Chapter 77 Land Use

Article I. TITLE, PURPOSE AND APPROVING AUTHORITY

§ 77-1. Title.

This chapter shall be known and may be cited as the "Land Use Ordinance of the Borough of Roselle, New Jersey."

§ 77-2. Purpose.

This chapter is adopted pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) and subsequent amendments and supplements thereto in order to establish rules, regulations, standards and procedures for approval of all development other than single-family detached dwellings or uses accessory thereto in order to:

A. Ensure efficient, safe and aesthetic land development.

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

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

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

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

F. Encourage the use of methods and design that enable the construction of low and moderate impact without creating an adverse impact on the public health, safety and general welfare of the Borough or for the future residents of the development.

§ 77-3. Approving Authority.

A. Planning Board. The provisions of this chapter shall be administered by the Planning Board of the Borough of Roselle, except as set forth in Subsection **B.** below.

B. Zoning Board of Adjustment. The provisions of this chapter shall be administered by the Zoning Board of Adjustment in applications before the Zoning Board of Adjustment

involving variances provided for in N.J.S.A. 40:55D-70d on which site plan review would be required. For such applications, any reference in this Chapter 77 to the Planning Board shall be considered to refer to the Zoning Board of Adjustment where applicable.

Article II. TERMINOLOGY

§ 77-4. Definitions.

A. As used in this chapter, the following terms shall have the meanings indicated herein.

B. Where certain words or phrases are not defined below, their meanings shall be as defined in the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.).

***[1]ABANDONMENT**

The relinquishment of property or cessation of the use of the property, by the owner or lessee without any intention of transferring property rights to another owner or of resuming the use of the property.

ACCESSORY USE OR STRUCTURE

A use or structure subordinate to and customarily incidental to the principal use or structure on the same lot. When an accessory building is attached in a substantial manner by a wall or roof to a principal building or structure, it shall be considered a part thereof.

***ALTERATION OF BUILDING**

Any change in the supporting members of a building, bearing walls, columns, beams, or girders, except such changes as may be required for safety, any changes in the roof or exterior walls, or any addition to or diminution of a building, including the addition, modification, removal or replacement of exterior elements, including changes in door or window locations, but not including alternations which affect primarily the appearance of the structure. Also any change in use from one zoning classification to another or the relocation of a structure from one site, location, or position to another.

***APARTMENT**

See “Dwelling, Multi-Family”.

APPLICANT

Person, partnership, corporation or public agency submitting an application for development.

APPLICATION FOR DEVELOPMENT

The application form and all accompanying documents required for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to this chapter.

[1] * New definition. Not from either chapter.

AUTOMOTIVE BODY SHOP

Any establishment providing auto body repair and painting.

AUTOMOTIVE GASOLINE STATION

Any establishment servicing motor vehicles with fuel and oil but not including repairs, changing tires or any other replacement of accessory parts.

AUTOMOTIVE REPAIR GARAGE

Any establishment servicing motor vehicles with supplies and accessories, oil, lubrication, major repair services, vehicle parts sales, wrecker and hauling services and heavy repair requiring engine or drivetrain dismantling. Whenever trucks or heavy equipment are repaired even for oil changes, lubrication, minor tune-ups, installation of batteries, tires, wiper blades and similar minor repairs, the establishment shall be considered to be a repair garage.

AUTOMOTIVE SALES AND SERVICES

Any establishment selling motor vehicles new and used, supplies and accessories, and including service and repair facilities.

AUTOMOTIVE SALES LOT

Any establishment with space for the sale and storage of new or used motor vehicles, but not including the dispensing of gasoline and fuel, service or repairs.

AUTOMOTIVE SERVICE STATION

Any establishment servicing motor vehicles with fuel and oil and which provides repairs, changing of tires or any other replacement of accessory parts.

***AWNING**

A roof-like covering of canvas or cloth attached to a metal or other frame, which is attached to the exterior wall of a building.

***BANK**

A financial organization that provides direct banking services including, but not limited to, walk-up tellers, accessory drive-through areas and automatic teller machines; also includes fiduciary institutions.

***BASEMENT**

With reference to occupancy or use and to regulate the height and bulk of buildings, the portion of a building in which the ceiling averages less than 4 feet above the finished grade where such grade meets the outside walls of the building, which shall not be considered a story and habitable.

***BOARD OF ADJUSTMENT**

Zoning Board of Adjustment for the Borough of Roselle.

BUFFER

An area consisting of trees, shrubs, solid fencing or a combination of all, so installed as to provide both a visual and an acoustical barrier between properties. Solid fencing may be substituted to meet only part of the requirement and must be supplemented with planting.

BUILDING

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

BUILDING COVERAGE

That area of a lot or site which is occupied or proposed to be occupied by a building. (See also "lot coverage" and "open space.")

***BUILDING HEIGHT**

The vertical distance between the average grade along all exterior foundation walls of a building, which grade shall be substantially unchanged from the natural grade existing at the time of a development application submission and the top of a structure or the highest point of the roof surface of a building.

***CANOPY**

Any structure, in a fixed position, other than an awning or marquee, which provides a roof-like shelter (e.g. gas station canopy).

CAR WASH (AUTO LAUNDRY)

A building or structure or portion thereof where vehicles are washed or cleaned with the use of a mechanical device. A car wash shall also include what is commonly known as an "auto detail shop."

***CODE ENFORCEMENT OFFICER**

The Zoning Officer of the Borough.

COMPLETE APPLICATION

An application form completed as specified by ordinance and the rules and regulations of the municipal agency and all accompanying documents required by ordinance for approval of the application for development, including, where applicable, but not limited to, a site plan or subdivision plat, provided that the municipal agency may require such additional information not specified in this chapter or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the municipal agency. An application shall be certified as complete immediately upon the meeting of all requirements specified in this chapter and in the rules and regulations of the municipal agency and shall be deemed complete as of the day it is so certified by the administrative officer for purposes of the commencement of the time period for action by the municipal agency.

CERTIFICATE OF OCCUPANCY

A certificate issued by the Building Inspector upon completion of the construction of a new building or upon a change in the use of a building which certifies that all requirements of this chapter, or such adjustments thereof which have been granted by the Board of Adjustment or the Planning Board, and all other applicable requirements, have been complied with.

CERTIFICATE OF USE

Indicates that as a result of a general inspection of the visible parts of the building, no violations have been determined to have occurred and no unsafe conditions have been found and that the existing use of the building has heretofore lawfully existed.

***CHANGE OF USE**

Any use that substantially differs from the previous use of a building or land.

***CHILD CARE CENTER**

Any facility which is maintained for the care, development or supervision of six or more children under six years of age who attend for less than 24 hours per day and which is licensed by the New Jersey Department of Human Services.

***CLUBHOUSE**

A building or portion thereof owned or operated by a corporation, association, person or persons for civic, social, cultural, educational or recreational purposes, operated for the benefit of its members and not open the general public.

***COMMERCIAL VEHICLE**

Any commercially registered vehicle except a passenger car. Vehicles normally associated with a commercial use, but not registered for commercial use, shall be deemed commercial vehicles.

***COMMUNITY RESIDENCE**

Facility licensed pursuant to P.L. 1977, c.448 (C.30:11B-1 *et seq*.) providing food, shelter and personal guidance under such supervision as required, to no more than 15 developmentally disabled or mentally ill persons, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to group homes, halfway houses, intermediate care facilities, supervised apartment living arrangements, and hostels. Such a residence shall not be considered a health care facility within the meaning of Health Care Facilities Planning Act, P.L. 1971, c.136 (C. 26:2H-1 *et al*.)

CONDITIONAL USE

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

***CONSTRUCTION OFFICIAL**

The chief administrative construction official for the Borough of Roselle.

COUNTY MASTER PLAN

A composite of the plan for the physical development of Union County, with the accompanying maps, plats, charts and descriptive and explanatory matter adopted by the County Planning Board pursuant to N.J.S.A. 40:27-2 and N.J.S.A. 40:27-4.

COUNTY PLANNING BOARD

The Union County Planning Board.

COURT

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

DAYS

Calendar days.

DEVELOPER

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

DEVELOPMENT

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

DRIVE-IN RESTAURANT

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

***DRIVE-THROUGH PICKUP AND DEPOSIT FACILITIES**

An establishment that, by design, physical facilities, service, or by packaging procedures encourages, or permits, customers to receive service or obtain goods while remaining in their motor vehicle.

***DRIVEWAY**

A private right-of-way providing access for motor vehicles to a garage, dwelling, or other building from a street or other right-of-way.

DWELLING, ATTACHED

A one-family dwelling attached to two or more one-family dwellings by common vertical walls.

DWELLING, DETACHED

A dwelling which is not attached to any other dwelling.

DWELLING, MULTI-FAMILY

A building on one lot, containing separate living units for two or more families, having separate or joint entrances, and including apartments, group homes, townhomes and condominiums.

DWELLING, ONE-FAMILY

A building containing one dwelling unit for one family or one housekeeping unit.

DWELLING, SEMIDETACHED

A one-family dwelling attached to one other one-family dwelling by a common vertical wall.

DWELLING, TWO-FAMILY

A building containing two dwelling units for not more than two families or two housekeeping units that are vertically or horizontally separated..

DWELLING UNIT

One or more rooms designed, occupied or intended for occupancy as separate living quarters with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

DWELLING UNIT DENSITY

The average number of dwelling units per acre of ground in a given location or area.

EXISTING GRADE

The vertical location of the ground surface prior to excavating or filling.

FAMILY

Any number of persons maintaining a nonprofit household. A "family" shall include foster children placed with a family by the State Division of Youth and Family Services or a duly incorporated child care agency but shall not include roomers or members of a fraternity or sorority. (See also "household.")

***FAMILY DAYCARE HOME**

Any private residence approved by the Division of Youth and Family Services or an organization with which the Division contracts for family day-care in which child-care services are regularly provided to no more than five children for no less than 15 hours per week. Family day-care services shall be considered an accessory use. A child that is legally related to the provider shall not be included in the total number of children receiving child-care services.

FAST-FOOD RESTAURANT

The fast-food restaurant, which may or may not have tables, but which is essentially designed to dispense quick, ready-made food of limited variety. The patron obtains food directly from the dispensing counter for consumption on or off such premises. The term "fast-food restaurant" shall include drive-in restaurant unless the section of the ordinance provides otherwise.

FLOOR AREA, GROSS

The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of the exterior walls but not including areas devoted exclusively to off-street parking and loading space for motor vehicles or any space where the floor-to-ceiling height is less than seven feet

FLOOR AREA, NET

Gross floor area minus 15%.

FLOOR AREA RATIO

The ratio of the gross floor area of all buildings on a lot to the lot area.

***GARAGE, PRIVATE**

A building or structure used primarily for the storage of one or more vehicles of any person, whether or not the owner of such vehicle is the occupant of the principal building; and not more than one commercial vehicle may be garaged. Any garage other than a private garage is a public garage.

***GARAGE, PUBLIC**

A building or structure used in conjunction with a business or service; where the principal use is nonresidential in nature.

GARAGED

To be stored or parked entirely within the perimeter walls of a garage, with the doors closed except for purposes of ingress and egress.

GARDEN APARTMENTS

A building, not more than two stories and 40 feet in height, as measured from the average level of the ground immediately adjacent to the base of the structure to its highest point exclusive of chimney or tower, on one lot containing three or more separate dwelling units, and sharing joint utility services or facilities, or both; designed for the rental or sale of the individual units and having common open space.

GRADE, FINISHED

The final grade or elevation of the ground surface conforming to the proposed design.

GRADING

Any stripping, culling, filling, stockpiling or any combination thereof, including the land in its cut or filled condition.

***HALF STORY**

A space under a sloping roof that has the line of intersection of the roof and wall face not more than three feet above the floor level and in which space the possible floor area with head room of five feet or less occupies at least 40 percent of the total floor area of the story directly beneath.

HOME OCCUPATION

Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and accessory to the use of the dwelling for dwelling purposes and in connection with which there is no display, no stock in trade nor commodities sold upon the premises, unless the commodities sold is clearly secondary to and identified with the permitted occupation.

HOTEL, MOTOR HOTEL or MOTEL

A building designed for occupancy as a temporary residence of one or more persons who are lodged with or without meals.

HOUSEHOLD

A family living together in a single dwelling unit with common access to and common use of all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit.

