall not invalidate any hearing or proceeding. A sum not to exceed \$0.25 per name, or \$10.00, whichever is greater, may be charged for such a list.
- E. Notice of all hearings on applications for development involving property located within two-hundred (200) feet of an adjoining municipality shall be given by personal service or certified mail to the Clerk of such municipality.
- F. Notice shall be given by personal service or certified mail to the County Planning Board of a hearing on an application for development of property adjacent to an existing County road or proposed road shown on the official County Map or on the County Master Plan, adjoining

other County land or situated within 200 feet of a municipal boundary.

- G. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a State highway.
- H. Notice shall be given by personal service or certified mail to the Director of the Division of State and Regional Planning in the Department of Community Affairs of a hearing on an application for development of property which exceeds one-hundred-fifty (150) acres or five hundred (500) dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the Municipal Clerk pursuant to Section 6b of Chapter 291 of the Laws of 1975.
- I. Any notice made by certified mail as hereinabove required shall be deemed complete upon mailing in accordance with the provisions of N.J.S.A. 40:55D-14.

SECTION 68-12. Notice Concerning Master Plan.

The Planning Board shall give:

- 1. Public notice of a hearing on adoption, revision, or amendment of the master plan; such notice shall be given by publication in the official newspaper of the municipality at least 10 days prior to the date of the hearing.
- 2. Notice by personal service or certified mail to the clerk of an adjoining municipality of all hearings on

adoption, revision or amendment of a master plan involving property situated within 200 feet of such adjoining municipality at least 10 days prior to the date of any such hearing.

3. Notice by personal service or certified mail to the County Planning Board of (a) all hearings on the adoption, revision or amendment of the municipal master plan at least 10 days prior to the date of the hearing; such notice shall include a copy of any such proposed master plan, or any revision or amendment thereto; and (b) the adoption, revision, or amendment of the master plan not more than 30 days after the date of such adoption, revision, or amendment. Such notice shall include a copy of the master plan or revision or amendment thereto.

SECTION 68-13. Notice of Hearing on Ordinance or Capital Improvement Program; Notice of Action on Capital Improvement or Official Map.

- A. Notice by personal service or certified mail shall be made to the clerk of an adjoining municipality of all hearings on the adoption, revision or amendment of a development regulation involving property situated within 200 feet of such adjoining municipality at least ten (10) days prior to the date of any such hearing.

- B. Notice by personal service or certified mail shall be made to the County Planning Board of (1) all hearings on adoption, revision or amendment of any development regulation at least ten (10) days prior to the date of the hearings; and (2) the adoption, revision or amendment of the municipal capital improvement program or municipal official map not more than 30 days after the date of such adoption, revision, or amendment. Any notice provided hereinunder shall include a copy of the proposed development regulation, or any proposed revision or amendment thereto, as the case may be.
- C. Notice of hearings to be held pursuant to this section shall state the date, time and place of the hearing and the nature of the matters to be considered.
- D. Any notice by certified mail pursuant to this section shall be deemed complete upon mailing.

SECTION 68-14. Filing of Copies of Development Regulations.

The Municipal Clerk shall file, with the County Planning Board as soon after passage as possible, all development regulations, including this Ordinance and any amendments or revisions thereto, and file and maintain for public inspection copies of said regulations in the office of the Clerk. The official map of the municipality shall not take effect until filed with the County Recording Officer.

SECTION 68-15. Appeals to Zoning Board of Adjustment.

An appeal to the Zoning Board of Adjustment may be taken by any interested party affected by any decision of the administrative officer of the municipality based on or made in the enforcement of the Zoning Ordinance, which appeals shall be taken pursuant to Article II. Section 68-28B of this Ordinance and N.J.S.A. 40:55D-72a.

SECTION 68-16. Appeals to the Governing Body.

- A. Any interested party desiring to appeal the decision of the Planning Board or Zoning Board of Adjustment shall appeal to the Borough Council (1) a final decision of the Zoning Board of Adjustment granting a use variance as described in N.J.S.A. 40:55-70d, or (2) a final decision by the Planning Board or the Zoning Board of Adjustment on an application for development, provided that such appeal shall be made within ten (10) days of the date of publication of such final decision pursuant to Section 68-10 of this Ordinance.
- B. The appeal to the Borough Council shall be made by serving the Municipal Clerk in person or by certified mail with a notice of appeal specifying the grounds therefor and the name and address of the appellant and name and address of his attorney, if represented. Such appeal shall be decided by the Borough Council only upon the record established before the Planning Board or Zoning Board of Adjustment.

- C. Notice of the meeting to review the record below shall be given by the Borough Council by personal service or certified mail to the appellant, to those entitled to notice of a decision pursuant to Section 68-10B and to the board from which the appeal is taken at least ten (10) days prior to the date of the meeting. The parties may submit oral and written argument on the record at such meeting, and the Borough Council shall provide for the verbatim recording and transcripts of such meetings pursuant to Section 68-8G.
- D. The appellant shall, (1) within five (5) days of service of the notice of the appeal pursuant to Subsection A hereof, arrange for a transcript pursuant to Section 68-8G of this Ordinance, or (2) within 35 days of the service of the notice of appeal, submit a transcript as otherwise arranged to the municipal clerk; otherwise, the appeal may be dismissed for failure to prosecute. The Borough Council shall conclude a review of the record below not later than 95 days from the date of publication of notice of the decision below pursuant to Section 68-10C of this Ordinance unless the applicant consents in writing to an extension of such period. Failure of the Borough Council to hold a hearing and conclude a review of the record below and to render a

decision within such specified period shall constitute a decision affirming the action of the board.

- E. The Borough Council may reverse, remand or affirm, wholly or in part, or may modify the final decision of the Planning Board or the Board of Adjustment, as the case may be.
- F. The affirmative vote of a majority of the full authorized membership of the Borough Council shall be necessary to reverse, remand or modify any final action of either Board.
- G. An appeal to the Borough Council shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the board from whose action the appeal is taken certifies to the Borough Council, after the notice of appeal shall have been filed with such board, that by reason of facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court on application upon notice to the Zoning Board of Adjustment and on good cause shown.
- H. The Borough Council shall mail a copy of the decision to the appellant or if represented, then to his attorney, without separate charge, and for a reasonable charge to any interested party who has requested it, not later than 10 days after the date of decision. A brief notice of

the decision shall be published in the official newspaper of the municipality. Such publication shall be arranged by the applicant unless a particular municipal officer is so designated by ordinance; provided that nothing contained herein shall be construed as preventing the applicant from arranging such publication if he so desires. The Borough Council may make a reasonable charge for its publication. The period of time in which an appeal to a court of competent jurisdiction may be made shall run from the first publication whether arranged by the municipality or the applicant.

- I. Nothing herein shall be construed to restrict the right of any party to obtain a review by any court of competent jurisdiction according to law.

SECTION 68-17. Conditional Approvals.

- A. In the event that a developer submits an application for development proposing a development that is barred or prevented, directly or indirectly, by a legal action instituted by any State agency, political subdivision or any other party to protect the public health and welfare or by a directive or order issued by any State agency, political subdivision or court of competent jurisdiction to protect the public health and welfare, the Planning Board or the Zoning Board of Adjustment shall process

such application for development in accordance with this Ordinance, and, if such application for development complies with the requirements of this Ordinance, the board shall approve such application conditioned on removal of such legal barrier to development.

- B. In the event that development proposed by an application for development requires an approval by a governmental agency other than the Planning Board or the Zoning Board of Adjustment, the board shall, in appropriate instances, condition its approval upon the subsequent approval of such governmental agency; provided that the board shall make a decision on any application for development within the time period provided in this Ordinance or within an extension of such period as has been agreed to by the applicant unless the approving authority is prevented or relieved from so acting by the operation of law.

SECTION 68-18. Conditional Uses.

- A. Before any permit shall be issued for a conditional use, application shall be made to the Planning Board. The planning board shall grant or deny the application after public hearing, but within ninety-five (95) days of submission of a complete application to the Administrative Officer or within such further time as may be

consented to by the applicant.

B. The review by the Planning Board of a conditional use shall include any required site plan review pursuant to Article IV. of this Ordinance. The time period for action by the Planning Board on conditional uses pursuant to Subsection A of this section shall apply to such site plan review. Failure of the Planning Board to act within the period prescribed shall constitute approval of the application and a certificate of the administrative officer as to the failure of the Planning Board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the County Recording Officer for purposes of filing subdivision plats.

Whenever review or approval of the application by the County Planning Board is required by Section 5 of P. L. 1968, c. 285, in the case of a subdivision, or Section 8 of P. L. 1968, c.285, in the case of a site plan, the Planning Board shall condition any approval that it grants upon the timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.

SECTION 68-19. Enforcement.

The Borough Council shall enforce this Ordinance and any ordinance or regulation made or adopted hereunder. To that end, the Borough Council may require the issuance of specified permits, certificates or authorizations as a condition precedent to (1) the erection, construction, alteration, repair, remodeling, conversion, removal or destruction of any building or structure, (2) the use or occupancy of any building, structure or land, and (3) the subdivision or resubdivision of any land; and shall establish an administrative officer and offices for the purpose of issuing such permits, certificates or authorizations; and may condition the issuance of such permits, certificates and authorizations upon the submission of such data, materials, plans, plats and information as is authorized hereunder and upon the express approval of the appropriate State, county or municipal agencies; and may establish reasonable fees to cover administrative costs for the issuance of such permits, certificates and authorizations.

In case any building or structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance, the Borough Council and its agents or any interested party, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said buildings, structure or land, or to prevent

any illegal act, conduct, business or use on or about such premises.

SECTION 68-20. Repealer.

All sections of any Ordinance of the Borough of Woodlynne which contain provisions contrary to the provisions of this Ordinance shall be and are hereby to the extent of such inconsistency repealed.

SECTION 68-21. Severability.

Should any section, phrase or word contained in this Ordinance be found to be illegal, unconstitutional, inconsistent with the intent of Chapter 291 of the Laws of 1975 or in any other respect of no force or effect, then that finding shall apply only to the particular section, phrase or word which is the subject of the finding and shall not affect the validity of any other section, phrase or word within this Ordinance.

SECTION 68-22. When Effective.

This Ordinance shall take effect upon hearing and publication according to law.

ARTICLE II

ZONING BOARD OF ADJUSTMENT

SECTION 68-23, Establishment and Composition; Terms of Office; Vacancies.