IMPERVIOUS SURFACE

Any material which generally reduces or prevents absorption of stormwater into previously undeveloped land. Retention and detention basins and dry wells allowing water to percolate directly into the ground shall not be considered as "impervious surfaces."

LAND

Ground, soil or earth, including improvements and fixtures on, above or below the surface thereof.

LANDSCAPED AREA

Areas containing trees, shrubs and groundcovers, pedestrian and recreation areas, ponds, streams or any other areas or features which can be reasonably included, but shall not include areas occupied by buildings or structures, paving for parking, loading or access thereto, required buffers or areas utilized for outside storage.

***LIGHT INDUSTRIAL**

Those fields of economic activity including construction, light manufacturing, warehousing and wholesale trade.

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 computed area contained within the lot lines, but not including any street rights-of-way.

LOT, CORNER

A parcel of land either at the junction of and abutting on two or more intersecting streets, or abutting a single street at the point where the road tangents deflect by more than forty-five degrees.

LOT COVERAGE

That portion of one lot or more than one lot which is improved or is proposed to be improved with the buildings and structures, including but not limited to driveways, parking lots, pedestrian walkways, signs and other man-made improvements on the ground surface which are more impervious than the natural surface. (See also "building coverage" and "open space.")

LOT, INTERIOR

A parcel of land other than a corner lot.

LOT LINE

A line of record bounding a lot.

LOT LINE, FRONT

The lot line separating a lot from a street right-of-way.

LOT LINE, REAR

The lot line opposite and most distant from the front lot line, or the point at which the side lot lines meet. On corner lots, there shall be only one rear lot line.

LOT LINE, SIDE

Any lot line other than a front or rear lot line.

LOT, THROUGH

An interior lot which extends from one street to another.

LOT WIDTH

The distance between the side lot lines measured at the building setback line.

MASTER PLAN

A composite of one or more written or graphic proposals for the development of the Borough prepared and adopted pursuant to the Municipal Land Use Law.

MUNICIPAL AGENCY

Either the Borough Planning Board or the Zoning Board of Adjustment, depending on which Board has reviewing authority.

NONCONFORMING LOT

A lot, the area, dimension or location of which was lawful prior to the adoption, revision or amendment of this chapter, but fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

***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 is located by reason of such adoption, revision or amendment.

NONCONFORMING USE

A use or activity which was lawful prior to the adoption, revision or amendment of this chapter, 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.

OFFICIAL COUNTY MAP

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

OFFICIAL MAP

A map adopted in accordance with the Municipal Land Use Law, or any prior act authorizing such adoption, which map shall be deemed conclusive with respect to the location and width of the streets, public parks and playgrounds and drainage rights-of-way shown thereon.

OFF-SITE

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

OFF-TRACT

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

ON-SITE

Located on the lot in question.

ON-TRACT

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

OPEN SPACE

Any parcel of area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such "open space," provided that such area may be improved with only those buildings, structures, streets and off-street parking and other improvements that are designed to be incidental to the natural openness of the land.

OPEN SPACE, COMMON

An open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development "Common open space" may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

OPEN SPACE, GREEN

An area not occupied by structures or impervious surfaces.

OPEN SPACE, PUBLIC

An open space area conveyed or otherwise dedicated to the Borough or an agency thereof, Board of Education, state or county agency or other public body for recreational and conservation uses.

OWNER

An individual, firm, association, syndicate, copartnership or corporation having sufficient proprietary interest to seek or authorize development of land under this chapter.

***PARKING, SHARED**

Joint use of a parking space for more than one use, where parking spaces are used at different times by different uses.

PARKING AREA, PRIVATE

Any open area, including parking spaces, driveways and access aisles or other public way, used for the temporary storage of automobiles and other permitted vehicles for the private use of the owners or occupants of the lot on which the area is located.

PARKING AREA, PUBLIC

Any open area, including parking spaces, driveways and access aisles, other than a street or other public way, used for the temporary storage of automobiles and other permitted vehicles and available to the public, with or without compensation or as an accommodation for clients, customers and employees.

PARKING FACILITY

Any public or private parking area or garage.

PERFORMANCE GUARANTY

Any security which may be accepted by a municipality, including cash, provided that a municipality shall not require more than 10% of the total performance guaranty in cash.

PERFORMANCE STANDARDS

The maximum emission level that a nuisance element is permitted under this chapter.

PERMIT

A certificate issued to perform work under this chapter.

PERMITTED USE

Any use which shall be allowed, subject to the provisions of this chapter.

PERSON

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

***PERSONAL SERVICE ESTABLISHMENT**

Any business use that provides services to an individual, or group of individuals, such as barbershops, dry cleaning establishments, beauty salons, travel agencies and substantially similar type uses, and does not provide goods for retail sale or consumption.

***PLANNING BOARD**

Borough of Roselle Planning Board.

PLAT

A map or maps of a subdivision.

***PRINCIPAL BUILDING**

A building in which the main or principal use of the lot is conducted on which said building is located.

PUBLIC USE

Any use of land or structure thereon which is owned and used by the federal, state, county or local government. Public use shall also include property not owned by the municipality, but leased or used for municipal purposes.

RESIDENTIAL DENSITY

The number of dwelling units per gross acre of residential land area, including streets, easements and open space portions of a development.

***RESIDENTIAL PROFESSIONAL OFFICE**

A room or group of rooms within a privately owned residence that are used for conducting the affairs of the homeowner's licensed profession. Licensed professions include, but are not limited to, accountants, architects, attorneys, doctors and engineers.

***RESIDENTIAL STORAGE BUILDING**

An accessory building that is exclusively used by the occupant of the principal building to which it is incidental, and contains items customarily associated with residential use such as personal items, lawnmowers, tools and hardware.

RESTAURANT

An establishment, in which food or drink is prepared, served and consumed within the principal building.

***RETAIL SALES**

An establishment where goods are sold directly to the consumer for personal household use, with or without processing on the premises for such retail sale, but excluding the processing, repair or renovating of furniture, bedding or fixtures. In no instance shall bars, service stations or drug rehabilitation centers be considered retail sales.

ROOMING HOUSE

Any dwelling or part thereof, in which space is let by the owner or operator to three or more persons who are not members of the family. Same as boardinghouse.

ROOMER

A person other than a member of a family occupying a part of any dwelling unit who, for a consideration, is furnished sleeping accommodations in such dwelling unit and may be furnished meals as part of this consideration.

SIGN

A name, identification, description, display or illustration which is affixed to or represented directly or indirectly upon a building, structure or piece of land, directing attention to a product, business, service or individual. However, a "sign" shall not include a display of official, court or public notices or any official traffic control device and shall not include the flag, emblem or insignia of a nation, state, county, municipality or religious group. A "sign" shall not include a sign located completely within an enclosed building except if it is visible and directed to be seen from outside the building. Each display surface of the "sign" shall be considered to be a single "sign," except that where two such surfaces of a "sign" are physically attached, parallel and separated by less than 12 inches, the two surfaces shall be considered a single "sign."

SINGLE OWNERSHIP

Ownership by one or more persons in any form of ownership of a lot not adjacent to a lot or lots partially or entirely in the same ownership.

SITE

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

SITE PLAN

A development plan of one or more lots on which is shown (1) the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes and waterways (2) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting screening devices and (3) any other information that may be reasonably required in order to make an informed determination as to approval of the plan by the planning board adopted pursuant to 40:55D-37 et seq.

SITE PLAN, MAJOR

Any site plan not classified as a minor site plan.

SITE PLAN, MINOR

A development plan of one or more lots which involves:

(1) The expansion of a driveway or parking lot by no greater than two parking spaces or 500 square feet in area;
(2) Occupancy or change of use of a structure, building or land;
(3) Increase in gross floor area of less than 5% of the existing floor area or 500 square feet, whichever is smaller; or
(4) Addition of a permitted accessory building, structure or use no larger than 500 square feet in floor area.

Furthermore, the development plan does not involve planned development, any new street or extension of any off-tract improvement. However, the development plan must contain the information reasonably required in order to make an informed determination as to whether the requirements established by ordinance of approval of minor site plan have been met.

SOLAR ENERGY SYSTEM

A solar energy system and all its associated equipment that convert solar energy into usable electrical energy through the use of solar panels.

SOLAR PANELS

A structure containing one or more receptive cells, the purpose of which is to convert solar energy into usable electrical energy by way of a solar energy system.

STORY

That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above it.

STORY ABOVE GRADE

Any story having its finished floor surface entirely above grade, except that a basement shall be considered as a story above grade when the distance from the grade to the finished surface of the floor above the basement is more than 6 feet for more than 50% of the total perimeter or more than 12 feet at any point.

STREET

Any street, avenue, boulevard, road, parkway, viaduct, drive or other way which is an existing state, county or municipal roadway or which is shown upon a plat heretofore approved by law or which is approved by official action as provided by law or which is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a Planning Board and the grant to such Board of the power to review plats, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines. For the purposes of this chapter, "streets" shall be as classified in the Master Plan.

STRUCTURE

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

SUBDIVISION

The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered "subdivision" within the meaning of this chapter if no new streets are created: divisions of land found by the Planning Board or Subdivision Committee thereof appointed by the Chairperson to be for agricultural purposes, where all resulting parcels are five acres or larger in size; divisions of property by testamentary or intestate provisions; divisions of property upon court order, including but not limited to judgments of foreclosure; consolidation of existing lots by deed or other recorded instrument; the conveyance of one or more adjoining lots, tracts or parcels of land owned by the same person or persons, provided that all of the above are found and certified by the administrative officer to conform to the requirement of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the Tax Map or atlas of the Borough. The term "subdivision" shall also include the term "resubdivision."

SUBDIVISION, MAJOR

Any subdivision not classified as a minor subdivision.

SUBDIVISION, MINOR

A subdivision of land for the creation of not more than two lots, provided that such subdivision does not involve a planned development, any new street or the extension of any off-tract improvement, the cost of which is to be pro-rated pursuant to this chapter.

TOWNHOUSE

An attached or semidetached dwelling with two direct means of access from the outside and having separate cooking, sleeping and sanitary facilities, and separate facilities for sewerage, heating, water, electric and gas.

TRANSCRIPT

A typed or printed verbatim record of the proceedings or reproduction thereof.

***USE**

The purpose for which land or structure(s) is arranged, designed or intended or for which either land or structure(s) is or may be used, occupied or maintained.

***USE, PRINCIPAL**

The main or primary purpose or purposes for which land and/or structure(s) or use therefor is designed, arranged or intended or for which they may be occupied or maintained under this chapter. All other strucres or uses on the same lot and incidental or supplementary thereto and permitted under this chapter shall be considered accessory uses.

VARIANCE

Permission to depart from the literal requirements of a zoning ordinance pursuant to N.J.S.A. 40:55D-60, 40:55D-40b and/or 40:55D-70c and d.

YARD

An open space which lies between the principal or accessory building or buildings and the nearest lot line, unoccupied and unobstructed from the ground upward except as permitted in this chapter.

YARD, FRONT

A space extending the full width of the lot between any building and the front lot line, and measured perpendicular to the building at its closest point to the front lot line. Said "front yard" shall be unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in this chapter.

YARD, REAR

A space extending across the full width of the lot between the principal building and the rear lot line measured perpendicular to the building at its closest point to the rear lot line. Said "rear yard" shall be unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in this chapter.

YARD, SIDE

A space extending from the front yard to the rear yard between the principal building and the side lot line measured perpendicular to the side lot line at its closest point to the principal building. Said side yard shall be unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in this chapter.

***ZONING BOARD**

The Zoning Board of Adjustment as established in this chapter.

***ZONING DISTRICT**

A finite area of land, as designated by its boundaries on the Zoning Map, throughout which specific and uniform regulations govern the use of land and/or the location, size and use of buildings.

***ZONING MAP**

The map annexed to and made part of this chapter, indicating zoning districts.

ZONING PERMIT

A document signed by the Zoning Officer which is required by this chapter as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building; and which acknowledges that such use, structure or building complies with the provisions of this chapter or variance therefrom.

Article III. GENERAL SITE PLAN PROVISIONS

§ 77-5. Application of requirements.

No development shall take place within the Borough nor shall any land be cleared or altered nor shall any watercourse be diverted or filled nor shall any parking areas, accessory or otherwise or accesssways thereto be constructed, installed or enlarged nor shall any building permit, certificate of occupancy or other required permit be issued with respect to any such structure, land or parking area, except in accordance with an approval of such development granted pursuant to this Chapter, unless exempted in accordance with § 77-6. below.