- A. A Zoning Board of Adjustment is hereby established pursuant to N.J.S.A. 40:55D-69 et seq., consisting of seven (7) residents of the Borough of Woodlynne appointed by the Mayor, with the advice and consent of Council, to serve for terms of four (4) years from January 1 of the year of their appointment.
- B. The terms of the members first appointed shall be so determined that to the greatest practicable extent the expiration of such terms shall be distributed evenly over the first four (4) years after their appointments, provided that the initial term of no member shall exceed four (4) years. Thereafter, the term of each member shall be for four (4) years. Nothing in this Ordinance shall, however, be construed to affect the term of any present member of the Zoning Board of Adjustment, all of whom shall continue in office until the completion of the term for which they were appointed.
- C. No member of the Zoning Board of Adjustment may hold any elective office or position under the municipality.
- D. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only.
- E. No member shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or

financial interest.

- F. A member may, after public hearing if he requests it, be removed by the Borough Council for cause.

SECTION 68-24. Officers.

The Board of Adjustment shall elect a Chairman and Vice-Chairman from its members and shall also elect a Secretary, who may be either a Board member or another municipal employee.

SECTION 68-25. Experts and Staff.

- A. The Borough Council shall make provision in its budget and appropriate funds for the expenses of the Zoning Board of Adjustment.
- B. The Zoning Board of Adjustment may employ, or contract for, and fix the compensation of legal counsel, other than the Municipal Attorney, and experts and other staff and services as it shall deem necessary, not exceeding, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

SECTION 68-26. Powers.

- A. The Board of Adjustment shall have such powers as are granted by law to:
- (1) Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of Article V. of this Ordinance.

- (2) Hear and decide requests for interpretation of the Zoning Map or Zoning Article of this Ordinance or for decisions upon other special questions upon which such Board is authorized to pass by the Zoning Article of this Ordinance.
- (3) Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or by reason of other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation in Article V. of this Ordinance would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon, the owner of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application so as to relieve such difficulties or hardship, including a variance for a conditional use; provided however that no variance shall be granted under this subsection to allow a structure or use in a district restricted against such structure or use, and further provided that the proposed development does not require approval by the Planning Board of subdivision, site plan or conditional use in conjunction with which the Planning Board shall review a request for a variance pursuant to Section 43A of this Ordinance.

(4) In particular cases and for special reasons, grant a variance to allow departure from regulations pursuant to Article V. of this Ordinance, including, but not limited to, allowing a structure or use in a district restricted against such structure or use, but only by the affirmative vote of at least five (5) members of the Board.

B. No variance or other relief may be granted under the provisions of this section, unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and the Zoning Article of this Ordinance. Any application under any subsection of this section may be referred to any appropriate person or agency, including the Planning Board, for its report, provided that such reference shall not extend the period of time within which the Zoning Board of Adjustment shall act.

SECTION 68-27. Additional Powers.

The Zoning Board of Adjustment shall, in addition to the powers specified in Section 68-26 of this Article, have power given by law to:

A. Direct issuance of a permit pursuant to N.J.S.A. 40:55D-34 for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved pursuant to N.J.S.A. 40:55D-32.

- B. Direct issuance of a permit pursuant to N.J.S.A. 40:55D-36 for a building or structure not related to a street.
- C. The Board of Adjustment shall have the power to grant, to the same extent and subject to the same restrictions as the Planning Board, subdivision or site plan approval pursuant to Article 6 of Chapter 291 of the Laws of 1975 or conditional use approval pursuant to N.J.S.A. 40:55D-67 whenever the proposed development requires approval by the Board of Adjustment of a variance pursuant to Section 68-26A4 of this Ordinance. The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan, or conditional use. The separate approval of the variance shall be conditioned upon grant of all required subsequent approvals by the Board of Adjustment. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance. The number of votes of Board members required to grant any subsequent approval shall be as otherwise provided in this Ordinance for the approval in question, and the special vote pursuant to the aforesaid Section 68-26A4 shall not be required.
- D. Whenever an application for development requests relief pursuant to Subsection C of this Section, the Zoning Board

of Adjustment shall act in accordance with the following provisions:

- (1) The Board of Adjustment shall grant or deny approval of the application within 120 days after submission by a developer of a complete application to the secretary of the Board of Adjustment or within such further time as may be consented to by the applicant. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be as otherwise provided in this Ordinance. Failure of the Board of Adjustment to act within the period prescribed shall constitute approval of the application and a certificate of the secretary of the Board of Adjustment as to the failure of the Board of Adjustment to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the County Recording Officer for purposes of filing subdivision plats.
- (2) Whenever review or approval of the application by the County Planning Board is required by Section 5

of P. L. 1968, c. 285, in the case of a subdivision, or Section 8 of P. L. 1968, c. 285, in the case of a site plan, the Board of Adjustment shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board, or approval by the County Planning Board by its failure to report thereon within the required time.

- (3) An application under this section may be referred to any appropriate person or agency for its report; provided that such reference shall not extend the period of time within which the Zoning Board of Adjustment shall act.

SECTION 68-28. Applications and Appeals to the Board of Adjustment

- A. A developer may file an application for development with the Board of Adjustment for action under any of its powers without prior application to an administrative officer.
- B. Appeals to the Board of Adjustment may be taken by any interested party affected by any decision of an administrative officer of the municipality based on or made in the enforcement of the Zoning Ordinance or Official Map. Such appeal shall be taken within twenty (20) days by filing a notice of appeal with the officer from whom the appeal was taken, together with three (3) copies of said notice with the Secretary of the Board of Adjustment. Said notice of appeal shall specify the grounds for said

appeal. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

SECTION 68-29. Application Procedures.

- A. If an application for development is filed with the Board of Adjustment, whether or not an appeal from a decision of an administrative officer is also taken, the applicant shall submit three (3) copies of his completed application to the Secretary of the Zoning Board of Adjustment. At the time of filing the appeal or application, but in no event less than ten (10) days prior to the date set for hearing, the applicant shall also file all plot plans, maps or other papers required by virtue of any provisions of this chapter or any rule of the Board of Adjustment. The applicant shall obtain all necessary forms from the Secretary of the Zoning Board of Adjustment. The Secretary of the Board shall inform the applicant of the steps to be taken to initiate proceedings and of the regular meeting dates of the Board.

- B. The time for the Board's review shall not begin to run until the submission of a complete application with the fee specified in Chapter 53 of the Code of the Borough of Woodlynne. Unless the applicant is informed in writing by the Secretary of the Board of Adjustment within 45 days of the actual submission of the application that it is incomplete, said application shall be deemed complete as of the date it was submitted.
- C. A complete application for development under this Article shall consist of the following:
- (1) A properly completed variance information application form.
 - (2) The required fee, as per Chapter 53 of this Ordinance.
 - (3) If subdivision and/or site plan and/or conditional use approval is also sought as part of an application for a variance pursuant to Subsection 68-26A.3. of this Ordinance, the applicant shall also include the information and documents required pursuant to the provisions of Section IV. of this Ordinance.
 - (4) The Secretary of the Board of Adjustment shall distribute the application for review and report, and where required, approval as follows:
 - a. The Board of Adjustment.
 - b. The Planning Board.
 - c. The Borough Engineer.
 - d. The Municipal Utilities Authority.
 - e. Health Officer.
 - f. Police Chief.
 - g. Fire Chief.

SECTION 68-30. Payment of Taxes.

Pursuant to the provisions of N.J.S.A. 40:55D-65, every application submitted to the Zoning Board of Adjustment shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such applications; or, if it is shown that taxes or assessments are delinquent on said property, any approvals or other relief granted by the Board shall be conditioned upon either the prompt payment of such taxes or assessments, or the making of adequate provision for the payment thereof in such manner that the municipality will be adequately protected.

SECTION 68-31. Time Limit for Decision.

- A. The Board of Adjustment shall render its decision not later than one-hundred-twenty (120) days after the date an appeal is taken from the decision of an administrative officer or one-hundred-twenty (120) days after the submission of a complete application for development to the Board pursuant to the provisions of N.J.S.A. 40:55D-72.
- B. Failure of the Board to render a decision within such one-hundred-twenty-day period or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant.

SECTION 68-32. Modification on Appeal.

In exercising the above-mentioned power, the Board of Adjustment may, in conformity with the provisions of P.L. 1975, c. 291. or amendments thereto or subsequent statutes applying, reverse or affirm wholly

or partly or modify the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative officer from whom the appeal was taken.

SECTION 68-33. Stay of Proceedings by Appeal.

An appeal stays all proceedings in furtherance of the action in respect of which the decision appealed from was made, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by an order of
the Superior
Court of New Jersey on notice to the officer from
whom the appeal is taken and on due cause shown.

SECTION 68-34. Denial.

Any application which is denied by the Board of Adjustment shall not be again considered by the Board, except as provided herein and pursuant to Chapter 291 of the Laws of 1975, until two (2) years' time lapses from the date of the Board's resolution of denial.

SECTION 68-35. Expiration of Variance.

Any variance from the terms of this Ordinance hereafter granted by the Board of Adjustment permitting the erection or alteration of any structure or structures or permitting a specified use of any premises shall expire by limitation, unless such construction or alteration shall have been actually commenced on each and every structure permitted by said variance or unless such permitted use has actually

been commenced within one (1) year from the date of entry of the judgment or determination of the Board of Adjustment: except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Board of Adjustment to the governing body or to a court of competent jurisdiction until the termination in any manner of such appeal or proceeding.

ARTICLE III

PLANNING BOARD

SECTION 68-36. Establishment; Composition.

There is hereby established pursuant to P in the Borough of Woodlynne a Planning Board members consisting of the following four (4) cla

- A. Class I: the Mayor.
- B. Class II: one (1) of the officials of the municipality other than a member of the governing body to be appointed by the Mayor.
- C. Class III: a member of the governing body to be appointed by it.
- D. Class IV: a member of the governing body to be appointed by the Mayor, provided that, if there is an Environmental Commission, the member of the Environmental Commission, who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1, shall be deemed to be a Class IV Planning Board member. The members of Class IV shall hold no other municipal office, except that one (1) member may be a member of the Environmental Commission. No member of the Board of Education shall be a Class IV member of the Planning Board.

SECTION 68-37. Terms of Office; Removal.

- A. The term of the member composing Class I shall correspond

with his official tenure. The terms of the members composing Class II and Class III shall be for one (1) year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member, who is also a member of the Environmental Commission. The term of a Class II or Class IV member, who is also a member of the Environmental Commission, shall be for three (3) years or terminate at the completion of his term of office as a member of the Environmental Commission, whichever comes first.

- B. The term of a Class IV member, who is also a member of the Board of Adjustment, shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first.
- C. The terms of all Class IV members first appointed pursuant to this Ordinance shall be so determined that to the greatest practicable extent the expiration of such terms shall be evenly distributed over the first four (4) years after their appointment; provided, however, that no term of any member shall exceed four (4) years, and further provided that nothing herein shall affect the term of any present member of the Planning Board, each of whom shall continue in office until the completion of their term for which he was appointed. Thereafter, all Class IV members shall be appointed for terms of four (4) years, except as otherwise herein provided. All terms shall run from January 1 of the year in which the appointment was made.