§ 77-6. Site Plan Exemptions.

Site plan approval shall not be required for any of the following:

A. Detached single-family dwellings including accessory uses permitted as of right under applicable zoning districts, but this shall not limit the requirements for submission and approval of subdivision plats as otherwise required by Borough ordinances.

B. A proposed development not involving a change in use and not affecting existing circulation, drainage, building arrangements, landscaping, buffering, lighting and other considerations of site plan review.

C. An improvement required solely to comply with the Americans With Disabilities Act, such as a ramp or lift.

D. An improvement intended to reduce runoff, reduce the heat island effect, produce renewable energy or conserve potable water, such as a green roof, roof-mounted photovoltaic systems, cisterns, rain barrels, bioswales or rain gardens.

§ 77-7. Waiver of Site Plan Review Requirements

A. The rules regulations and standards set forth in this chapter shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the Borough of Roselle.

B. The Planning Board may also waive the site plan requirements if the proposed development involves normal maintenance or replacement such as a new roof, painting, new siding or similar activity.

Article IV. PROCEDURES FOR SITE PLAN APPROVAL

§ 77-8. General Intent.

All site plans shall be formally reviewed, except as noted herein, in two stages: preliminary and final. Preliminary and final stages may be combined by the applicant. As a condition for combined stage application, the time for approval by the Planning Board shall be the total of the mandated approval time allowed to each review stage, as noted herein.

§ 77-9. Filing, referral and classification procedures.

A. Filing. Site plan applications shall be received for official processing by the Borough. The applicant shall submit one copy of all required applications, plans and exhibits as set forth under the appropriate site plan review stage of this article to the Code Enforcement Officer, who shall thereafter notify the applicant of remaining completeness items, fees and of the required number of copies of application documents, plan and exhibits to be submitted at the scale required. The time for the Board's review shall not begin to run until the submission of a complete application with the required fee.

B. Referral.

(1) The Code Enforcement Officer shall forward, upon receipt of a site plan application in proper form with requisite fees, one copy of an application to the Borough Engineer for their determination of completeness and classification of an application. Completeness review shall not commence until application and escrow fees have been paid. The Borough Engineer shall report back to the Code Enforcement Officer within seven days of the filing date whether the application is complete or noting items omitted or other deviations of ordinances.

(2) If the application is deemed to be complete, the Code Enforcement Officer shall distribute copies of the application to the Development Review Committee. If the application is found to be incomplete or in violation of any applicable codes and ordinances, the applicant shall be notified by certified mail as to the items omitted or other deviations of ordinance.

(3) The Development Review Committee shall review the complete application within 14 days of the determination of completeness and shall report to the Planning Board its findings.

C. Classification. The Code Enforcement Officer, which is the Zoning Officer, shall determine whether the Planning Board or Zoning Board has approval jurisdiction on the application.

The Code Enforcement Officer may confer with the Borough Attorney in making this determination.

§ 77-10. Preliminary and Final Site Plan Requirements.

A. Map details. All maps or other documents submitted for site plan review shall contain the following information in addition to specific site plan details as required for each review stage.

(1) The title and location of the property.

(2) The name and addresses of landowner and applicant. If a corporation is landowner or applicant, the principal office and name of the President and Secretary shall be included.

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

(4) A place for the signature of the Chair and Secretary of the Planning Board and Health Officer.

(5) The date of the plan and any modifications thereto.

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

(a) (Preliminary) or (Final) Site Plan of Lot ____ Block _____ Zone

(b) Date_____ Scale

(c) Applicant and Applicant Address

(d) Site Plan Control Number

(e) I consent to the filing of this site plan with the Planning Board of Roselle Borough. (Owner Signature and Date)

(f) To be signed before issuance of a building permit and incorporated only on a final site plan (as applicable): I hereby certify that a bond has been posted for all the required improvements in compliance with all applicable codes and ordinances. (Borough Clerk Signature and Date)

(g) To be incorporated only on final site plan and signed prior to issuance of a building permit: Verification that payment of municipal taxes or assessments is current (Tax Collector Signature and Date)

(h) Approved by the Planning Board (Preliminary Approval Date) (Final Approval Date) (Planning Board Chair Signature and Date)

(i) Expiration of Approval (Date Without Extensions)

§ 77-11. Sketch Site Plan Review.

A. Objectives of review. Applicants for preliminary approval are encouraged to submit for review by the Development Review Committee sketch site plans for informal discussions and recommendations. The sketch site plan shall be reviewed to determine the proposal's compliance with applicable Borough ordinances and the general site design concept, including use, location and bulk, buildings and improvements, density, open space, traffic and pedestrian patterns and other general design components. The sketch site plan shall be to scale, but detailed dimensions need not be shown. Said sketch site plans shall be used as a basis for changes and redesign so as to avoid undue expense and delay in preparing more detailed plans and specifications in subsequent review stages. The Development Review Committee shall not be governed by any statutory time limits in its review of sketch site plans, and it is expressly understood that compliance with the Development Review Committee recommendations shall not bind the Planning Board in subsequent deliberations.

B. Sketch site plan details. The sketch site plan may be prepared by the applicant and contain sufficient information for discussion by the Development Review Committee and the applicant.

§ 77-12. Preliminary Site Plan Approval.

A. The preliminary site plan shall be reviewed to determine the acceptability of the detailed design concept and shall be in sufficient detail to enable the Board to ascertain compliance with the performance standards and other standards of this chapter, as well as applicable Borough ordinances.

B. Application. Once a preliminary site plan is deemed complete, the applicant shall submit 15 copies of the preliminary site plan and application, along with the requisite fee to the Code Enforcement Officer.

C. Preliminary site plan details. The preliminary site plan application technical materials, notwithstanding any other requirements of this or other Borough ordinances, shall contain the following:

(1) A locator map at a scale of one inch equals 500 feet or less, showing the lot and block number of the parcel in question and the lot and block numbers of adjacent and opposite properties within 200 feet of the subject property. The map should also show any contiguous lot in which the applicant has any direct or indirect interest and the nature of the applicant’s interest.

(2) An aerial photo superimposed upon the plans with the tract boundaries outlined; also photographs of the property, where necessary, to show any unusual topographic, environmental or physical aspect of the site. This would include but not be limited to vegetation, natural drainageways, wetlands and existing structures and improvements.

(3) The preliminary plat or plan shall be clearly and legibly drawn or reproduced at a scale of not less than 50 feet to one inch or as approved by the Borough Engineer and shall show or be accompanied by the following:

(a) North arrow, scale, graphic scale, date and notes and dated revisions.

(b) The zoning district in which the parcel is located, together with the district boundaries included within the boundaries of the parcel or within 200 feet therefrom. All setback lines, landscape strips, landscape buffers, building heights and other bulk requirements shall be shown and dimensioned.

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

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

(e) The existing and proposed contours, referred to United States Coast and Geodetic Survey Datum, at a contour interval of not less than two feet. Existing contours are to be indicated by solid lines. Location of existing high points, watercourses and drainageways, depressions, ponds, marshes, vegetation, wooded areas and other significant existing features including previous flood elevations of watercourses, ponds and areas as determined by survey shall be shown. Trees of five inches or over in caliper shall be specifically located and identified. Any proposed change of such natural features shall be specifically noted.

(f) The location, size, elevation, slope and type of storm drainage structures and other utility structures, above- and below-grade, whether publicly or privately owned. Design calculations supporting the adequacy of proposed drainage structures and/or surface drainage shall be submitted.

(g) The location of all existing buildings, bridges, culverts, paving, lighting, signs or any other structures with grade elevations for each structure.

(h) The distances measured along the right-of-way lines of existing streets abutting the property, to the nearest intersection with other streets.

(i) The proposed use or uses of the land, buildings and structures.

(j) The quantitative aspects of the proposal, such as improvement coverage, number of units, square feet of construction, value of construction, density, coverage, number of employees, number of residents and area of land, etc. Specifically identified on the site plan, in tabular form, shall be pertinent zoning data, indicating the bulk/area requirements of the zone in which the proposed development is located and how the proposed development responds to the zoning requirements.

(k) The proposed buildings and structures and any existing structures to remain, with dimensions, setbacks, heights (in feet and stories) and first floor or grade elevations. Existing buildings and structures to be removed shall be indicated; sketch or typical building elevations indicating type of materials to be used.

(l) The location and designs of any off-street parking areas, bicycle parking, service, trash or loading areas, showing size and location of bays, aisles, barriers, planters, maneuvering areas and traffic patterns. Include manufacturer's cut or illustration depicting the type of bicycle parking facility proposed. Also provide the typical plan layout of the facility at an appropriate scale to determine the location from walkways and building lines.

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

(n) The location, design, dimensions and materials details in the form of construction documents for any on- or off-site pedestrian parks, walkways and bicycle pathways, open space, common open space and recreation areas or any other public uses.

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

(p) The location and design of the proposed screening, landscaping and planting, including a planting plan and schedule of plant materials.

(q) The location of all outdoor lighting (freestanding or on building), the size, nature of construction, lumens, heights, area and direction of illumination, footcandles

produced, typical manufacturer cuts illustrating style and time controls proposed for outdoor lighting and display.

(r) The location and design of all signs, the size, nature of construction, height and orientation, including all identification signs, traffic and directional signs and arrows, freestanding and facade signs and time controls for sign lighting.

(s) The location and size of all proposed easements, rights-of-way, public areas to be dedicated to the public or to be restricted or defined by deed or any other arrangement. Also, the location of any Master Plan proposals indicating roadway, public area or facility shall be shown.

(4) All items as required in the environmental impact statement, as set forth in §77-21.

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

(6) A landscape plan, prepared by a licensed landscape architect, at a minimum scale of one inch equals 50 feet or larger. Different graphic symbols shall be used to show the location and spacing of shade trees, ornamental trees, evergreen trees, shrubs and ground cover. The size of the symbol must be representative of the size of the plant and shown to scale. The plan shall:

(a) Illustrate the proposed site plan elements as they relate to existing structures and site amenities, including existing woodlands, isolated trees greater than five inches in caliper, existing topographic contours and any and all other natural environmental features.

(b) Show the intent, location and type of all existing and proposed landscaping and buffering.

(c) Conceptually indicate plant types and general construction materials to be used, as appropriate.

(d) Superimpose an aerial photograph on the drawings, with the site boundaries outlined to evaluate the effects upon existing vegetation and surrounding land uses.

(e) Provide on-site photographs of existing features and topography, as appropriate.

(f) Contain a planting schedule, including specific plant botanical and common names, sizes, spacing and comments.

(g) Indicate all existing vegetation to be saved or removed.

(h) Show the location, form, height and width of other landscape architectural materials, such as berms, fences, walls, site furniture, bridges and walks. When required, a section to show the effective height of a proposed berm or fence in relation to the height of the area being screened should be provided (i.e., center line of road to building).

(7) If wetlands exist, as per N.J.A.C. 7:7A, the Freshwater Wetlands Protection Act rules are to be complied with prior to the submission of plans to the Borough. All areas of wetlands shall be depicted on plans with surveyor's metes and bounds information for the outbounds of such areas. A letter of interpretation issued by the New Jersey Department of Environmental Protection shall be submitted, indicating the presence or absence of freshwater wetlands on the parcel in question.

D. Preliminary site plan review.

(1) Within 45 days of receipt by the Code Enforcement Officer of a complete minor site plan application or within 95 days of receipt of a complete application for a major site plan the Planning Board shall act upon the application. Upon receipt of a complete application, the Code Enforcement Officer shall submit one copy to each member of the Development Review Committee and the Planning Board as well as one copy of the application to the following professionals:

(a) Borough Health Officer

(b) Borough Fire Marshal

(2) The professionals shall have a period of 21 days from the determination of completeness date to make a report and recommendations concerning the preliminary site plan. The Planning Board shall take such recommendations into account, but shall have the right to proceed in the absence of any such recommendation.

E. Preliminary site plan hearing. All actions of the Planning Board on preliminary site plans shall be at a public hearing. Public notice of an application as provided in §77-81 of this chapter shall be required.

F. Preliminary site plan action. After the conclusion of the hearing, but in no event later than the first regular meeting following the hearing, the Planning Board shall by resolution approve, disapprove or conditionally approve the preliminary site plan, stating reasons for any disproval.