SECTION 68-38. Vacancies.

If a vacancy of any class shall occur otherwise than by expiration of term, it shall be filled by appointment as above provided for the unexpired term.

SECTION 68-39. Officers.

The Planning Board shall elect a Chairman and Vice Chairman from the members of Class IV and select a Secretary, who may or may not be a member of the Planning Board or a municipal employee designated by it.

SECTION 68-40. Experts and Staff.

The Planning Board may employ, or contract for, and fix the compensation of legal counsel, other than the Municipal Attorney, and experts, and other staff and services as it may deem necessary, not exceeding, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

SECTION 68-41. Powers and Duties.

The Planning Board shall have the following powers and duties:

- A. To make and adopt and from time to time amend a Master Plan for the physical development of the Borough, including any areas outside its boundaries which, in the Board's judgment, bear essential relation to the planning of the Borough in accordance with the provisions of N.J.S.A. 40:55D-28.
- B. To administer the provisions of Article IV. of this Ordinance in accordance with the provisions of said Article and the Municipal Land Use Law of 1975 (N.J.S.A. 40:55D-1 et. seq.).

- C. To approve conditional use applications in accordance with the provisions of Article I, Section 68-16 and Article V. of this Ordinance pursuant to N.J.S.A. 40:55D-67, and to exercise such other powers with regard to the Zoning Ordinance as are assigned to it by 40:55D-25.
- D. To review applications for variances and certain building permits in conjunction with subdivision, site plan and conditional use approval pursuant to Section 68-42 of this Ordinance.
- E. To exercise its referral power of review over proposals concerning the official map pursuant to N.J.S.A. 40:55D-32 and Section 68-43 of this Ordinance.
- F. To assemble data on a continuing basis as part of a continuous planning process.
- G. To annually prepare a program of municipal capital improvement projects projected over a term of six (6) years, and amendments thereto, and to recommend same to the governing body.
- H. To perform such other advisory duties as are assigned to it by ordinance or resolution of the governing body for the aid and assistance of the governing body or other agencies or officers.

SECTION 68-42. Ancillary Powers.

When reviewing applications for approval of subdivision plats, site plans or conditional uses, to grant to the same extent and subject to the same restrictions as the Zoning Board of Adjustment:

- A. Variances, pursuant to Section 57c of Chapter 291 of the Laws of 1975.
- B. Direction, pursuant to Section 25 of said Act, for issuance of permit for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved pursuant to Section 23 of said Act.
- C. Direction, pursuant to Section 27 of said Act, for issuance of a permit for a building or structure not related to a street.

Whenever relief is required pursuant to this Section, notice of a hearing on the application for development shall include reference to the request for a variance or direction for issuance of a permit, as the case may be.

SECTION 68-43. Referral Powers.

- A. Prior to the adoption of a development regulation, revision, or amendment thereto, the Planning Board shall make and transmit to the Borough Council, within thirty-five (35) days after referral a report including recommendations concerning the proposed development regulation, revision or amendment. The Borough Council, when considering the adoption of a development regulation, revision or amendment thereto, shall review the report of the Planning Board and may disapprove or change any recommendation by a vote of a majority of its full authorized membership and shall record in its minutes the reasons for not following such recommendations. Failure of the Planning Board to transmit its report within the 35-day period provided herein shall relieve the Borough Council from the requirements of this subsection in regard to the proposed development regulation, revision or amendment thereto referred to the Planning Board.
- B. Prior to the hearing on adoption of an Ordinance providing for Planning Board approval of either subdivisions or site plans or both or any amendment thereto, the Borough Council shall refer any such proposed ordinance or amendment thereto to the Planning Board.

SECTION 68-44. Time Limits for Approval of Minor Subdivisions and
Conditional Uses.

- A. Minor Subdivisions. The approval of a minor subdivision, as defined in Section 68-4 of this Ordinance, shall be granted or denied within 45 days of the submission of a complete application, pursuant to Section 68-58 of Article IV to the Planning Board or within such further time as may be consented to by the applicant. Approval of a minor subdivision shall expire one hundred ninety (190) days from the date of the Planning Board approval, unless within such period a plat in conformity with such approval and the provisions of the Map Filing Law or a deed clearly describing the approved minor subdivision is filed by the developer with the County Recording Officer, the Municipal Engineer and the Municipal Tax Assessor. Any such plat or deed must be signed by the Chairman and Secretary of the Planning Board.
- b. Conditional Uses. The review by the Planning Board of a conditional use shall include any required site plan review pursuant to Article IV of this Ordinance. The time period for action by the Planning Board on conditional uses pursuant to Article I, Section 68-18 shall apply to such site plan review.

SECTION 68-45 Time Limits for Preliminary Approval of Site Plans and
Major Subdivisions.

- A. Site plans. Upon the submission to the administrative officer or Board, a complete application for a site plan pursuant to Section 68-61 of this Ordinance, the Planning Board shall grant

or deny preliminary approval within 45 days of the date of such submission or within such further time as may be consented to by the applicant.

B. Major subdivisions.

(1) Upon submission of a complete application, pursuant to Section 68-59 of this Ordinance, for a subdivision of ten (10) or fewer lots, the Planning Board shall grant or deny preliminary approval within forty-five (45) days of the date of such submission or within such further time as may be consented to by the developer.

(2) Upon submission of a complete application, pursuant to Section 68-59 of this Ordinance, for a subdivision of more than ten (10) lots, the Planning Board shall grant or deny preliminary approval within ninety-five (95) days of the date of such submission or within such further time as may be consented to by the developer.

SECTION 68-46. Failure to Reach a Decision.

Failure of the Planning Board to reach a decision within the specified time period or extensions thereof shall result in the approval of the subdivision and/or site plan and/or conditional use as submitted. A certificate of the administrative officer as to the failure of the Planning Board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the County Recording Officer for the purpose of filing subdivision

plats.

SECTION 68-47. Exercise of Ancillary powers.

Whenever the Planning Board is called upon to exercise its ancillary powers before the granting of a variance as set forth in Section 68-42 of this Ordinance, the Planning Board shall grant or deny approval of the application within ninety-five (95) days after submission by the developer of a complete application or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute approval of the application, and a certificate of the administrative officer designated in Section 68-10 as to the failure of the Planning Board to act shall be issued on request of the applicant.

SECTION 68-48. Public hearings.

A public hearing shall be held at the preliminary approval stage for major subdivisions and site plans, pursuant to Article I, Section 68-8 of this Ordinance.

SECTION 68-49. Rights under Preliminary Approval.

Preliminary approval of a major subdivision or site plan shall confer upon the applicant the following rights for a three-year period from the date of the preliminary approval:

- A. That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to: use requirements, layout and design standards for streets, curbs, and sidewalks, lot size, yard dimensions and off-tract improvements; and, in the case of a site plan: existing natural resources to be preserved on the site, vehicular

and pedestrian circulation, parking and loading, screening, landscaping and location of structures, exterior lighting both for safety reasons and street lighting, except that nothing herein shall be construed to prevent the Borough from modifying by ordinance such general terms and conditions of preliminary approval as relate to public health and safety.

- B. That the applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary subdivision plat or site plan.
- C. That the applicant may apply for and the Planning Board may grant extensions on such preliminary approval for additional periods of at least one year but not to exceed a total extension of two years, provided that if the design standards have been revised by ordinance, such revised standards may govern.

SECTION 68-50. Final Approval of Site Plans and Major Subdivisions.

- A. The Planning Board shall grant final approval if the detailed drawings, specifications and estimates of the application for final approval conform to the standards established by this Ordinance for final approval, the conditions of preliminary approval, and, in the case of a major subdivision, the standards prescribed by the

"Map Filing Law", P. L. 1960, c. 141.

- B. Application for final subdivision approval shall be granted or denied within forty-five (45) days of submission of a complete application to the administrative officer or within such further time as may be consented to by the applicant.
- C. Final approval of a major subdivision shall expire ninety-five (95) days from the date of signing of the plat, unless within such period the plat shall have been duly filed by the developer with the County Recording Officer. The Planning Board may for good cause shown, extend the period for recording for an additional period not to exceed one hundred ninety (190) days from the date of signing of the plat.

SECTION 68-51. Effect of Final Approval.

The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer pursuant to Section 68-44 of this Ordinance, whether conditionally or otherwise, shall not be changed for a period of two years after the date of final approval; provided that in the case of major subdivision the rights conferred by this section shall expire if the plat has not been duly recorded within the time period provided in Section 68-50.C of this Ordinance. If the developer has followed the standards prescribed for final approval, and, in the case of a subdivision, has duly recorded the plat as required in Section 68-50C of this ordinance, the approving authority may extend such period of protection for extensions of one year but not to exceed three extensions. Notwithstanding any other provisions of this Ordinance, the granting of final approval terminates the time period of preliminary approval pursuant to Section 68-44 of this Ordinance for the section granted final approval.

SECTION 68-52. Procedure for Filing Applications.

Applications for development within the jurisdiction of the Planning

Board, pursuant to the provisions of P.L. 1975, c. 291, shall be filed with the construction code enforcement official. The applicant shall file all applications at least fourteen (14) days before the date of the monthly meeting of the Board, and the submission of all applications shall be in accordance with the procedures set forth in Article IV., "Subdivision and Site Plan Review and Approval", of this Ordinance, except for such changes in procedure as may be required under the provisions of c. 291, P.L. 1975. At the time of filing the application, but in no event less than ten (10) days prior to the date set for hearing, the applicant shall also file plot plans, maps or other papers required by virtue of any provision of this Ordinance or any rule of the Planning Board. The applicant shall obtain all necessary forms from the construction code enforcement official. The construction code enforcement official shall inform the applicant of the steps to be taken to initiate applications and of the regular meeting dates of the Board.

SECTION 68-53. Advisory Committee.

The Mayor may appoint one (1) or more persons as a Citizens' Advisory Committee to assist or collaborate with the Planning Board in its duties, but such person or persons shall have no power to vote or take other action required of the Board. Such person or persons shall serve at the pleasure of the Mayor.

SECTION 68-54. Environmental Commission.

Whenever the Environmental Commission has prepared and submitted to the Planning Board and the Zoning Board of Adjustment an index of the natural resources of the municipality, the Planning Board or the Zoning Board of Adjustment shall make available to the Environmental Commission an informational copy of every application for development submitted to either Board. Failure of the Planning Board or Zoning Board of Adjustment to make such informational copy available to the Environmental Commission shall not invalidate any hearing or proceeding.

SECTION 68-55. Rules and Regulations.

The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this Ordinance in the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2:67A-1 et. seq.) shall apply.

ARTICLE IV.

SITE PLAN AND SUBDIVISION REVIEW AND APPROVAL

SECTION 68-56. Site Plan and Subdivision Approval Required.

- A. Approval of site plans by resolution of the Planning Board shall be required as a condition for the issuance of a Building Permit and Certificate of Occupancy for any development, except that subdivision or individual lot applications for detached one- or two-unit buildings shall be exempt from such site plan review and approval; provided that the resolution of the Board of Adjustment shall substitute for that of the Planning Board whenever the Board of Adjustment has jurisdiction over a subdivision or site plan pursuant to Section 68-27C of this Ordinance.
- B. Pursuant to the provisions of Section 28, P.L. 1975, c. 291 (c. 40:55D-37), approval of subdivision plats by resolution of the Planning Board shall be required as a condition for the filing of such plats with the County Recording Officer.

SECTION 68-57. Submittal Procedure.

- A. The applicant shall submit the required number of copies of his complete application to the administrative officer, pursuant to Article III., Section 68-52. and Article IV., Sections 68-58 through 68-60 of this Ordinance. The time for the approving authority's review shall not begin to run until the submission of a complete application with the required fee. Unless the

applicant is informed in writing by the administrative officer within forty-five (45) days of the actual submission of the application that it is incomplete, said application shall be deemed complete as of the date it was submitted.

- B. Each application for subdivision approval, where required pursuant to Section 5 of P.L. 1968, c. 285, and each application for site plan approval, where required pursuant to Section 8 of P.L. 1968, c. 285 shall be submitted by the applicant to the County Planning Board for review and approval, as required by the aforesaid sections, and the approving authority shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.
- C. Each application for subdivision approval and each application for site plan approval shall meet the requirements of Section 68-58, Section 68-59, Section 68-60 and Section 68-61 of this Ordinance, and shall contain where applicable the following provisions pursuant to N.J.S.A. 40:55D-38:
 - 1. Streets in the subdivision or land development of sufficient width and suitable grade and suitably located to accommodate prospective traffic and to

provide access for firefighting and emergency equipment to buildings and coordinated so as to compose a convenient system consistent with the official map, if any, and the circulation element of the Master Plan, if any, and so oriented as to permit, within the limits of practicality and feasibility the buildings constructed thereon to maximize solar gain; provided that no street of a width greater than 50 feet within the right-of-way lines shall be required unless said street constitutes an extension of an existing street of the greater width or already has been shown on the Master Plan at the greater width, or already has been shown in greater width on the official map.

2. Protection and conservation of soils from erosion by wind or water or from excavating or grading.

SECTION 53-58. Informal Plat; Application for Approval of Minor Subdivision.

- A. The submission of an informal plat for a major subdivision is optional. The purpose will be to review concepts to assist the applicant in the preparation of subsequent plans. No decision will be made and no formal action will be taken on an informal plat.
- B. A minor subdivision submission shall conform to the definition of a "minor subdivision" in Article I.
- C. The developer shall file with the administrative officer at least fourteen (14) days prior to the meeting of the

approving authority eight (8) black on white copies of the minor or informal plat, two (2) completed copies of the application form, and the applicable fee pursuant to Chapter 53 of the Code of the Borough of Woodlynne.

- D. The informal plat or minor subdivision plat shall meet the following requirements:
1. Clearly and legibly drawn.
 2. Scale not less than one hundred (100) feet to the inch.
 3. Title block including the words "Informal Plat for Review"; space for subdivision application number; north arrow and scale; the date of the original drawing and the date and substance of each revision.
 4. The name, address, signature and phone number of the owner, developer, and person preparing the plat.
 5. A key map with north arrow showing the entire development and its relation to surrounding areas.
 6. All existing zoning of the tract and adjacent tracts.
 7. The tax map sheet, block, and lot number for the tract and all adjacent lots.
 8. Area of original tract to nearest tenth of an acre.
 9. Existing and proposed street and lot layout, with dimensions, showing that portion proposed for development in relation to the entire tract.
 10. Existing lot lines to be eliminated; area of each proposed lot.

11. All setback lines and shortest distance between any existing buildings and proposed or existing lot lines.
12. Contours based on U.S.G.S. data; significant natural features such as woods or wetlands.
13. All streams, lakes, and drainage rights of way; including the direction of flow; the location of all drainage structures; the location of flood plains and floodway lines.
14. Basic intent for water and sewer treatment.

SECTION 68-59. Preliminary Plat for Major Subdivision.

- A. The developer shall file with the administrative officer, at least fourteen (14) days prior to the meeting of the approving authority, ten (10) black on white copies of the preliminary plat, four (4) completed copies of the application form for preliminary approval, and the applicable fee.
- B. The preliminary plat shall meet the following requirements:
 1. Clearly and legibly drawn by a licensed New Jersey engineer or land surveyor, based on a certified boundary survey by a licensed New Jersey land surveyor.
 2. Scale not less than fifty (50) feet to the inch.
 3. A key map with north arrow showing the entire subdivision and its relation to surrounding areas at a scale of not less than two thousand (2000) feet to the inch.
 4. Title block containing the name of the subdivision; the name of the municipality; tax map sheet, block and lot number; date of preparation and most recent revision; north

- arrow; written and graphic scales; the names, addresses, phone numbers and signatures of the owner, subdivider, and person(s) who prepared the plat, including the seal of the latter; and space for the subdivision application number.
5. The boundary and acreage of the original tract measured to the nearest one-hundredth of an acre; the number, acreage and configuration of all lots being created; area of each lot correct to one-tenth of an acre; all existing and proposed lot lines correct to one foot.
 6. All proposed lot lines, including existing lot lines to remain and those to be eliminated and all setback lines required by the zoning provisions of this Ordinance with the dimensions thereof. Each block shall be numbered and lettered, and the lots within each block shall be numbered consecutively beginning with the number one or as acceptable to the Township engineer.
 7. Existing and proposed contours over the entire area of the proposed subdivision, at a two foot interval maximum. Contours shall be referenced to a United States Geological Survey datum.
 8. Location of all property lines, and names of all property owners within two hundred (200) feet of the site.
 9. Location of streets and street rights-of-way within five hundred (500) feet of the tract; location of existing buildings, easements, railroads and railroad rights-of-way, utility lines, drainage structures, floodplains, water

courses, any isolated trees over five (5) inches in diameter, rock outcrops or other significant natural features.

10. Location of all proposed buildings; location and proposed cross sections of all proposed streets and pedestrian ways.
11. Utility and drainage plans as required by the Municipal Engineer.
12. Soil Conservation Service soil classification; soil erosion control and sedimentation plan.
13. Landscape plan, showing all existing trees to remain and all proposed planting including street trees and buffer planting.

SECTION 68-60. Final Plat for Major Subdivision.

- A. The final plat shall be a refinement of the preliminary plat and shall meet all the requirements thereof. It shall be clearly and legibly drawn and prepared in compliance with the provisions of the Map Filing Law and shall conform to the following: tract boundary lines, right-of-way-lines of streets; all lot lines and other site lines with accurate dimensions, bearing or deflection angles and radii, arcs and chord bearings, with the distances of all curves, all based on an actual survey by a land surveyor licensed to practice in the State of New Jersey.
- B. The final plat shall be accompanied by the following: appropriate local, County, and State approvals; certification that

the applicant is agent or owner of the land, or that the owner has given consent to the development; a certificate from the Tax Collector that all taxes on the subdivision are paid.

SECTION 68-61. Application for Site Plan Approval.

- A. The developer shall file with the administrative officer at least fourteen (14) days prior to the meeting of the approving authority eight (8) black on white copies of the site plan, two (2) copies of the completed application form, and the applicable fee pursuant to Chapter 53 of the Borough Code.
- B. All site plans and supporting documents shall comply with the requirements hereinafter set forth and shall contain the following information and data:
 1. Clearly and legibly drawn.
 2. Scale not less than fifty (50) feet to the inch.
 3. A title block including the name of the development, north arrow, scale, name and address of record owners, engineer, architect or land planner qualified to prepare the site development plan, and date of the original plan and each subsequent revision date.
 4. Appropriate places for the signatures of the Chairman and Secretary of the approving authority, the dates of the official approving authority actions and dates of the signatures.

5. A small key map with a north arrow at a scale of 1"=2000' giving the general location of the tract in relation to the remainder of the community.
6. The names of all owners of record of all adjacent properties and the blocks and parcel numbers of the property.
7. Existing zoning boundaries and pertinent topography within a radius of two hundred (200) feet of the premises in question.
8. A survey prepared by a licensed professional engineer of the State of New Jersey shall accompany the site plan and shall show the boundaries of the parcel and the limits of any proposed streets.
9. All boundary distances shall be in feet and decimals of a foot, and all bearings shall be given to the nearest ten (10) seconds. The error of closure shall not exceed one to ten thousand (1:10,000).
10. All dimensions and areas needed to confirm conformance with this Ordinance, such as but not limited to building area, lot lines, parking and loading spaces, setbacks, buffers, and yards.
11. Existing and proposed contour lines at two foot intervals inside the tract and fifty (50) feet beyond the tract's boundaries.

12. All roads, driveways, watercourses and existing buildings within two hundred (200) feet of the tract.
13. Location of all storm drainage structures and utility lines. Fire stations or hydrants within six hundred (600) feet of buildings to be erected on the site.
14. Flood plain areas based on one hundred year storms.
15. Location of existing buildings which shall remain and all other structures such as walls, fences, culverts, bridges, etc., with spot elevations of such structures. The outline of such structures shall be indicated by a dashed line, and those that shall remain shall be shaded.
16. The proposed use of land and buildings and proposed location of buildings, including proposed grades.
17. All means of vehicular access and egress to and from the site onto public streets, showing size and location of driveways, curbcuts and sidewalks.
18. All proposed easements, and all proposed streets with profiles and cross sections as specified by the Borough Engineer. The location and design of any off-street parking or loading areas.
19. Location of all proposed water and sewer lines; proposed stormwater drainage system, including off-site drainage.
20. Proposed location, direction of illumination, amount of illumination expressed in average horizontal footcandles, hour and time of proposed lighting.
21. Proposed screening and landscaping, including planting plan.
22. A written description of the proposed operations in sufficient detail to indicate the effects of those operations

in producing traffic congestion, noise, glare, air pollution, fire hazards or safety hazards. The proposed number of shifts to be worked and the maximum number of employees on each shift and/or the hours of operation for a commercial use.

23. Conservation of energy and renewable energy sources.

SECTION 68-62. Guarantees Required.