G. Effect of preliminary approval. Preliminary approval of a site plan shall, except as provided in Subsection **H.** below, confer upon the applicant the following rights for a three-year period from the date of the preliminary approval:

(1) 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 on-site and off-tract improvements and any requirements peculiar to the specific site plan. The Borough may modify by ordinance such general terms and conditions of preliminary approval as they relate to public health and safety, provided that such modifications are in accord with amendments adopted by ordinance subsequent to approval.

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

H. Extension of preliminary approval.

(1) 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.

(2) In the case of a site plan for an area of 50 acres or more, the Planning Board may grant the rights referred to above for such period of time, longer than three years, as shall be determined by the Planning Board to be reasonable, taking into consideration the number of dwelling units and nonresidential floor area permissible under preliminary approval, economic conditions and the comprehensiveness of the development. The applicant may apply for thereafter and the Planning Board may thereafter grant an extension to preliminary approval for such additional period of time as shall be determined by the Planning Board to be reasonable, taking into consideration the number of dwelling units and nonresidential floor area permissible under preliminary approval, the potential number of dwelling units and nonresidential floor area of the section or sections awaiting final approval, economic conditions and the comprehensiveness of the development, provided that if the design standards have been revised, such revised standards may govern.

(3) In the event that no extension is applied for, preliminary approval shall expire and the site plan shall lapse three years from such approval.

I. Variances; Planning Board review in lieu of Board of Adjustment. The Planning Board, when reviewing applications for site plans, shall have the power to grant to the same extent and subject to the same restrictions as the Board of Adjustment variances from lot area, lot dimensional, setback and yard requirements, provided that relief shall not be granted for more than one lot.

§ 77-13. Final Site Plan Approval.

A. The final site plan shall be reviewed to ascertain whether the construction documents to be utilized in construction of the project substantially conform to the approved preliminary site plan.

B. The applicant shall submit 15 copies of the final site plan and application, along with the requisite fee to the Code Enforcement Officer.

C. Final site plan details.

(1) The final site plan application technical materials shall include the following:

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

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

[1] The final plans for site development and site improvement, including those construction details as may be specified at the time of preliminary approval.

[2] The ground floor or other floor plans sufficient to show pedestrian, vehicular or other access as it relates to the final site plan.

[3] The building elevation or typical elevations, including size, structure, materials, colors and textures.

[4] Elevations or typical illustrations of any accessory structures or signs.

[5] A final landscape plan, signed and sealed by a certified or licensed landscape architect, in the form of construction drawings and substantially conforming to the approved preliminary landscape plan. The plan shall be prepared for separate halftone sheets of the engineer's grading site plan with contour lines so that landscape details and grading are clearly shown and may be adequately reviewed. The plan shall include the location and detailed specifications for all landscape and architectural improvements, including planting details, manner of irrigation, existing trees to be removed and preserved, landscape management and a maintenance schedule and agreement.

[6] A traffic signage plan conforming to the requirements of §77-75, Subsection **T.**

D. Final site plan review.

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

(a) The detailed drawings and specifications meet all applicable codes and ordinances.

(b) The final plans are substantially the same as the approved preliminary site plans.

(c) Bonds have been posted to ensure the installation of improvements, as applicable.

(d) Proof has been submitted that all taxes and assessment for local improvements on the property have been paid.

(2) Upon receipt of a complete application, the Code Enforcement Officer shall submit one copy to each member of the Development Review Committee and one copy to each of those professionals having received a copy of the preliminary plan.

(3) The Development Review Committee shall have a period of 14 days and professionals shall have a period of 21 days after the receipt of the final plan to make a report and recommendations concerning the final plan. The Planning Board shall take such recommendations into account, but shall have the right to proceed in the absence of any such recommendation.

E. Final plan hearing. The Planning Board action shall take place at a hearing. No public notice of application shall be required.

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

G. Time limit for final approvals and extensions.

(1) Final approval shall expire two years from the date of final approval unless the applicant has secured a building permit to commence construction. The Planning Board may extend final approval and the protection offered under Subsection **F.** above for one year. Up to three such extensions may be granted.

(2) In the case of a site plan for a planned commercial development, planned industrial park development or residential cluster of 50 acres or conventional site plan for 150 acres or more, the Planning Board may extend the rights granted under final approval for such period of time, longer than two years, as shall be determined by the Planning Board to

be reasonable, taking into consideration the number of dwelling units and nonresidential floor area permissible under final approval, economic conditions and the comprehensives of the development. The developer may apply for thereafter, and the Planning Board may thereafter grant, an extension of final approval for such additional period of time as shall be determined by the Planning Board to be reasonable, taking into consideration the number of dwelling units and nonresidential floor area permissible under final approval, the number of dwelling units and nonresidential floor area remaining to be developed, economic conditions and the comprehensiveness of the development.

H. Conditions of final approval. The Planning Board may, as a condition of final approval:

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

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

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

Article V. GENERAL PERFORMANCE STANDARDS

§ 77-14. General intent.

No site plan shall be approved by the Planning Board unless the use meets the performance standards herein set forth and such state or federal standards as may be more stringent than those set forth herein. Failure to comply with the performance standards at any time after issuance of a certificate of occupancy shall be cause for revocation of such certificate. Application of these site plan standards should also encourage cost-efficient methods and designs. In reviewing any site plan, the Planning Board shall consider the following requirements of this article.

§ 77-15. Circulation and parking.

A. The pedestrian and vehicular traffic movement within and adjacent to the site, with particular emphasis on the provision and layout of parking areas, off-street loading and unloading, movement of people, goods and vehicles from access roads, within the site, between buildings and between buildings and vehicles shall be reviewed.

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

C. Any and all rules, guidelines and/or directives established regarding parking, loading and unloading and pedestrian and vehicular movement shall be in accordance with applicable provisions of the Americans with Disabilities Act of 1990.

§ 77-16. Site design and building layout.

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

§ 77-17. Lighting.

Adequate lighting shall be provided to ensure safe movement of persons and vehicles and for security purposes. Directional lights shall be arranged so as to minimize glare and reflection on adjacent properties.

§ 77-18. Common open space.

Common open space shall be provided as part of any planned residential development or open space cluster development. The open space should be classified as developed (recreational) or undeveloped (natural) space. The design of all developed (recreational) space shall be in accordance with all applicable equal access provisions of the Americans with Disabilities Act of 1990.

§ 77-19. Signs.

Signs shall be designed so as to be aesthetically pleasing and harmonious with other signs and buildings on the site. They shall be located so as to achieve their purpose without constituting hazards to vehicles and pedestrians or being visually distracting from the overall site design. All permanent signs shall be designed and erected in a manner consistent with applicable provisions of the Americans with Disabilities Act of 1990.

§ 77-20. Utilities.

Storm drainage, sanitary waste disposal, water supply and solid waste collection and disposal shall be reviewed. Particular emphasis shall be given to the preservation of stream corridors, establishment of drainage rights-of-way and the adequacy of existing utility systems and the

need for improvements both on-site and off-tract, where appropriate, to adequately carry runoff and sewage and to maintain an adequate supply of water at sufficient pressure.

§ 77-21. Environmental considerations.

Environmental elements relating to the prevention of soil erosion, preservation of trees, protection of streams, noise, air quality, topography and soil shall be reviewed, and the design of the plan shall minimize any adverse impact on these elements.

A. Environmental impact. No application for development shall be approved unless it has been affirmatively determined by the Planning Board, after an environmental appraisal, that the proposed project:

(1) Will not result in a significant adverse impact on the environment.

(2) Has been conceived and designed in such a manner that it will not significantly impair natural processes.

(3) Will not place a disproportionate or excessive demand upon the total resources available to the project site and to the impact area.

B. Application of requirement. To facilitate the environmental appraisal, all development applications including multi-family development with 10 or more units and nonresidential projects on sites in excess of 1 acre shall submit a preliminary environmental impact statement (EIS). Based on the findings of the preliminary EIS, detailed statements or clarification of detail on specific areas of environmental impact may be required. Applications requiring an EIS may be rejected by the Planning Board for failure to furnish sufficient information to enable the Board to make an adequate environmental approval. The applicant may request a pre-hearing conference with the Borough Engineer concerning the level of detail and scope of the preliminary EIS for a particular project.

C. Requirements of preliminary EIS. Applicants shall supply 15 copies of the following items to comply with the preliminary EIS requirements:

(1) Roselle Borough Preliminary Environmental Impact Worksheet. The worksheet, provided by the Borough and located at the end of this chapter, requires information on the existing condition of the site (natural features, land use, etc.), anticipated changes due to the proposed development and measures which will be used to mitigate adverse environmental impacts.

(2) Preliminary environmental analysis maps.

(a) Maps shall be produced which show the location of proposed lots and structures with respect to the natural features of the site.

(b) Natural features to be shown include flood hazard areas, streams, steep slopes, etc.

(c) Other maps may be required by the Planning Board, depending upon the peculiar site characteristics, in order for the Board to determine compliance with Subsection **A.** above.

D. Review of EIS. The preliminary EIS shall be reviewed by the Borough Engineer for completeness, and the potential environmental impact of the proposed project shall be assessed according to the standards as set forth in Subsection **A**. above. The Borough Engineer shall recommend action on the project to the Planning Board as to whether the project meets the standards of Subsection **A**. above. If the Borough Engineer determines that said standards are not met by the preliminary EIS as submitted, the developer shall submit more detailed information or clarify information with respect to those areas of the preliminary EIS which the Borough Engineer feels are deficient.

§ 77-22. Technical performance standards applicable to all uses.

In all districts and for all uses requiring site plan approval, the following provisions as may apply to specific site plan applications as set forth below shall apply. For any technical manual cited, the latest edition shall govern for technical review, where applicable.

A. Airborne emissions.

(1) No use generating airborne emissions, activity, operation or device shall be established, modified, constructed or used without having first obtained valid permits and certificates from the Bureau of Air Pollution Control, New Jersey Department of Environmental Protection, pursuant to N.J.A.C. 7:27-8. Specifically, no use, activity, operation or device shall be established, modified or constructed without a valid Permit to Construct. No use, activity, operation or device shall be operated, occupied or used without a valid Certificate to Operate Control Apparatus or Equipment.

(2) In addition to the requirements of the New Jersey Department of Environmental Protection, the following shall also apply:

(a) Steam emissions. No visible emissions of steam having an equivalent capacity greater than 60% and except that direct results of combustion shall be permitted within 500 feet of a residential district.

(b) Toxic matter. Emissions of chemicals, gases, components or elements, listed as being toxic matter by the American Conference of Governmental Hygienists, New Jersey Department of Labor and Industry or the United States Environmental Protection Agency shall not exceed the threshold level, as determined in accordance with ASTM D-1391. The emission of concentrations, levels or mass loading in excess of the threshold value shall be permitted only if the emissions of said toxic matter

comply with the applicable regulations of the New Jersey Department of Environmental Protection, New Jersey Department of Labor and Industry and United States Environmental Protection Agency. Proof of compliance shall require the submission of duplicate copies of certifications or permits from the New Jersey Department of Environmental Protection and New Jersey Department of Labor and Industry approving the concentrations, level or loading proposed by the applicant.

(c) Odorous matter. No odor shall be emitted that is detectable by the human sense at or beyond an adjacent lot line so as to be detrimental or injurious to the life, health, safety, comfort or welfare of adjacent occupants or residents. There is hereby established as a guide in determining such quantities of offensive odors Table III (Odor Thresholds) in Chapter 5, Air Pollution Abatement Manual, Copyright 1951, by Manufacturing Chemists Association, Inc., Washington, D.C.

B. Noise.

(1) Standard. Noise shall be measured with a sound level meter complying with the standards of the American National Standards Institute, American Standards Specifications for General Purpose Sound Level Meters (ANSI S.1.4-1961 or its latest revisions). The instrument shall be set to the A-weighted response scale and the meter to the slow response. Measurements shall be conducted in accordance with American Standard Method for the Physical Measurements of Sound (ANSI S.1.2-1961).

(2) Noise level restrictions.

(a) Noises shall not exceed the maximum sound levels specified in the table below.

Noise Level Restrictions		
Performance Category	Maximum Level Permitted (dBA)	Where Measured
Residence District	55	On or beyond the neighboring use or lot line.
All Other Districts	65	On or beyond the lot line or district boundaries.