A. Before recording of final subdivision plats., or as a condition of final site plan approval, or, as a condition to the issuance of a Zoning Permit pursuant to N.J.S.A. 55D-65, the approving authority may require and shall accept in accordance with the standards adopted by this Ordinance for the purpose of assuring the installation and maintenance of on-tract improvements:

- (1) The furnishing of a performance guarantee in favor of the Borough in an amount not to exceed 120% of the cost of installation for improvements it may deem necessary or appropriate including: streets, grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, surveyor's monuments, as shown on the final map and required by the "Map Filing Law", P.L. 1960, c. 141 (C.46:23-9.9 et. seq.), water mains, culverts, storm sewers, sanitary sewers, or other means of sewage disposal, drainage structures, erosion control and sedimentation control devices, public improvements of open space and, in the case of site plans only, other on-site improvements and landscaping; provided that no more than 10% of the total performance guarantee shall be required to be in cash, and the balance shall be in the form of a bond from a bonding company approved by the

Borough Council. The Borough Engineer shall review the improvements required by the approving authority which are to be bonded and itemize their cost. Said itemization shall be the basis for determining the amount of performance guarantee and maintenance guarantee required by the approving authority. The Borough engineer shall forward his estimate of the cost of improvements to the applicant within 30 days of the date of receipt of a request sent by certified mail for said estimate.

- (2) The furnishing of a maintenance guarantee to be posted with the Borough Council for a period not to exceed two years after final acceptance of the improvement, in an amount not to exceed 15% of the cost of the improvement. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required for such utilities or improvements.
- B. The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the Borough Council by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed 120% of the cost of the installation as determined as of the time of the passage of the resolution.
- C. If the required improvements are not completed or

corrected in accordance with the performance guarantee, the obligor and surety, if any, shall be liable thereon to the Borough for the reasonable cost of the improvements not completed or corrected and the Borough may either prior to, or after the receipt of the proceeds thereof complete such improvements.

- D. Upon substantial completion of all required appurtenant utility improvements, and the connection of same to the public system, the obligor may notify the Borough Council in writing, by certified mail addressed in care of the Municipal Clerk, of the completion or substantial completion of said improvements and shall send a copy thereof to the Borough Engineer. Thereupon the Borough Engineer shall inspect all of the improvements of which such notice has been given and shall file a detailed report, in writing, with the Borough Council indicating either approval, partial approval or rejection of the improvements with a statement of reasons for any rejection. The cost of the improvements as approved or rejected shall be set forth.
- E. The Borough Council shall either approve, partially approve or reject the improvements, on the basis of the report of the Borough engineer and shall notify the obligor in writing, by certified mail, of the contents of said report and the action of said approving authority with relation thereto, not later than 65 days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from all liability pursuant to its performance guarantee, except for that portion adequately sufficient to secure provision of the improvements not yet approved; provided that 30% of the amount of the performance guarantee posted may be retained to ensure completion

of all improvements. Failure of the Borough Council to send or provide such notification to the obligor within 65 days shall be deemed to constitute approval of the improvements and the obligor and surety, if any, shall be released from all liability pursuant to such performance guarantee for such improvements.

- F. If any portion of the required improvements are rejected, the approving authority may require the obligor to complete such improvements and, upon completion, the same procedure of notification, as set forth in this section shall be followed.
- G. The obligor shall reimburse the Borough for all reasonable inspection fees paid the Borough Engineer for the foregoing inspection of improvements; provided that the municipality may require of the developer a deposit for all or a portion of the reasonably anticipated fees to be paid to the Municipal Engineer for such inspection.
- H. Nothing herein, however, shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the Borough Council or the Municipal Engineer.
- I. In the event that final approval is by stages or sections of development pursuant to N.J.S.A. 40:55D-38, the provisions of this section shall be applied by stage or section.

ARTICLE V.

ZONING DISTRICTS

SECTION 68-63. Establishment of districts.

For the purpose of lessening congestion in the streets; securing safety from fire, panic and other dangers; protecting health, morals or the general welfare; providing adequate light and air; preventing the overcrowding of land or building and avoiding undue concentration of population; with reasonable consideration to the character of the district and its peculiar suitability for particular uses and with the objective of conserving the value of property and encouraging the most appropriate use of land throughout such municipality, the Borough of Woodlynne is hereby divided into four (4) districts as follows:

R Residential

C Commercial

IC Industrial-Commercial

M Municipally Operated Property and Camden County Park

SECTION 68-64. Zoning Map.

The boundaries of said districts shall be shown upon the map entitled "Revised Zoning Map of Woodlynne, New Jersey, dated _____". Said map and all notations, references, and data shown thereon are hereby incorporated into this Ordinance and shall be as much a part of this Ordinance as if all were more fully described therein.

SECTION 68-65. District Boundaries.

When an uncertainty exists as to the boundaries of any of the aforesaid zones as part of said Map, the following rules shall apply:

- A. Zone boundary lines are intended to follow street, lot or property lines or natural lines such as watercourses as they exist on plats of record, unless such district boundaries are fixed by dimension on the Zoning Map or by description.
- B. Where such boundaries are fixed by dimensions and where they approximately follow lot lines and where they are not more than ten (10) feet distant therefrom, such lot lines shall be construed to be such boundaries unless shown otherwise.

SECTION 68-66. Conformity to District Regulations Required.

No building shall be erected, no existing building shall be altered, enlarged or rebuilt, and no open space surrounding any building shall be encroached upon or reduced in any manner, except in conformity to the yard, lot area and building location regulations hereinafter designated for the district in which such building or open space is located.

SECTION 68-67. **R** Residential Zone.

- A. Specific intent. It is the purpose of the R Residential Zone to preserve existing residential areas by retaining the existing density standards and to encourage new residential development which provides a safe and affordable living environment for current and future residents of the Borough.

B. Permitted uses.

In the R Residential Zone no lot shall be used and no structure shall be erected, altered or occupied for any purpose except the following:

1. Detached single-family dwellings and the accessory structures and uses normally auxiliary thereto.
2. Public parks and playgrounds.
3. Public buildings, including public schools but not including correctional institutions or hospitals exclusively for the isolation of contagious diseases or the insane.
4. Those utilities and services necessary for the service of the community, except that:
 - a. No zoning permit is required for utilities to be located in public streets or public rights-of-way.
 - b. Public utility activities of an industrial character, such as repair and maintenance yards, storage facilities, classification yards and roundhouses or activities which generate electronic interference are prohibited.
5. Uses comparable to the above, upon finding to that effect by the Zoning Board of Adjustment.
6. Garage facilities for not more than two (2) private cars for each single dwelling.
7. Signs. In the R Residential Zone certain advertising signs shall be permitted under the provisions of Section 68-72, Subsections 1 and 2 only.

C. Conditional Uses.

In the R Residential Zone the following shall be conditional uses permitted only as provided herein:

1. The offices of a member of a recognized profession who is in residence on the lot, provided that not more than fifty percent (50%) of the habitable floor area is office space.
2. Certain types of quasi-public and charitable activities and uses, such as churches, schools, hospitals, clubs, community centers, nursing homes, sanatoria and certain public utility structures, provided that:
 - a. The applicant shall follow all procedures, requirements and standards for site plan approval.
 - b. A statement setting forth the need for and the particulars on the operation of the structure or use shall be filed with the approving authority.
 - c. The approving authority finds that the proposed use will be designed and established so as not to adversely affect the neighborhood or area in which the particular use is to be located.
3. Hotels, efficiency apartments, trailer parks and motels, provided that the following minimum regulations shall apply:
 - a. Hotels
 - (1) Maximum coverage: thirty percent (30%).
 - (2) Off-street parking: one (1) space per rental unit to be located on the site or within one thousand (1,000) feet therefrom.
 - (3) Minimum setback: fifty (50) feet from property lines, provided that the setback from street lines

may be reduced to not less than twenty-five (25) feet by the Planning Board and provided further that any structure over four (4) stories in height shall set back one and one-half ($1\frac{1}{2}$) feet horizontal from each foot of additional height, from all property lines.

b. Efficiency apartments and motels.

50x200

- (1) Minimum lot: five thousand (5,000) square feet. ✓
- (2) Maximum coverage: thirty percent (30%).
- ✓ (3) Off-street parking: one (1) space for each unit to be located on the site.
- (4) Front yard setback: forty (40) feet.
- (5) Side and rear yards: ten (10) feet.
- (6) Maximum height: two (2) stories or thirty (30) feet.
- (7) Minimum habitable floor area:
 - (a) Efficiency apartments: not less than three hundred eighty (380) square feet per unit. ✓
 - (b) Motels: not less than two hundred fifty (250) square feet per unit.
- (8) Minimum lot area per unit: one thousand two hundred (1,200) square feet per dwelling unit in efficiency structures and motels.

c. Trailer parks

- (1) Minimum lot: three (3) acres.
- (2) Setbacks: No trailer or accessory building shall be placed nearer than fifty (50) feet from any property line, except that this may be reduced to no less than twenty-five (25) feet subject to the installation of a transition strip consisting of massed trees and shrubbery, as defined in Article I, Section 68-4.
- (3) Minimum area: there shall be not less than one thousand (1,000) square feet of gross lot area for each trailer accommodated.
- (4) Automobile parking: One (1) automobile parking space off travel lanes shall be provided for each trailer unit accommodated.
- (5) Sewage disposal: Sewage systems for individual trailers requiring disposal in or on the ground are expressly prohibited. This section shall not prohibit central facilities for an approved trailer camp.

SECTION 68- 68. C Commercial Zone.

A. Specific intent. It is the purpose of the C Commercial Zone to provide for the retention and orderly expansion of commercial enterprises so as to maintain a stable local economy and to retain employment opportunities in the Borough.

B. Permitted uses.

1. Residential uses permitted in the R Zone under the same conditions and requirements governing the size of lot, minimum area and setbacks, maximum coverage and density as apply to such uses in said R Zone.
2. Combined residential uses, professional and home occupations or residential uses which may be combined with commercial uses as permitted in the Commercial Zone under the following conditions:
 - a. No dwelling unit established or maintained under the provisions of this Article shall contain less than one thousand (1,000) square feet of habitable floor area.
 - b. There shall be provided not less than twelve thousand five hundred (12,500) square feet of lot area for each dwelling unit.
 - c. There shall be a clear and unimpeded distance of eight (8) feet from any window of any habitable room to any wall, structure or property line, said distance to be measured along a line perpendicular to the plane of the window.
 - ✓ d. One (1) off-street parking space shall be provided for each family unit.
 - e. Uses of land and structure, parking requirements and the location of any structure upon its lot shall conform to all other regulations applicable to permitted residential and business activities as specified herein for the

Commercial Zone. No structure shall be altered or its use changed without full conformity to such regulations.

3. The retail sale of goods and the provision of services shall include the following only:

a. Sale of goods.

- (1) Groceries
- (2) Meat and poultry, provided that no slaughtering of animals is performed on the premises.
- (3) Bakeries, provided that all goods baked on the premises shall be for sale on the premises.
- (4) Drugs and pharmaceuticals, the goods and services customarily associated therewith.
- (5) Flowers.
- (6) Confectionery, including soft drinks and similar nonalcoholic refreshments which may be consumed on the premises.
- (7) Stationery supplies, tobacco, periodicals and newspapers.

b. Services.