(b) In any residence district, the A-weighted sound levels shall not exceed 50 dBA during the hours of 9pm to 7am. Whenever a residence district abuts any other district, the most restricted of the limitations shall apply.

(3) Exclusions and permitted variations.

(a) The levels specified in the table above may be exceeded once by 10 dBA in a single period of 15 minutes during any one day.

(b) Peak values of short duration, also known as “impact noises”, may exceed the value specified in the table by 20 dBA or have a maximum noise level of 80 dBA, whichever is more restricted.

(c) Noises such as alarms, sirens, emergency warning devices, motor vehicles and other sources not under the direct control of a use are excluded from the above limitations.

C. Heat and glare.

(1) Heat. Sources of heat, including but not limited to, steam, gases, vapors, products of combustion or chemical reaction shall not discharge onto or directly contact structures, or plant life on neighboring uses or impair the function or operation of a neighboring use. No use, occupation, activity, operation or device shall cause an increase in ambient temperature, as measured on the boundary between neighboring uses.

(2) Glare. No use, operation or activity shall provide an illumination in excess of one footcandle in a residence district. In all other districts, light intensities of all illumination sources shall be kept as low as possible and shall not interfere, annoy, cause deformity or cause loss in visual performance to persons of neighboring uses.

D. Radioactivity. No use, activity, operation or device concerned with the utilization or storage of radioactive materials shall be established, modified, constructed or used without having first obtained valid permits and certificates from the Office of Radiation Protection, New Jersey Department of Environmental Protection.

E. Storage and waste disposal.

(1) In all districts, any operation, use or any activity involving the manufacture, utilization or storage of flammable, combustible and/or explosive materials shall be conducted in accordance with the regulations promulgated by the Department of Labor and Industry of New Jersey or Chapter 66, Fire Prevention, whichever is more restrictive.

(2) All outdoor storage facilities for fuel, raw materials and products stored outdoors shall be enclosed by an approved safety fence and suitable landscaping to screen such areas from public view and shall conform to all yard requirements imposed by Article XII, Zoning, of this Chapter.

(3) No materials, wastes or other substance shall be stored or maintained upon a lot in such a manner that natural runoff from such areas on a site with an approved stormwater drainage plan can impair the existing water quality of a stream more than the primary use intended for the lot.

(4) All materials and/or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible or otherwise attractive to rodents or insects shall be stored outdoors only if enclosed in containers which are adequate to eliminate such hazards.

Article VI. DESIGN DETAILS

§ 77-23. Purpose.

The purpose of the design details set forth in this article is to implement the general performance standards established in Article V of this chapter.

§ 77-24. Circulation and parking.

A. Off-street parking. In all zones in connection with every industrial, commercial, institutional, residential or any other use, there shall be provided, at the time any building or structure is erected or is enlarged or increased in capacity, off-street parking for motor vehicles and bicycles in accordance with the requirements set forth herein. Such facilities shall be completed prior to the issuance of a certificate of occupancy. The applicant shall also meet the requirements of L. 1975, c. 221, (N.J.S.A. 53:32-12) and applicable provisions of the Americans with Disabilities Act of 1990, requiring parking spaces for the handicapped.

B. Schedule of off-street parking requirements.

(1) Motor vehicle parking requirements. The minimum number of off-street parking spaces with proper access from a street or driveway for each use in all districts shall be as follows:

(a) Business, professional, executive, engineering, administrative offices – 1 space for each 250 square feet of building floor area.

(b) Child care center – 1 space for each employee plus five spaces for drop-off and pick-up.

(c) Churches, synagogues and places of worship – 1 space for each 3 fixed seats plus 1 space for each 60 square feet of gross floor area for assembly and meeting rooms.

(d) Clubhouse – 1 space for each 40 square feet of floor area available for patron use.

(e) Community residence – 1 space for every 2 bedrooms or fraction thereof.

(f) Dance, martial arts studio - 1 space for each 120 square feet of gross public area.

(g) Dwelling, multi-family – refer to the New Jersey Residential Site Improvements Standards (RSIS), N.J.A.C. 5:21.

(h) Dwelling, one-family – refer to the New Jersey Residential Site Improvements Standards (RSIS), N.J.A.C. 5:21.

(i) Dwelling, two-family – refer to the New Jersey Residential Site Improvements Standards (RSIS), N.J.A.C. 5:21.

(j) Family daycare home – 1 space for each 300 square feet of floor area dedicated to the daycare home, which is in addition to the dwelling parking requirement.

(k) Fast food – 1 space for each 30 square feet of gross public area.

(l) Funeral parlor – 1 space for every 4 seats.

(m) Garden apartments – refer to the New Jersey Residential Site Improvements Standards (RSIS), N.J.A.C. 5:21.

(n) Hospital/sanatorium – 1 space for every 1.5 beds.

(o) Laundromat – 1 space for every 6 machines.

(p) Libraries, museums, art galleries – 1 space for each 40 square feet of floor area available for patron use.

(q) Manufacturing/assembly – 1 space for each 1,000 square feet of building floor area.

(r) Medical offices - 1 space for each 142 square feet of floor area.

(s) Personal service establishment – 1 space for each 200 square feet of floor area.

(t) Restaurants – 1 space for every 4 seats and 1 space for every 2 employees.

(u) Retail store – 1 space for each 250 square feet of floor area.

(v) Scientific/research laboratories – 1 space for each 500 square feet of building floor area or 1 space for each employee, whichever is greater.

(w) Taverns – 1 space for every 1.5 seats.

(x) Townhouses – refer to the New Jersey Residential Site Improvements Standards (RSIS), N.J.A.C. 5:21.
(y) Wholesale sales/distribution – 1 space for each 1,000 square feet of building floor area.

(2) Shared parking. Nothing in the above requirements or in this Subsection shall be construed to prevent the employment of shared parking, which may be implemented in one of two manners:

(a) On-site shared parking. For parcels containing a mixed-use building, on-site shared parking may be implemented.

[1] A 50% shared parking allowance shall be permitted for combining weekday uses with evening/weekend uses in the same building. Office and retail uses are considered to be weekday uses, while residential and restaurant uses are considered to be evening/weekend uses.

[2] 50% of the parking requirement of the evening/weekend use of the building may be met through parking already provided for the weekday use unless the parcels that are within 500 feet of a Borough-owned public parking lot and exempted from a parking requirement as provided in Subsection **(b)** below. For example, a building contains office space that requires 20 parking spaces and residential units that require 8 parking spaces. The residential parking is permitted to be reduced by 50% or 4 parking spaces. Therefore, the development would only be required to construct 24 parking spaces instead of 28.

(b) Off-site shared parking. For parcels that cannot accommodate all or a portion of their required parking spaces, the differential parking requirement is exempted if there is a Borough-owned public parking lot within 500 feet of the property and the property owner contributes $2,500 per space to a fund dedicated by the Borough for the purpose of maintaining and constructing public parking facilities.

(3) Bicycle parking and storage requirements.

(a) Multi-family residential development.

[1] Provide at least one secured, enclosed bicycle storage space for every three residential units.

[2] Bike racks shall be provided for visitors so that at least one bicycle space per ten dwelling units is available and located within 200 feet of building entrances.

(b) Nonresidential development.

[1] For retail uses, provide at least one secured, enclosed bicycle storage space per every 10 new retail workers and at least one bicycle rack for visitor-customer equal to one bicycle space per 5,000 square feet of retail space not less than four bicycle spaces per project site.

[2] For nonresidential uses other than retail, provide at least one secured, enclosed bicycle storage space per 10 new employees and at least one bicycle rack for visitors equal to one bicycle space per 10,000 square feet of retail space not less than four bicycle spaces per building. Provide at least one on-site shower with changing facility for any development with 100 or more new workers.

C. Off-street loading requirements.

(1) Off-street loading area or berths, open or enclosed with proper access from a street or common service driveway or alley, shall be provided for any use specified herein. In addition, such spaces shall comply with the design standards for such spaces as contained herein.

(2) Any land which is developed as a unit under single ownership and control shall be considered a single lot for the purpose of these loading requirements.

(3) Facilities for off-street loading shall be provided on the property in other than the front yard area.

(4) No loading or unloading platform shall be nearer to the line of any street than 60 feet.

D. Schedule of off-street loading requirements.

(1) For retail stores, restaurants, manufacturing/assembly, industrial and wholesale sales and distribution uses shall be as follows:

(a) One loading berth for buildings with 0 to 10,000 square feet of building floor area.

(b) Two loading berths for buildings with 10,001 to 40,000 square feet of building floor area.

(c) Three loading berths for buildings with more than 40,000 square feet of building floor area.

(2) For laboratories, offices and schools – 1 loading berth for each 100,000 square feet of building floor area.

(3) For funeral parlors – 1 loading berth.

§ 77-25. Supplementary parking and loading space requirements.

A. Fractional space. When the application of a unit of measurement for a parking space or loading space to a particular use or structure results in a fractional space, a space shall be required for each such fraction.

B. Computing number of employees. The number of employees, where not clearly stipulated, shall be computed on the basis of persons to be employed, taking into consideration day, night and seasonal variations.

C. Space requirements.

(1) Minimum requirements for uses not specifically covered. In determining minimum parking space requirements for uses not covered in this article, the Planning Board shall be guided by the number of persons to be employed in said building or by the use; the numbers of persons expected to reside in, visit or patronize the building or use; the anticipated percentage of residents, visitors or patrons using various transportation modes; and the need for safe and convenient loading space for visitors or patrons and goods. In all cases, minimum parking space requirements shall be in accordance with applicable provisions of the Americans with Disabilities Act of 1990.

(2) Additional parking requirements for multi-family development. For any multi-family development, 0.15 parking space per unit is required for visitor parking demands.

D. Supplementary requirements applying to parking and off-street loading.

(1) Wavier of parking and off-street loading and unloading requirements.

(a) Excess spaces. Where it can be demonstrated, at the time of Planning Board review that the parking and/or loading requirements of this article will result in more parking spaces than actual needs require, the Planning Board may permit a portion of the proposed parking and/or loading areas to remain unpaved, but landscaped with topsoil and seeded to lessen stormwater runoff. Such unpaved area shall remain reserved for such future facilities needs and, if conditions in use or actual operation of proposed use vary, the Planning Board may require such unpaved space to be paved.

(b) Exceeding minimum off-street parking and loading requirements. Minimum off-street parking and loading requirements as required by this article may only be exceeded as permitted in this article where it can be demonstrated at the time of

Planning Board review that such additional parking facilities are necessary of the actual operation of a proposed use. In such instances, the Planning Board may grant an increase in minimum space on a lot, provided that all other bulk and area requirements are met for the use in the district in which it is located.

(2) Educational facilities parking modifications.

(a) Where a building is for an educational institution which prohibits the ownership or operation of automobiles by students or that restricts the parking of student automobiles to designated institution parking areas, such students need not be included in the calculation of automobile parking requirements.

(b) Institutional parking spaces of educational institutions that are provided for normal daytime activity for other purposes shall be considered to be available for such public uses are normally conducted in the evening or on weekends in places of public assembly of such institutions.

§ 77-26. General circulation; parking and loading area standards.

A. Access. Unobstructed access to and from a street shall be provided. Paved access drives or driveways shall be provided in accordance with the criteria provided in Subsection **G.** below.

B. Location of parking spaces. No off-street parking space shall be located within a required front yard area in any zone. For the purpose of this requirement, residential driveways shall not be considered parking spaces.

C. Sidewalks and curbing.

(1) Sidewalks between parking areas and principal structures, along aisles and driveways and wherever pedestrian traffic shall occur shall be provided with a minimum width of four feet of passable area and be raised six inches or more above the parking area, except when crossing streets or driveways. At points of intersection between pedestrian and motorized lines of travel and at other points where necessary to avoid abrupt changes in grade, a sidewalk shall slope gradually so as to provide an uninterrupted line of travel. Guide rails and wheel stops permanently anchored to the ground shall be provided in appropriate locations. Parked vehicles shall not overhang or extend over sidewalk areas unless an additional sidewalk width of 2 1/2 feet is provided to accommodate such overhang.

(2) All sidewalks and curbing shall be in compliance with the applicable provisions of the Americans with Disabilities Act of 1990.

D. Landscaping and drainage.

(1) Parking areas shall be suitably landscaped to minimize noise, glare and other nuisance characteristics as well as to enhance the environment and ecology of the site and surrounding area.