- (1) Barber and beauty shop operations.
- (2) Custom tailoring and dressmaking employing no more than three (3) persons.
- (3) Dry-cleaning services, provided that no bulk processing shall be done on the premises and that

if actual dry cleaning is done it shall be accessory to Subsection B 36 (2) above.

- (4) Laundry collection, provided that no processing shall be done on the premises.
 - (5) Self-service laundry operation.

 - (6) Shoe repairing.
 - (7) Professional offices.
 - (8) Radio and electrical repairing.
 - (9) Commercial storage garages for privately owned passenger automobiles only.
 - (10) Dancing and music schools and day nurseries.
4. All uses generally considered of a commercial, retail or business character, but not including limited manufacturing as herein defined. Such permitted uses may include:
- a. Retail sales to a widely distributed clientele, such as:
 - (1) Haberdashery or other apparel sales.
 - (2) Gift shops.
 - (3) Automobiles sales room, provided that used car sales are to be permitted only where accessory to the sale of new cars.
 - (4) Furniture sale, including household electrical equipment.

(5) Auction rooms.

b. Professional offices, banks, commercial schools and clerical occupations of all kinds.

c. Recreation and amusement facilities operated for private profit, such as bowling alleys and theaters.

d. Services and service agencies, such as:

(1) Garages and auto repair shops, subject to the requirements of Section 68-73.

(2) Offices of contractors in the building trades, provided that no bulk storage of materials or equipment is permitted.

(3) Restaurants and diners.

5. Signs. In the C Commercial Zone, certain advertising signs shall be permitted under the provisions of Section 68-72.

C. Conditional Uses.

1. The following uses shall be allowed, provided

however, that the conditions set forth in Section

68-67C2 and Section 68-67C3 of this Ordinance shall

be complied with:

a. Hotels.

b. Quasi-public structures and uses.

2. The following uses shall be permitted provided that the applicant follows all procedures, standards, and requirements for site plan approval and that the approving authority finds that the proposed use will not adversely affect the neighborhood or area in which it is to be located:

a. Funeral homes and undertaking establishments.

b. Animal hospitals.

D. Off-street parking

1. Except where otherwise provided, for each use or for each structure designed, altered or occupied by any business or commercial use, as permitted in this Article, there shall be provided off-street parking space for one (1) motor vehicle for every one hundred (100) square feet of floor area devoted to business usage, exclusive of basements, said off-street space to be located on the same lot as the structure requiring it or within a distance of not more than five hundred (500) feet therefrom.
2. In lieu of the above, the following requirements for off-street parking shall apply to the following uses:
 - a. Parking space for one (1) motor vehicle, which space may be located in the manner prescribed above for other uses in this zone, shall be provided for:
 - (1) Every three (3) seats in any theater.
 - (2) Every five (5) seats in any place of assembly.
 - (3) Every four (4) seats in any restaurant.
 - (4) Every fifty (50) square feet of floor space in any bar or dance hall or indoor skating rink.
 - (5) Every two hundred fifty (250) square feet in any bowling alley.
 - (6) Every rental unit available for tourist occupancy.
 - b. When two (2) or more of these uses or activities are combined in one (1) establishment, adequate parking shall

be required for each activity considered as a separate operation under the above requirements.

SECTION 68-69. IC Industrial-Commercial Zone.

- A. Specific intent. It is the purpose of the IC Industrial-Commercial Zone to provide opportunities for commercial development in the Borough and also to allow development of limited industrial uses, when such uses are free from offensive noise, vibration, smoke, odors, glare, hazards of fire, and other objectionable effects, in areas where such uses are compatible with surrounding uses in the Borough and in adjacent municipalities.
- B. Permitted uses.
 1. Business and commercial uses permitted in the Commercial Zone, under the restrictions set forth in the Commercial Zone.
 2. Activities of a limited industrial nature not involving the emission of any toxic or corrosive fumes, gas, smoke, odor, obnoxious dust or vapor, offensive noise or vibration, glare, flashes or objectionable effluents such as:
 - a. The finishing or assembling of articles made from the previously prepared or refined materials, such as bone, cellulose, cork, feathers, fiber, stone, textiles, leaf products and wood.
 - b. Warehouses and terminal facilities.
 - c. Research and testing laboratories.
 - d. Lumberyards and similar operations, requiring bulk

storage of materials such as plumbing and building construction supplies.

e. Automobile service stations, public garages and automobile repair shops, subject to the requirements of Section 68-71.

3. Advertising signs as permitted and regulated under Section 68-72 of this Article.

C. Conditional Uses.

1. Activities of a general industrial nature, when authorized by the approving authority in accordance with the requirements listed below:

a. The applicant shall follow all procedures, requirements, and standards for site plan approval.

b. The applicant shall submit proof that:

(1) No danger to fire, limb or property is created beyond the limits of the lot.

(2) No objectionable noise, smoke, dust, gas, glare, or effluent is emitted which may adversely affect or impair the normal use of any property, structure or dwelling located in any residential or commercial zone.

(3) No untreated liquid effluent or soluble solid shall be disposed of in such manner that subsurface or surface water supplies shall be rendered unfit for potable or recreational purposes.

- c. Such required proof shall include:
- (1) Site plans and architectural drawings showing the type and location of all buildings, structures, parking and loading facilities on the lot.
 - (2) Engineering drawings and specifications which will adequately describe the operations to be carried on and the means and devices to be used to preserve health and safety.
 - (3) Descriptions of the products to be manufactured or processed and the control of effluents incident thereto.
 - (4) Sworn statements by the owner, developer, designer, or other agent to the effect that no danger, hazard or nuisance will be created beyond the boundaries of the lot.

d. Any change in use or manufacturing process within an approved general industrial operation shall require re-application for a conditional use permit.

2. For the purposes of this Ordinance such general industrial uses shall be deemed to include the following:
- a. The fabrication, processing or assembly of goods and materials.
 - b. The manufacture, compounding, processing, packaging or treatment of beverages, food, candy, cosmetics, dairy products, drugs, ice, perfumes, pharmaceuticals, plastics,

toilet supplies and similar products.

- c. Blacksmith shops, metal working or machine and welding shops, excluding drop hammers and similar heavy machinery of a nuisance producing character.
- d. Laundry, cleaning and dyeing works; carpet and rug cleaning.
- e. Automobile wrecking, salvage and baling of junk, if within a building or solid wall enclosure not less than six (6) feet high.
- f. Public utility activities of an industrial nature, such as repair and maintenance yards, storage facilities, depots and stations, classifications yards, and round-houses.

D. Prohibited Uses.

The following activities and uses are specifically prohibited in the Industrial-Commercial Zone:

1. The slaughtering of animals and the rendering of fats and oils.
2. The commercial disposal of domestic refuse or the dumping of garbage, trash or incinerated material.
3. Churches; parochial and private schools; eleemosynary, charitable and philanthropic institutions.
4. The manufacture and storage of high explosives.
5. Refining and storage of gasoline and fuel oil and the manufacture of bottled fuel gas, except where incidental to retail sale of fuels for local consumption only.

6. The disposal of untreated liquid effluent or soluble solid which may affect surface or subsurface water supplies, thereby rendering such supplies unfit for potable or recreational purposes.

E. Side yards.

There shall be a total of side yards on each lot equal to seventy-five (75) feet. One (1) side yard shall not be less than forty-five (45) feet in width.

F. Property adjoining rail facilities.

In order to assure safety and efficiency in operation and to avoid unnecessary hardship, the side and rear yard requirements and building height restrictions of this Article shall not apply where they affect those portions of a lot immediately adjoining and bounded by the right-of-way of a railroad or where a railroad track or spur line forms the boundary line between two (2) lots within the Industrial-Commercial Zone. Wherever any section of a railroad track or spur line lies entirely within the property lines of a single industrial user, it shall be so located that any structures which are to be in direct contact with it shall conform to the side and rear yard restrictions herein.

G. Property Adjoining Commercial and Residential Zones.

1. Wherever any property line bounding any lot in the Industrial-Commercial Zone used for a limited industrial use coincides with or lies within fifty (50) feet of the boundary of the Commercial or Residential Zone, any side or rear yard lying along such property shall be no less than one-hundred (100) feet in width, except that this may be reduced to not less than seventy-five (75) feet subject to the installation of a transition strip, as defined in Section 68-4 of this Ordinance, not less than ten (10) feet wide extending the full length of the boundary.
2. In case of a lot used for a general industrial use, such side yard shall not be less than two-hundred (200) feet in width and shall include a transition strip, as defined in Section 68-4 of this Ordinance, not less than ten (10) feet wide extending the full length of the boundary.

SECTION 68-70. M Municipally Operated Property and Camden County Park Zone.

- A. Specific intent. The purpose of the M Municipally Operated Property and Camden County Park Zone is to recognize the current public character and land use of certain areas of the Borough and to promote the continuation of said activities.

B. Permitted uses.

1. Borough administrative building, governmental building, public service corporation building, public library, governmental operations and other associated functions in furtherance of the health and welfare of the general public.
 2. Public parks.
 3. Outdoor and indoor recreational uses.
 4. Passive or active open space, including associated buildings.
- C. If the use of any lands in the M Municipally Operated Property and Camden County Park Zone shall terminate, in that event, the permitted uses shall be the same as those uses permitted in the immediately surrounding district.

SECTION 68-71. General Regulations.

A. Public street frontage required.

Every dwelling structure shall be built upon a lot having frontage upon a public street.

B. Application of yard requirements.

No yard or other open space provided about any building for the purpose of complying with the provisions of this article shall be considered as providing a yard or open space for any other building, and no yard or other space on one (1) lot shall be considered as providing a yard or open space for a building on any other lot.

C. Yard requirements for corner lots.

On all corner lots, the depth of all yards abutting on streets shall not be less than the minimum front yard depth required on an adjoining interior lot fronting on such street, and no corner lot setback shall in any case be less than twenty (20) feet, except that the provisions of this section shall not apply so as to reduce the building width to less than fifty percent (50%) of any lot less than one hundred (100) feet in width. Corner lots having frontage of greater than one hundred fifty (150) feet on both intersecting streets shall observe the same requirements for front yards on both streets as apply to adjoining interior lots fronting on such streets.

D. Projections into minimum yard areas.

Every part of a required yard shall be open and unobstructed from its lowest level to the sky, except for the ordinary projection of sills, belt courses, chimneys, flues, buttresses, ornamental features and eaves; provided, however, that none of the aforesaid projections shall project into the minimum side yards more than twenty-four (24) inches. Unroofed entrance porches or terraces which do not rise above the height of the floor level of the ground floor may extend into any yard, provided that the total area of all such porches which extend into such yards does not exceed two hundred (200) square feet.