(2) Off-street parking areas located in all zones, which provide parking for 15 or more vehicles shall be planted with two-inch caliper nursery-grown shade trees of species approved by the Borough Engineer as suitable for the intended purpose and located throughout the parking area at a minimum rate of one per 2,500 square feet of paved, parking area.

(3) All open parking areas and accessways thereto shall be property drained.

(4) Parking viewed from the public right-of-way or from any property used for residential purposes shall be suitably shielded.

E. Lighting.

(1) All parking areas shall be lighted to provide a minimum of three footcandles at driveway intersections with main roads and a total average illumination of 0.5 footcandle throughout the parking area.

(2) Such lighting shall be shielded in such a manner as not to create a hazard or nuisance to the adjoining properties or the traveling public.

F. General circulation design principles.

(1) Where pedestrians must cross service roads or access roads to reach parking areas, crosswalks should be clearly designated by pavement markings and signs and be in accordance with applicable provisions of the Americans with Disabilities Act of 1990.

(2) Roads and driveways from main roads should be located at grade and not below the crest of vertical curves.

(3) All parking and loading spaces and driveways shall be so arranged that cars and trucks may be turned on the lot so that it is not necessary to back into any street.

G. Location of driveways.

(1) Design.

(a) All entrance and exit driveways shall be located to afford maximum safety to traffic, provide for safe and convenient ingress and egress to and from the site and to minimize conflict with the flow of traffic.

(b) Any exit driveway or driveway lane shall be so designed in profile and grading and located to provide the following minimum sight distance measured in each direction. The measurements shall be from the driver's seat of a vehicle standing on that portion of the exit driveway that is immediately outside the edge of the road right-of-way.

Allowable Speed	Required Site Distance
(miles per hour)	(feet)
25	150
30	200
35	250
40	300
45	350
50	400

(c) Where a site occupies a corner of two intersecting roads, no driveway entrance or exit shall be located within 50 feet of the point of tangency of the existing or proposed curb radius of that site.

(d) Where two or more driveways connect a single site to any one road, a minimum clear distance of 200 feet measured along the right-of-way line shall separate the closest edges of any two such driveways.

(e) Where a development fronts on a principal, major or minor arterial or a major collector, a combined one point of ingress and egress to parking and service areas shall be provided, except where large frontages (1,000 feet or larger) are involved. In those instances where two or more driveways connect a single site to any one road, a minimum clear distance of 300 feet measured along the right-of-way line shall separate the closest edges of any two such driveways.

(2) Driveway angle.

(a) Two-way operation. Driveways used for two-way operation shall intersect the road at an angle to as near 90 degrees as site conditions will permit and in no case will be less than 60 degrees.

(b) One-way operation. Driveways used by vehicles in one direction of travel (right turn only) shall not form an angle smaller than 45 degrees with a road, unless acceleration and deceleration lanes are provided.

(3) Driveway dimensions. The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated to be attracted daily onto the land development for which a site plan is prepared. The required maximum and minimum dimensions for driveways are indicated below. Driveways serving large volumes of daily traffic or traffic of over 15% truck traffic shall be required to utilize high to maximum dimensions.

Type of Use	One-Way Operation Driveway (width in feet)*	Two-Way Operation Driveway (width in feet)*
3 to 10 family residence	10-15	24
Over 10 family	15-25	24
Commercial/Industrial	15-30	24
*All driveways shall be 5 feet wider at the curbline, and this additional width shall be maintained for a distance of 20 feet into the site.		

H. Acceleration/deceleration lanes. Where access to a parking area of 100 or more spaces is proposed, acceleration and/or deceleration lanes shall be provided in accordance with design criteria established by the American Association of State Highway and Transportation Officials Standards Manuals.

I. New or altered parking lots. No public or private parking area or access roads shall be constructed, altered or added to in the Borough until there shall have filed with the Construction Official an application for a building permit, which shall include a plan, in duplicate, drawn to scale, showing the actual dimensions of the lot or lots of the building or structures and accessory buildings already existing or to be erected, and containing such other information as shall be deemed necessary by the Construction Official to determine conformity with the provisions of the Subsections above, the Building Code and with applicable provisions of the Americans with Disabilities Act of 1990.

J. Maintenance of off-street parking and loading areas.

(1) Every parcel of land hereafter used as a public or private off-street parking or loading area shall be maintained in good condition, free of hazards and deterioration. All pavement areas, sidewalks, curbs, drainage facilities, lighting, bumpers, guardrails, markings, signs, bicycle parking devise, landscaping and other improvements shall be maintained in a workable, safe and good condition.

(2) The Borough Engineer may authorize repairs for such improvements if, after proper notice, the owner fails to maintain such improvements and such conditions constitute a hazard to health and safety or where such improvements are governed by a development or other similar agreement.

K. Automobile parking design principles.

(1) Access. The width of all aisles providing direct access to individual parking stalls shall be in accordance with the requirements set forth below. The minimum width of access aisles shall conform with the following requirements:

Parking Angle (degrees)	Aisle Width One-Way Traffic (feet)	Aisle Width Two-Way Traffic (feet)
0 (parallel)	12	24
30	12	24
45	14	24
60	18	24
90 (perpendicular)	24	24

(2) General. A one-way car movement (to the left or counterclockwise) should be encouraged. A major loop road should be developed around the parking areas. All parking shall be located in bays generally perpendicular to driveways or roads.

(3) Parking lot layout. Parking areas or lots providing for more than 60 motor vehicle spaces shall, where possible, be subdivided into modular parking bays or lots of not greater than 60 spaces each. Single row or line of spaces within a bay should be not more than 20 spaces in length. Parking bays should be separated from access or circulation drives by 10-foot wide landscaped islands for the full width of a bay at the ends of rows. Designated handicapped parking spaces shall be located on the shortest route of travel from adjacent parking to an accessible entrance. Every effort shall be made to plan an accessible path of travel from parking spaces to primary access which does not cross vehicular traffic lanes. When it is necessary to cross vehicular traffic lanes, the route of traffic shall be designated and marked as a crosswalk.

(4) Markings. In outdoor parking or service areas for uses open to the public, parking spaces shall be double-striped between spaces with lines 18 inches on center. Lines shall be four inches wide. Such areas shall be curbed with permanent and durable curbing to confine cars to striped parking, without overhang or projection onto sidewalks, driveways, bicycle parking areas, planted areas or adjacent landscaped areas. Markings for designated handicapped parking spaces shall be in accordance with the applicable provisions of the Americans with Disabilities Act of 1990.

(5) Areas computer as parking spaces. Areas which may be computed as open or enclosed off-street parking spaces include any private nonresidential garage, carport or other area available for parking, other than a street, access lane or driveway. However, a driveway within a required front yard for a one-family residence may count as one parking space. A private residential garage may also count as one parking space, provided that the dwelling unit contains a basement or similar area for occupant household storage needs.

(6) Size of parking spaces. Parking space sizes shall be measured as follows, exclusive of interior driveway or maneuvering areas:

(a) Standard spaces: nine feet in width by 18 feet in length.

(b) Compact car spaces: eight feet in width by 14 feet in length.

(c) Parking spaces for people with disabilities shall be in accordance with the New Jersey Uniform Construction Code (N.J.A.C. 5:23-7) or the Americans with Disabilities Act, as applicable.

(d) Spaces within a parking garage or structure:

[1] Standard spaces: 8.5 feet in width by 18 feet in length.

[2] Compact spaces: 7.5 feet in width by 15 feet in length.

(7) Parking for the handicapped. The number, location, size and markings of spaces shall conform to the design requirements required for such spaces by the State of New Jersey (barrier-free design N.J.S.A. 52-32-12) and the Americans with Disabilities Act of 1990. Minimum spaces in general shall be as follows:

Total Parking Spaces in Lot	Handicapped Spaces Required
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6

(8) Compact car parking. Where parking for compact cars is provided as part of an off-street parking facility, such spaces shall not exceed 1/5 of the total number of required parking spaces. Compact car spaces shall be located within a parking facility and contain proper signage and markings so that use by standard size automobiles is discouraged.

(9) Tandem parking. Where tandem parking is provided, the following shall apply:

(a) It shall be accessible only to employees and valet parking.

(b) Valet parking is permitted in the aisle.

(c) Only employee vehicles shall be permitted in the restricted-access tandem spaces.

(d) Tandem spaces shall not be more than two vehicles deep.

L. Bicycle parking design principles.

(1) General. Bicycle parking facilities shall be of such a type and quantity so as to encourage and facilitate the use of the bicycle as a means of transportation by the employees and customers of the proposed use requiring site plan approval.

(2) Location. Outdoor bicycle parking facilities shall be located in convenient locations close to building entrances or pedestrian walkways leading to building entrances. Such facilities shall be clearly marked and separated from automobile access by either landscaping, raised curbs or similar devices.

(3) Access. Bicycle access should be combined with motor vehicle access where possible. Bicycle access to a lot shall not be combined with pedestrian access. Driveways and aisles shall not contain hazards to cyclists (e.g. parallel bar drainage grates, insufficient sight clearance at points of intersection).

M. Off-street loading area; berth sizes.

(1) Loading area. A loading area need not be necessarily a full berth, but shall have a minimum plan dimension of at least 10 feet overload clearance. The Construction Official shall determine the sufficiency of the off-street loading area(s) based upon the land and amount of loading and unloading operation required by the proposed use, but in no case shall the use of such space hinder the free movement of vehicles and pedestrians over a street, sidewalk or alley.

(2) Loading berth. Each required loading berth shall be least 12 feet wide, 33 feet long and 14 feet high.

N. Location and access of loading areas, berths.

(1) Unobstructed access, at least 10 feet wide, to and from a street shall be provided. Such access may be combined with access to a parking lot. All permitted or required loading areas or berths shall be on the same lot as the use to which they are accessory. No entrance or exit for any loading area or berth shall be located within 50 feet of any street intersection. No off-street loading berth or area shall be located in any front yard.

(2) All areas for the loading and unloading of vehicles and for the serving of establishments or shops shall have adequate and unobstructed access from a street, service driveway or alley and shall be so arranged that they may be used without blocking or otherwise interfering with the use of automobile accessways, parking facilities, fire lanes or sidewalks.

§ 77-27. Lighting.

In connection with every site plan, the applicant shall submit plans for all proposed exterior lighting. These plans shall include the location, type of light, radius of light, manufacturer's specification sheet and intensity in footcandles. The following design standards shall be followed:

A. The style of the light and light standards shall be consistent with the architectural style of the principal building.

B. The maximum height of freestanding light structures shall be 16 feet in any zone.

C. All light shall be shielded to restrict the maximum apex angle of the cone of illuminations to 150 dgrees.

D. Where lights along the property lines would be visible to adjacent residents, the lights shall be appropriately shielded. Site lighting, other than that needed for security purposes, shall be set on a timer system that shuts off all but security lighting of the site by 11:00pm.

E. Spotlight-type fixtures attached to buildings and visible to the public shall be avoided.

F. Freestanding lights shall be so located and protected to avoid being easily damaged by vehicles.

G. Lighting shall be located along streets, parking areas, at intersections and where various types of circulation systems merge, intersect or split.

H. Pathways, sidewalks and trails shall be lighted with low or mushroom-type standards.

I. Stairways and sloping or rising paths, building entrances and exits require illumination.

J. Lighting shall be provided where buildings are set back or offset, if access is provided at such points.

K. The following intensity in footcandles shall be provided:

(1) Parking lots: an average of 0.5 footcandles throughout.

(2) Intersections: 3.0 footcandles.

(3) Maximum at property lines: 1.0 footcandles.

(4) In residential areas: average of 0.6 footcandles.

§ 77-28. Refuse design standards.

In connection with every site plan, excluding one- and two-family homes, the applicant shall show the refuse location on the site plan and submit information on the enclosure size and materials. The ensuing design standards shall be followed:

A. All trash and/or recyclable material receptacles shall be located in the rear yard and shall be enclosed on three sides with a solid masonry enclosure not less than 6 feet in height. The opening in the enclosed refuse area shall be a solid gate six feet in height, which provides adequate access and removal of the refuse container(s), while screening their view from adjoining properties and public streets.

B. Said masonry structure shall be architecturally compatible with the principal building.

C. Receptacles and their solid masonry enclosure shall be set back at least 5 feet from any rear or side lot line.

D. No trash and/or recyclable material enclosure shall be visible from any public street.

E. No trash and/or recyclable material shall be allowed to extend above or beyond the enclosure.

F. All refuse areas shall be safely and easily accessible by collection personnel and vehicles and shall be able to access such area without interference from parked cars or other obstacles.

§ 77-29. Environmental considerations.

In addition to conforming to the EIS standards, as set forth herein, the site plan shall be designed in accordance with applicable Borough ordinances designed to protect the environment. These include, but are not limited to, Chapter 68, Floodplain and Stormwater Control and Chapter 110, Trees.

§ 77-30. Street furniture.

Street furniture are the man-made elements of the environment. These include but are not limited to benches, planting boxes, mailboxes and parking meters, street lights, tables and chairs for outdoor dining, directional signs, trash receptacles and bike racks. In reviewing a site plan, details of street furniture shall include location, size, lighting and design relationship to the principal building(s). Such furniture shall be subordinate to the site plan and arranged in a design-coordinated fashion to the principal use on the lot (e.g. color and scale shall be reasonably harmonious with the principal building).

Article VII. GENERAL SUBDIVISION PROVISIONS

§ 77-31. Purpose.

The purpose of Article VII shall be to provide rules, regulations and standards to guide land subdivision in Roselle Borough in order to promote the public health, safety, convenience and general welfare of said Borough and to carry out the objectives of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.). It shall be administered to ensure the orderly growth and development, protection and proper use of land and adequate provisions for circulation, utilities and services within the jurisdiction of Roselle Borough.

§ 77-32. Approving authority.

A. Planning Board. The provisions of Article VII shall be administered by the Planning Board of the Borough of Roselle, except as set forth in Subsection **B.** of this section.

B. Zoning Board of Adjustment. The provision of Article VII shall be administered by the Zoning Board of Adjustment in applications before the Zoning Board of Adjustment involving variances provided for in N.J.S.A. 40:55D-70(d) on which subdivision approval would be required. For such applications, any reference in Article VII to the Planning Board shall be considered to refer to the Zoning Board of Adjustment, where applicable.

§ 77-33. Application of requirements.

These rules, regulations and standards shall be considered the minimum requirements for the projection of the health, safety and welfare of the citizens of Roselle Borough. No building permit, certificate of occupancy or other required permit shall be issued except in accordance with an approval of the subdivision and its improvements granted pursuant to this Article VII. unless modified in accordance with § 77-34 below.

§ 77-34. Exceptions.

A. The Planning Board, when acting upon applications for preliminary or minor subdivision approval, shall have the power to grant such exceptions and waivers from the requirements for subdivision approval as may be reasonable and within the general purpose and intent of this Article VII. if the applicant can clearly demonstrate that, because of peculiar conditions pertaining to the literal enforcement of one or more provisions of this Article VII., it is impracticable or will exact undue hardship.

B. A building permit or certificate of occupancy may be issued if all improvements have been installed or completed except the finish course of the road, and the Borough Engineer warrants that completion of the road is in the Borough's interest after the subdivider has

completed construction of the dwellings and structures. The maintenance guaranty required shall not begin until the finish course has been installed.

C. The Construction Code Official may also authorize the issuance of a temporary certificate of occupancy if the following improvements have been bonded but not yet installed: landscaping, sidewalks, other similar improvements.

D. In major subdivisions where three or fewer new building lots are involved as part of a development application, the Planning Board, upon request of an applicant, shall have the power to defer requirements for the installation of public improvements or posting of improvement guarantees for such improvements, provided that:

(1) The applicant clearly demonstrates that such improvements are not reasonably immediately necessary to ensure the public health, safety or welfare of residents or potential residents of the lots involved or existing residents of the adjacent areas. In establishing the basis for a deferment, the Planning Board may take into account a report from its engineer, planner or other advisers or agencies it deems appropriate as to when such improvements may be necessary in the public interest and as to the timing of improvement activities by adjacent land owners or other public agencies which would require installation of the subject subdivision improvements to complete a development scheme for the adjacent area.

(2) Any deferment granted shall not relieve the applicant or any subsequent owners of the initial tract from which the new lots are being created from the responsibility for the installation or payment of a pro rata share of the ultimate costs of installation of improvements related to and benefiting the lots of the subject development application. Such deferred liability shall be enforced in connection with an off-tract improvement pursuant to the Municipal Land Use Law and this chapter at the time of the development of the remainder of the initial tract or the development of any other related tract, or as otherwise provided by law.

(3) The final plat, Planning Board final approval resolution and individual lot deed instruments shall stipulate the terms and conditions of any such deferments. In addition, recordable agreements may be required at the option of the Planning Board.

(4) Only one deferment as outlined herein for a parcel (contiguous lots under similar ownership shall constitute a single parcel for purposes of this deferment provision) may be permitted from the date of enactment of this Article VII.

Article VIII. PROCEDURE FOR SUBDIVISION APPROVAL

§ 77-35. General intent.

A. Any applicant wishing to subdivide land within the Borough of Roselle shall apply for and obtain the approval of the Planning Board in accordance with the following procedures. Sketch plat approval shall be required for all minor subdivisions. Major subdivisions shall be formally reviewed and approved in two stages: preliminary and final. An informal discussion and review sketch plat stage is encouraged of applicants seeking major subdivision plat approval.

B. The applicant or the applicant's agent shall appear at all regular meetings of the Planning Board whenever the application is being considered. Failure to appear shall give the Planning Board the right to postpone action on the application for that particular meeting or deny and dismiss the application without prejudice if the applicant or the applicant's agent's absence deprives the Planning Board of information necessary to make a decision.

§ 77-36. Filing, referral and classification procedures.

A. Filing. The applicant shall submit one copy of all required applications, plans and exhibits as set forth under the appropriate site plan review stage of this article to the Code Enforcement Officer, who shall thereafter notify the applicant of remaining completeness items, fees and of the required number of copies of application documents, plans and exhibits to be submitted at the scale required and in addition at a reduced size. The time for the Board's review shall not begin to run until the receipt of a complete application with the required fee.

B. Referral.

(1) The Code Enforcement Officer shall forward, upon receipt of a subdivision application in proper form with requisite fees, a copy of said application to the Borough Engineer for his/her preliminary determination of completeness and classification of the subdivision. The Borough Engineer shall report back to the Code Enforcement Officer within seven days of the filing date whether the application is complete or noting items omitted or other deviations of ordinances.

(2) If the application is deemed to be complete, the Code Enforcement Officer shall distribute copies as stipulated within this Chapter 77 for the appropriate subdivision review state. The Planning Board may also designate other local or higher governmental agencies to receive copies of any application for review and recommendation beyond those agencies stipulated in this Chapter 77. If the application is found to be incomplete or in violation of any applicable codes and ordinances, the applicant shall be notified by certified mail as to the items omitted or other deviations of ordinances.

C. Classification.

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

(2) The Code Enforcement Officer shall classify the application as either a minor or major subdivision.

§ 77-37. Development Review Committee review.

The Development Review Committee shall review the completed application and report back to the Planning Board within 30 days after the filing date of a subdivision application.

§ 77-38. Requirements for sketch, preliminary and/or final plat stages.

A. Map details. All maps or plans submitted for subdivision plat review shall contain the following information in addition to specific plat details as required for each approval stage noted herein:

(1) The title and location of the property.

(2) The name and address of the landowner and applicant. If a corporation is the landowner or applicant, the principal office and the name of the President and Secretary shall be included.

(3) The name, address and professional license number and seal of the professional preparing documents and drawings. All plats, except those prepared at the sketch stage, shall be signed and sealed by a licensed land surveyor of the State of New Jersey.

(4) The place for the signature of the Chair and Secretary of the Planning Board and Health Officer.

(5) The date of the plat and any modifications thereto.

(6) The following legends shall be on the plat map:

(Sketch)/(Preliminary)/(Final)
Subdivision of _____
Lot ___ Block ____
Zone

Date, Scale
Applicant
Address
Subdivision Control Number

I consent to the filing of this subdivision plat with the Planning Board of Roselle Borough.
(Owner) (Date)

I hereby certify that all the required improvements have been installed or a bond posted in compliance with all applicable codes and ordinances. (Only for final plat of a major subdivision.)
(Borough Engineer) (Date)
(Borough Clerk) (Date)
Building Permit Issued (Date)

Verification that payment of municipal taxes or assessments is current. (Only for final plat for major or sketch plant for minor.)
(Tax Collector) (Date)

(7) In addition to the legends required under (6) above, the appropriate approval signature block is to be incorporated:

(a) Minor Subdivision Approved (Date of Board Approval)
(Chair) (Date)
(Board Secretary) (Date)

Deed to subdivision must be filed with County Clerk within 190 days of date of Board Approval.

Expiration of Approval (Date: Minor = 2 years)

(b) Major Subdivision Approved (Preliminary/Final) (Date of Board Approval)
(Chair) (Date)
(Board Secretary) (Date)

Expiration of Approval (Date: Major preliminary = 3 years, Major final = 2 years)

B. Other information. The Planning Board may require such additional information not specified in this Chapter 77 or revisions in the accompanying documents as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application have been met. The application shall not be deemed incomplete for lack of any such additional information or revisions in the accompanying documents so required.

§ 77-39. Compliance with other ordinances; waiver of information required.

A. Information and documents required for other Borough codes and ordinances, such as soil erosion and sedimentation plans or stormwater management plans, shall be submitted as part of an application for subdivision approval and may be used to comply with subdivision submission requirements for particular stages as applicable.

B. The Planning Board may waive submission of any required exhibits in appropriate cases and for specific subdivision plats. Request for such waivers shall accompany a subdivision application and state the reasons why such waiver(s) is being requested.

§ 77-40. Sketch plats for minor or major subdivisions.

A. Objectives of submission. The sketch plat may be submitted so that it can be informally reviewed to determine the plat's general compliance with applicable Borough ordinances and design requirements as set forth herein. Sketch plats for major subdivisions shall be used as a basis for changes and redesign so as to avoid undue expense and delay in preparing more detailed plans and specifications in subsequent review stages. The Development Review Committee shall not be governed by any statutory time limits in its review of sketch plats for major subdivisions, and it is expressly understood that compliance with Development Review Committee recommendations shall not bind the Planning Board in subsequent deliberations.

B. Application. Two or more copies of the sketch plat, an application in a form approved by the Planning Board and the requisite fee, shall be delivered to the administrative officer, in accordance with the procedures set forth herein.

C. Sketch plat details. The sketch plat, notwithstanding any other requirement stipulated by this Chapter 77, shall contain the following information, except that the Planning Board may waive any requirement or request additional information where it is clearly appropriate to the particular application.

(1) All plats shall be based on accurate information at a scale of not more than one inch equals 100 feet to enable the entire tract to be shown on one sheet.

(2) A location map showing the entire tract to be subdivided, giving the accurate location of all existing and proposed property and street lines, at a scale of one inch equals 1,000 feet, or larger scale, showing the entire subdivision and its relation to properties within 1/2 mile of the extreme limits of the subdivision, and the zoning classification of the proposed subdivision and of adjacent land.

(3) The location of existing houses, buildings and other structures, with accurate dimensions from all existing and proposed lot lines, wooded areas and isolated trees more than five inches in diameter, and topography with the portion to be subdivided and within 200 feet thereof at twenty-foot, or smaller, contour intervals. (United States Geological Survey topographic quadrant map series are acceptable for topography at this stage.)

(4) The name of the owner, all adjoining property owners and those across existing or proposed streets as disclosed by the most recent Borough tax records.

(5) The tax map sheet, date of revision, block and lot numbers and zone district of the tract proposed to be subdivided.

(6) Existing and proposed features. The location of existing or proposed streets, easements, public rights-of-way, streams, bridges, culverts and drainage ditches in and within 500 feet of the subdivision.

(7) The original and proposed lot layout, lot dimensions, all required setback lines and the lot area of each lot in square feet and acreage. Lots shall be designated by letters for minor subdivisions and by consecutive numbers for major subdivisions until given official lot number designations by the Borough Engineer.

(8) As applicable, the date of original preparation and date of revision, if any, or plat, as well as the old name, if submitted previously under a different title.

(9) A preliminary environmental impact statement, as outlined in § 77-21.