E. Exceptions to height regulations.

1. Nothing in this Article shall prevent the erection above the building height limit of a parapet wall or cornice extending above such height limit not more than four (4) feet.
2. The height limitations of this Article shall not apply to church spires, belfries, cupolas or domes not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, bulkheads and necessary mechanical appurtenances usually carried above the roof level; nor to non-commercial radio and television antennas, except, where in the opinion of the Zoning Board, such may be deemed to interfere with aerial navigation or constitute a fire hazard. Such features, however, shall not exceed in total coverage twenty percent (20%) of the total roof area and shall not exceed a reasonable height, to be determined upon reference of all such cases to the Zoning Board by the Zoning Officer.
3. In any zone other than a residence zone, any permitted principal structure or fire-resistant construction may be erected to a height in excess of that specified for the district, provided that each front, side and rear yard alongside which such excessive height is to be built is increased one and one half ($1\frac{1}{2}$) feet for each one (1) foot of such additional height.

E. Exceptions to height regulations.

1. Nothing in this Article shall prevent the erection above the building height limit of a parapet wall or cornice extending above such height limit not more than four (4) feet.
2. The height limitations of this Article shall not apply to church spires, belfries, cupolas or domes not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, bulkheads and necessary mechanical appurtenances usually carried above the roof level; nor to non-commercial radio and television antennas, except, where in the opinion of the Zoning Board, such may be deemed to interfere with aerial navigation or constitute a fire hazard. Such features, however, shall not exceed in total coverage twenty percent (20%) of the total roof area and shall not exceed a reasonable height, to be determined upon reference of all such cases to the Zoning Board by the Zoning Officer.
3. In any zone other than a residence zone, any permitted principal structure or fire-resistant construction may be erected to a height in excess of that specified for the district, provided that each front, side and rear yard alongside which such excessive height is to be built is increased one and one half (1½) feet for each one (1) foot of such additional height.

4. Exceptions for properties adjoining rail facilities, pursuant to Section 68-6⁹ F. of this Article.

F. Obstructions to vision at intersections.

At the intersection or interception of two (2) streets, no hedge, fence or wall higher than three (3) feet above curb level, nor any obstruction to vision other than post or tree not exceeding one (1) square foot in area in cross section shall be permitted on any lot within the sight triangle as defined in Section 68-4 of this Ordinance.

G. Location of accessory buildings.

Unless elsewhere specified in this Article, accessory buildings shall conform to the following regulations as to their locations on the lot:

1. Accessory buildings may occupy not more than twenty-five percent (25%) of the rear yard area in any residence zone and not more than forty percent (40%) of the rear yard area in commercial or industrial-commercial zones; and such buildings shall not exceed fifteen (15) feet in height. Such accessory buildings shall be included in computing the maximum percentage of the lot area which may be built upon in any given case.

2. In the case of an interior lot abutting on one (1) street, no detached accessory building shall be erected or altered so as to occupy the front half of the lot, except that where lots are over two hundred (200) feet in depth this setback need not exceed one hundred (100) feet.
3. In the case of an interior lot abutting on two (2) or more streets, no detached accessory building shall be erected or altered so as to occupy the one-fourth ($\frac{1}{4}$) of the lot nearest either street.
4. In the case of a corner lot abutting two (2) streets, accessory buildings shall not be located nearer the street line of the street forming the side yard boundary than the required front yard setback on such a street.
5. In the case of a corner lot abutting on more than two (2) streets, no detached accessory building shall be erected or altered so as to be nearer to any street line than one-fourth ($\frac{1}{4}$) of the width or length of the lot, except that such setback need not exceed one hundred (100) feet.
6. A garage or carport attached to any side of the dwelling and constructed as a part of such dwelling shall be considered a part of the dwelling and not as an accessory building and shall meet all requirements for front, side or rear yards, other setbacks and height of structure.

H. Fences.

1. No fence hereafter erected, altered or reconstructed in any residential zone or on lots in any zone on which residential buildings are erected shall exceed four (4) feet in height above ground level.
2. No person shall by the erection of any fence or wall pursuant to the provisions of this Article, or otherwise, acquire thereby any easement or other interest in or servitude upon, any presently existing easement, right of way, or other proprietary right or interest of the Borough of Woodlynne. No fence or wall shall be erected to encroach on any public right of way.

SECTION 68-7 2. Signs.

- A. In all zones certain advertising signs shall be permitted by reference to the requirements of the Section. Such signs shall include:
 1. One (1) sign advertising a permitted use or indicating the home or office of a member of a recognized profession, provided that such sign shall not exceed three (3) square feet. No such sign shall be artificially illuminated when located in any residence zone, except for a sign indicating the home or office of a medical practitioner.
 2. One (1) temporary sign indicating real property for sale or rent, which sign shall not be larger than six (6) square feet, advertising the sale or letting only of the premises on which it is located.

3. Enterprise identification sign, provided that no sign attached to a building or other structure, or freestanding, shall project more than ten (10) feet into the minimum front yard setback for the zone in which it is located.
 4. Temporary signs, advertising events such as fairs, bazaars, auctions, garage sales and other special activities shall be erected or placed so as not to obstruct or obscure visibility at corners or intersections or otherwise cause a traffic safety hazard. Such signs shall not be placed within the right-of-way of any street. Temporary signs, advertising events such as fairs, bazaars, auctions, garage sales and other special activities are allowed one month prior to the event being advertised and must be removed within ten (10) days following the conclusion of the event.
 5. If any freestanding sign shall be greater than six (6) square feet in area, the lower edge of such sign shall not be less than three (3) feet above the ground surface.
- B. No billboards, enterprise identification signs or other commercial advertisement signs shall be located within two - hundred (200) feet of the Residential District.

SECTION 68-73. Special Regulations for Churches.

- A. A building not originally constructed as a church may not be altered or reconstructed for church purposes, unless the building is freestanding or detached, the building was originally constructed for public assemblage, the building unconditionally conforms or is made to conform to the Building Code requirements for a church and space for off-street parking is provided as herein required.
- B. No building originally constructed as a residence shall be converted into a church.

SECTION 68-74. Public Garages and Service Stations; Storage Tanks.

- A. No public garage or automobile service station shall be within one hundred (100) feet of a residential district, nor shall such occupancies have entrances closer than two hundred (200) feet to the entrance to a school, church, hospital, fire station public park or playground. If there is an intervening street, the distances shall be the same as hereinabove stated, including the width of the street.
- B. All gasoline or fuel oil tanks with a capacity of more than two hundred seventy-five (275) gallons shall be underground.

SECTION 68-75. Nonconforming structures or uses.

The lawful use of land, buildings or structures existing when this Ordinance was adopted may continue even though they do not conform to this Ordinance. However, none shall be enlarged, extended, relocated, converted to another use or altered, except in conformity with this Ordinance.

- A. Rebuilding after damage or destruction.

If any nonconforming structure shall be more than partially destroyed by reason of windstorm, fire, explosion or other act of God or the public enemy, such structure shall not be rebuilt except in conformity with the provisions of this chapter controlling side and rear yards, front yard setbacks, maximum coverage and maximum height.

- B. Abandonment.

If a nonconforming use of a building or land is abandoned and such abandonment continues for a period of six (6) months or more, subsequent use of such building or land shall be in conformity with the provisions of this Article.

SECTION 68-76 . Temporary Use Permits.

A. Purpose.

It is recognized that it may be advantageous to the general health, safety, morals or convenience of the Borough to permit, as temporary activities for a limited time only, the establishment of uses within any zone established by this Article, which uses may be prohibited by other provisions of this Article.

B. Conditions for consideration.

Such uses may be of such a nature or so located under conditions existing at the time of petition for their establishment that they will:

1. In no way exert a detrimental effect upon the uses of land and activities normally permitted in the zone.
2. Contribute materially to the welfare of the community, particularly in a state of emergency, under conditions peculiar to the time and place involved.

C. Conditions for issuance; time limit.

Under these conditions and subject to all regulations for the issuance of use permits elsewhere specified, the Zoning Board may issue a temporary use permit for a period not to exceed two (2) years, such period to be extended, not more than once for an additional period of two (2) years upon finding by the Board that such peculiar conditions exist or that the welfare

of the community will be served by the issuance of such permit.

SECTION 68-77. Prohibited Uses.

A. Multiple dwellings prohibited.

Hereafter the following types of dwellings shall not be erected, nor shall any presently existing dwelling be enlarged, nor shall any existing dwelling or structure be converted or modified to create any type of the following dwellings:

1. Detached-duplex.
2. Multiple.
3. Single-attached.
4. Twin.

B. The following uses are prohibited in every district:

1. Rooming houses, boarding houses.
2. Car wash.
3. Airport, airpark, airfield.
4. Amusement parks; kiddy land and rides.
5. Fire and emergency companies.
6. Rifle, pistol range, skeet shooting, gun club.
7. Stable, kennel.
8. Roadside stands for agricultural uses.
9. Raising of farm animals, including all fowl, horses, and other livestock.

SECTION 68-78. Administration and Enforcement.

A. Zoning permits.

Zoning permits shall be secured from the Zoning Officer prior to construction, erection, or alteration of any structure or part of a structure or use of a structure or land. All requests for zoning permits shall be made in writing by the owner or his authorized agent; shall include a statement of the use or intended use of the building or structure or land; and shall be accompanied by a plan of the plot showing thereon the exact size, shape and location of all proposed structures and all existing structures and such other information as may be necessary to provide for the enforcement of this Ordinance.

B. Certificate of Occupancy.

1. It shall be unlawful to use or permit the use of any building or premises or part thereof hereafter created, located, erected, changed, converted or enlarged wholly or partly until a Certificate of Occupancy has been issued for that premises certifying that the structure or use complies with the provisions of this chapter. Such occupancy permits shall be granted or denied within ten (10) days from the date that a written application is filed with the Zoning Officer.

2. Whenever any premises will suffer a change of occupants, by reason of sale or lease of same, the new owner or lessor hereof must apply for and obtain a Certificate of Occupancy from the Zoning Officer. A fee shall be charged for issuance of each Certificate of Occupancy incident to the change of use of a building as designated by Chapter 53 of the Code of the Borough of Woodlynne.

C. Enforcement.

It shall be the duty of the Zoning Officer to enforce the provisions of this Article. It shall also be the duty of the members of the Police Department and the Volunteer Fire Department to report any violations of this Article in writing to the Zoning Officer and at the same time to send a copy of such report to the Secretary of the Zoning Board and to the Borough Clerk. The Zoning Officer shall not issue any permit or Certificate of Occupancy or use which does not conform with the provisions of this Article. It shall be the duty of the Zoning Officer, upon the filing with him of any plans for the construction, alteration or repair of any structure to require the owner or agent of such structure or land, to certify in writing the use or intended use of any structure or land so to be constructed, altered or repaired, and he shall thereupon determine if such structure or use is permitted by the provisions of this Article or any other ordinance. In case he shall determine such structure

or use, or both, is nonconforming, he shall notify such owner or agent in writing to that effect, stating in what respect such building is a nonconforming structure or use.

C. Violations and Penalties.

For any and every violation of the provisions of this Article, the owner, contractor or other person or persons interested, as lessee, tenant or otherwise, in any building or premises where such violation has been committed or shall exist; and who refuses to abate said violation within five (5) days after written notice has been served upon him, by registered mail or by personal service, shall for each and every violation be subject to a fine of not more than five hundred dollars (\$500) or to imprisonment for not more than ninety (90) days, or both, at the discretion of the court or the judicial officer before whom a conviction may be had. Each and every day that such violation continues after such notice, shall be considered a separate and specific violation of this Article.

BOROUGH OF WOODLYNNE
ORDINANCE

AN ORDINANCE AMENDING CHAPTER 68-556A OF THE LAND
DEVELOPMENT ORDINANCE FOR THE BOROUGH OF WOODLYNNE AND
PROVIDING FOR SITE PLAN APPROVAL AND/OR WAIVER UNDER CERTAIN
CIRCUMSTANCES:

Chapter 68-556 shall be and is hereby amended as follows:

68-556 Site Plan and Subdivision Approval Required.

A. SITE PLAN.

1. Except as may be exempted by law under the provision of N.J.S.A. 40:55D-37a or waived by the appropriate authority, site plan approval by resolution of the combined Zoning and Planning Board shall be required as a condition for the issuance of a zoning permit, building permit, certificate of conformity or certificate of occupancy for any development as the word development is defined under N.J.S.A. 40:55D-4, and particularly including any use, change of use, extension of non-conforming use for which a zoning permit is required.
2. Site Plan Review Waiver. The approving pauthority may waive the requirement of site plan approval whenever it determines that the proposed development, alteration, repair or change of use or occupancy does not affect the existing conditions of the lot or premises; including: topography, vegetation; drainage; flood plains; marshes and waterways; open space; walkways; means of ingress and egress; utility services; landscaping; structures; signs; lighting and screening devices; and other considerations of site plan review. Any applicant desiring a waiver under this section shall present sufficient credible evidence to allow the Board to reach such conclusions as would permit a waiver. Such evidence may consist of sketches, property descriptions, methods of operation, photographs, testimony, or

other documentation or information as the approving authority may require. The approving authority shall render a decision based on such evidence and may attach conditions to any waiver so granted.

NOTICE OF FINAL PASSAGE:

The foregoing ordinance was adopted by Borough Council at a meeting held on the 8 day of January, 2008.

BOROUGH OF WOODLYNNE

By:

Jeraldo Fuentes, Mayor

Certified by:

Lavern R. Davis, Acting Borough Clerk
Dated:



BOROUGH OF WOODLYNNE

ORDINANCE # 12-2002

ORDINANCE AMENDING THE LAND DEVELOPMENT ORDINANCE FOR THE BOROUGH OF WOODLYNNE TO PROVIDE FOR A SCHEDULE OF FEES AND ESCROW IN CONNECTION WITH LAND DEVELOPMENT APPLICATIONS

WHEREAS, the Borough of Woodlynne currently has in place a Land Development Ordinance pursuant to the Municipal Land Use Law of the State of New Jersey, which Ordinance is intended to regulate the use and development of land within zoning districts which are based on the Borough of Woodlynne Land Use Plan Element, in accordance with the provisions of the New Jersey Municipal Land Use Law; and

WHEREAS, the Municipal Land Use Law provides municipalities the right and ability to collect fees and escrows in association with the submission and consideration of applications for relief and approval pursuant to the Municipal Land Use Law; and

WHEREAS, the current Land Development Ordinance for the Borough of Woodlynne does not provide for the collection of fees and escrows in connection with land development applications; and

WHEREAS, the Borough of Woodlynne desires to amend its existing Land Development Ordinance to provide for the collection of fees and escrows;

NOW, THEREFORE, BE IT RESOLVED that the Borough of Woodlynne does hereby amend its Land Development Ordinance to include the following provisions with respect to the collection of fees and escrow for land development applications:

§68-62.1 Fees: Escrow.

The developer shall, at the time of filing a submission, pay the following nonrefundable fees to the Borough. For proposals involving more than one use, a fee shall be paid equaling the sum of the fees for the component elements of the plat. For proposals requiring a combination of approvals, such as subdivision, site plan and/or a variance, a fee shall be paid totaling the full fee of the approval with the highest fee, plus one-half (1/2) the fee of the next highest approval required and nothing for additional approvals.

A. Subdivision.

1. An informal plat: \$50.00, plus \$30.00 per lot, up to 20 lots.
2. A preliminary plat: \$200.00, plus \$30.00 per lot.
3. A final plat: \$50.00, plus \$10.00 per lot.

B. Site Plan.

1. An informal plat: one-half (1/2) the preliminary site plan fee.
2. A preliminary site plan:
 - (a) Residential:
 - (i) Ten dollars per unit.
 - (ii) The minimum fee: \$100.00.
 - (iii) The maximum fee: \$1,000.00.
 - (b) Commercial/Industrial and other:
 - (i) Fifty dollars per acre, plus 2% of the estimated cost of improvements, excluding buildings, but including grading, excavations, landfill, parking areas, driveways, storm sewers, retaining walls and other physical site improvements.
 - (ii) The minimum fee: \$100.00.
 - (c) Freestanding or lighted signs not included in other site plans: \$25.00.
3. A final site plan: one-half (1/2) the preliminary site plan fee.

C. Variances and Other Appeals.

1. To hear and decide appeals: \$25.00.
2. Conditional uses: \$150.00.
3. Interpretation of the Zoning Map: \$25.00.
4. Variance from outdoor café, merchandise/planting requirements: \$50.00.
5. A hardship variance: \$50.00.
6. A use variance:
 - (a) Residential: \$25.00 per dwelling unit.
 - (b) Other uses: \$20.00 per acre, with a minimum of \$100.00 and a maximum of \$1,000.00.
7. A building permit in conflict with the Official Map or a building permit for a lot not related to a street: \$50.00.

D. A Minor Subdivision Application. \$25.00, plus \$15.00 per lot.

E. A Zoning Permit. \$5.00.

F. Outdoor Café Application Fee. \$50.00

G. Professional Escrows.

1. Generally, this section of this chapter includes all escrow sums required in connection with any application under this chapter. These escrow sums are in addition to the fees required by Subsections A, B and C above which are designed to cover the administrative costs incurred by the Borough in processing applications. These escrow sums are also in addition to the inspection fees and guaranty requirements contained in 68-62 of this article. Both the above stated fees and the escrow sums required by this section are nonrefundable in nature. The escrow sums are designed to pay the cost of professional review by the engineer, solicitor or other professionals employed by the reviewing agency to review and make recommendations on an applicant's application for development. At the time of submitting his application and plans to the administrative officer, the applicant shall be required to execute an escrow agreement between the applicant and the reviewing agency to cover the costs of technical and professional review of the application for development. Said escrow agreement shall be in the form approved by the Solicitor of the Borough of Woodlynne. The escrow agreement shall provide that the applicant pay all necessary and reasonable costs incurred by the technical and professional staff employed by the reviewing agency for review of the applicant's application for development. The sums specified below are estimates which shall be posted prior to consideration by the reviewing agency or its staff of that stage of the applicant's review process indicated. In the event that more than the sums specified below are required to pay the reasonable cost incurred, the applicant shall, prior to being permitted to take the next step in the approval procedure or in any element of his project, pay all additional sums required. In the event that the escrow sums posted are more than those required, the excess funds shall be returned to the applicant within 14 days of the issuance of an occupancy permit for any element of the project. Prior to issuance of an occupancy permit for any element of the project seeking approval under this chapter, the administrative officer shall determine from the professional staff employed by the reviewing agency in the review of the applicant's application for development whether there are any additional sums required to be paid from the escrow fund established. In the event that there are, the administrative officer

shall so notify the Borough Treasurer of the amounts to be held in that account. The administrative officer shall determine the position of all escrow accounts, and where additional funds are required, it shall be the obligation of the administrative officer to so notify the applicant of the amounts needed and to properly make all payments required to be made under this section of this chapter. In addition to these terms, the escrow agreement may require any other additional terms which are agreed to by the applicant and the reviewing agency.

2. Schedule of escrow sums.
 - (a) A minor subdivision, escrow fee: \$500.00.
 - (b) A minor site plan, escrow fee: \$500.00.
 - (c) A preliminary major subdivision, escrow fee: \$1,500.00.
 - (d) A preliminary major site plan, escrow fee: \$1,200.00.
 - (e) A final major subdivision, escrow fee: \$750.00.
 - (f) A final major site plan, escrow fee: \$750.00.
 - (g) Appeals to the Zoning Board and requests for interpretation: \$100.00.
 - (h) Use variances, escrow fees:
 - (1) Residential: \$150.00
 - (2) Commercial: \$175.00
 - (3) Industrial: \$250.00
 - (i) Bulk variances, escrow fees:
 - (1) Residential: \$100.00
 - (2) Commercial: \$150.00
 - (3) Industrial: \$150.00
 - (j) Conditional use, escrow fee: \$100.00
 - (k) Rezoning, escrow fee: \$1,000.00
 - (l) Vacant property extension application: \$25.00
 - (m) Non-conforming use certifications: \$100.00
3. Revised site plan or subdivision. The applicant will be required for each refilling of plans not requiring a new application to post an additional sum equal to one-fourth (1/4) of the escrow fee normally established for the proposal as set forth above.
4. Rules of construction.
 - (a) Cumulative sum. Where an applicant submits an application involving a combination of approvals, i.e., a subdivision application submitted, together with a variance request, the fees and escrow sums provided in Subsection F(2) of this section for each category of approval sought shall be posted. Therefore, the fees and escrow sums under this section shall be deemed cumulative in nature.

(b) Waiver. The reviewing board shall have the power in appropriate cases to compromise or waive the escrow sums required in Subsection F(2) of this section where an applicant shall present to the reviewing board sufficient proof that the cost incurred by the Borough would not necessitate posting of the specified sums.

SECTION II. All Ordinances or parts of Ordinances inconsistent with or in conflict with this Ordinance are hereby repealed but to the extent of their inconsistency only. Any section of prior Ordinances not affected by this Ordinance shall remain in effect.

EFFECTIVE DATE:

This Ordinance shall take effect upon final adoption and publication in the manner according to law.

NOTICE OF PENDING ORDINANCE:

The foregoing Ordinance was introduced and approved by the borough Council of the Borough of Woodlynne at a meeting of said Council held on the 10th day of October, 2002, and will be considered of final passage at a meeting to be held on the 14th day of November, 2002, 8:00 PM at the Municipal building, 200 Cooper Ave.

Veronica M. Gitto, Clerk