(10) A concept landscape plan, prepared by a certified or licensed landscape architect, showing existing woodlands, isolated trees greater than five inches in caliper, existing topographic contours and all other natural features.

(11) An aerial photograph on the drawings with the site boundaries outlined to evaluate the effects upon surrounding land uses.

(12) In the case of a minor subdivision if wetlands exist, as per N.J.A.C. 7:7A-1 et seq., Freshwater Wetlands Protection Act, rules are to be complied with prior to submission of plans to the Borough. All areas of wetlands shall be depicted on plans with surveyors metes and bounds information for the outbounds of such areas. A letter of interpretation issued by the New Jersey Department of Environmental Protection shall be submitted indicating the presence or absence of freshwater wetlands on the parcel in question.

(13) As a condition precedent to the application for a building permit, a proposed grading plan for each individual lot shall be submitted to the Borough Engineer for

review and approval. This plan shall include the proposed building footprint, finished first floor elevation and proposed ground elevations at the following locations: all lot corners, all building corners and at vehicle entrance to a garage. The plan shall also show the proposed finished basement floor elevation, the existing groundwater elevation, the highest seasonally high groundwater elevation, the methods of determining both the existing groundwater elevation and the highest seasonally high groundwater elevation and by whom these determinations were made.

(14) As-built lot grading plan.

(a) As a condition precedent to the issuance of certificates of occupancy, pursuant to the State Uniform Construction Code, an as-built lot grading plan prepared by a land surveyor licensed in the State of New Jersey shall be submitted to the Construction Official and to the Borough Engineer, bearing a certification that the lot grading complies with the proposed lot grading plan as approved or as amended and approved by the Borough Engineer.

(b) The as-built plan shall be prepared with contours of one-foot intervals and shall include the building footprint, finished first floor elevation and ground elevations at all lot corners, all building corners, vehicle entrance to a garage, drainage swale inverts between adjacent interrupted landscape berms, the top of the curb adjacent to property corners, the edge of Borough-owned sidewalk adjacent to property corners and at the center of the driveway, inlet grate elevations (private and Borough-owned) and all high points on the lot. The invert and surrounding ground elevation shall be shown for sanitary sewer clean-outs and for sump pump discharge line clean-outs. The plan shall also show the location of the septic system, lateral inverts and D-box outlet inverts, if applicable. All proposed ground elevations shown on the approved proposed grading plan shall be included on the as-built plan.

§ 77-41. Plat approval, minor subdivisions.

A. Distribution. If classified as a minor subdivision, one copy of the plat shall be retained for the Planning Board file and one copy of the plat shall be forwarded by the Code Enforcement Officer to each of the following for review and comment:

(1) Planning Board.

(2) Borough Engineer.

(3) County Planning Board.

(4) Construction Official.

(5) Planning Board Attorney.

(6) Other agencies as may be determined by the Planning Board (e.g., Secretary of the School Board, Clerk of adjoining municipality, New Jersey Department of Transportation, etc.).

B. Action.

(1) The Planning Board shall act within 45 days of the filing date of a complete application for a minor subdivision. The Board shall not approve or conditionally approve the minor subdivision prior to receipt of comments by the above agencies or officials or before 30 days from the filing date has elapsed without any comments, whichever occurs first. Further, the Planning Board shall have the right to approve or change the classification of the subdivision by a majority vote.

(2) If approved, a notation to the effect shall be made on the plat, and it shall be signed by the Planning Board Chair and the Planning Board Secretary and returned to the subdivider within one week following the meeting of the Planning Board at which official action was taken.

(3) If rejected, the reasons for rejection shall be noted on all copies of the application form, one of which shall be returned to the applicant. The Planning Board may attach conditions of approval to any minor subdivision.

C. Filing with county recording officer.

(1) If approved as a minor subdivision, a plat drawn in compliance with Chapter 141 of the Laws of 1960 or deed stamped with the date of the Planning Board approval shall be filed by the subdivider with the county recording officer within 190 days from the date of approval. Failure to file within 190 days shall void said subdivision approval.

(2) The Planning Board may extend the 190 period for filing a minor subdivision plat or deed if the developer proves to the reasonable satisfaction of the Planning Board that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities and that the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Planning Board. The developer may apply for the extension either before or after what would otherwise be the expiration date.

(3) The Planning Board shall grant an extension of minor subdivision approval for a period determined by the Board, but not exceeding one year from what would otherwise be

the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the required approvals. A developer shall apply for the extension before what would otherwise be the expiration date of minor subdivision approval or the 91st day after the developer receives the last legally required approval from other governmental entities, whichever occurs later.

D. Approved minor subdivisions; municipal distribution. Before the Construction Official issues a building permit for the approved minor subdivision, the applicant shall provide the administrative officer with a certificate of filing from the County Clerk's office. The administrative officer shall distribute copies of the approved subdivision to each of the following:

(1) Borough Engineer: two prints.

(2) Applicant: one print.

(3) Construction Official, for each lot and block file: one print.

(4) Tax Assessor: one print.

(5) County Planning Board: one print.

(6) Planning Board file: one print.

E. Effect of minor subdivision approval. The granting of minor subdivision approval shall guarantee that the zoning requirements and general terms and conditions upon which minor subdivision approval was granted shall not be changed for a period of two years after the date of minor subdivision approval, provided that the approved minor subdivision shall have been duly recorded as provided herein. Applicants shall be responsible for necessary approvals prior to development as may be required by other Borough codes and ordinances.

§ 77-42. Sketch plat review, major subdivisions.

A. Distribution. If classified as a major subdivision, one copy of the plat shall be retained by the Planning Board and one copy of the plat shall be forwarded by the Code Enforcement Officer to each of the following for review and comment:

(1) Development Review Committee.

(2) Borough Engineer.

(3) County Planning Board.

(4) Fire Protection Official.

(5) Other agencies as may be determined by the Planning Board (e.g., the Clerk of the adjoining municipality, New Jersey Department of Transportation, etc.)

B. Action. The Planning Board shall act upon a recommendation received from the Development Review Committee at a scheduled public meeting. The Planning Board shall approve or disapprove the sketch plat, setting forth reasons therefor, and, if approved, the applicant shall proceed onto the preliminary plat approval stage as stipulated herein.

C. Effect of sketch plat approval for major subdivision. Sketch plat approval shall be deemed to be approval by the Planning Board only of the concept presented by the sketch plat. No vested rights shall accrue as the result of sketch plat approval.

§ 77-43. Preliminary plat approval, major subdivisions.

A. Objectives of submission. To transfer the general and approximate ideas of the sketch plat more exactly to a precise base to verify their feasibility before proceeding with detailed construction and engineering documents.

B. Application. Two or more copies of the preliminary plat, an application in a form approved by the Planning Board and the requisite fee shall be delivered to the Code Enforcement Officer in accordance with the procedures set forth herein.

C. Preliminary plat details. The preliminary plat, notwithstanding any other requirement stipulated by this Chapter 77, shall be clearly and legibly drawn or reproduced at a scale of not less than one inch equals 100 feet and shall contain or be accompanied by the following information, except that the Planning Board may waive any requirement or request additional information where it is clearly appropriate to the particular application:

(1) A key map at a scale not smaller than one inch equals 1,000 feet, showing the relation of the portion to be subdivided to the entire tract and the relation of the entire tract to the neighborhood for at 1,000 feet beyond its boundaries.

(2) The tract name, tax map sheet, block and lot number, date, reference meridian, graphic scale and the following names and addresses:

(a) The name and address of the record owner or owners.

(b) The name and address of the subdivider and, if a partnership or corporation, names of all individuals having more than 10% ownership.

(c) The name and address of the person who prepared the plat.

(d) The names of owners within 200 feet of the subject property.

(3) A survey map, prepared by a licensed surveyor of New Jersey, showing boundaries of the tract to be subdivided, with tract size to the nearest 1/100 of an acre.

(4) Contours. Existing and proposed contours at five-foot intervals for slopes averaging 10% or greater and at two-foot intervals for land of lesser slope shall be required. Contours shall be in the United States Coast and Geodetic Control Survey Datum. At least two permanent bench marks for each 50 acres or portion thereof shall be established on opposite ends of the proposed subdivision, and their locations, descriptions and elevations shall be noted on the preliminary plat. Existing contours shall be shown beyond the limits of the subject tract for a distance of at least 200 feet.

(5) The location of existing and required setback lines, proposed building footprints, streets within 200 feet of the subdivision; and the location of existing and proposed buildings, watercourses, floodplains, railroads, bridges, culverts, drainpipes and all natural features, such as wooded areas.

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

(7) Plans and profiles showing proposed utility layouts (sanitary sewers, storm drains, water, gas, electric, detention basins, etc.) showing feasible connections to existing or proposed utility systems. Cross sections of streets may be required by the Borough Engineer. Locations of fire hydrants and street lights shall be established with the aid of the Fire Protection Official and the Borough Engineer, respectively.

(8) The proposed names of all streets within the subdivision shall be shown and shall be subject to approval by the Planning Board.

(9) Each block and lot shall be numbered in accordance with the system of numbers, which will ultimately be the numbers shown on the Township Tax Map.

(10) A drainage plan shall be submitted, which shall show the existing contours and proposed contours, proposed finished grade elevations at street intersections and breaks in grade, proposed rates of grades of streets, locations of drainage sub-basin limits, proposed method of block drainage, including proposed (down) slope arrows and all drainage systems and structures, including sizes and invert and casting elevations. The plan shall be accompanied by a set of drainage computations certified

by a professional engineer. Where brook or stream channel improvements are proposed or required, the plans for such improvements shall be approved by the State Department of Environmental Protection or the Union County Planning Board, where applicable.

(11) All proposed lot lines, dimensioned in feet and tenths, and the approximate area of all lots in square feet, as well as any open spaces proposed to be dedicated for public use.

(12) When the development of the subdivision or improvements within the subdivision are contingent upon improvements outside the boundaries of said subdivision, information shall be supplied by the subdivider prior to Planning Board consideration for preliminary approval that the improvements outside the subdivision shall be installed and shall be available to the subdivider prior to the issuance of any certificate of occupancy for the project or phase of a project that is the subject of a development application.

(13) Any open space proposed to be dedicated for public use or playgrounds or other public purpose and the location and use of all such property shall be shown on the plat.

(14) A statement accompanying the preliminary plat indicating the type of structure(s) to be erected and the approximate date of construction start; a tentative section plan for the entire subdivision indicating the estimated number of lots on which final approval will be requested for the first section.

(15) An environmental impact statement, as may be required by the Planning Board at the time of preliminary plat approval.

(16) A soil survey map, prepared by a professional engineer, to indicate the different types of soils that exist on the subject tract and within 200 feet of the extreme limits of the subject tract. This map shall be in conformance with the soil survey of Union County, New Jersey, published by the United States Department of Agriculture. Where wetlands exist on or within 200 feet of the extreme limits of the subject tract, as per N.J.A.C. 7:7A-1 et seq., the wetlands boundary shall be superimposed on the soil survey map.

(17) If wetlands exist, as per N.J.A.C. 7-1 et seq. or 7A-1 et seq., Freshwater Wetlands Protection Act rules are to be complied with prior to submission of plans to the Borough. An area of wetlands shall be depicted on plans with surveyor's metes and bounds information for the out-bounds of such areas. A letter of interpretation issued by the New Jersey Department of Environmental Protection shall be submitted, indicating the presence or absence of freshwater wetlands on the parcel in question.

(18) A landscape plan, prepared by a certified or licensed landscape architect, at a minimum scale of one inch equals 50 feet or larger, illustrating the proposed site elements as they relate to existing structures and site amenities, including existing woodlands, isolated trees greater than five-inch caliper, existing topographic contours and any and all other natural features; the intent, location and type of all existing and proposed landscaping and buffering; and the location, form, height and width of other landscape architectural materials such as berms, fences, walls, site furnishings, bridges and walks.

(19) An aerial photograph with the site boundaries outlined to evaluate the effects upon surrounding land use.

(20) A traffic signage plan conforming to the requirements of §77-75, Subsection **T.**, of this chapter.

D. Preliminary plat review.

(1) Within 45 days of the submission to the Code Enforcement Officer of a complete subdivision plat application for 10 lots or less or within 95 days of submission of a complete application for a subdivision application of more than 10 lots or within such further time as may be agreed upon by the developer, the Planning Board shall act upon the application.

(2) Distribution. Upon receipt of a complete application, the Code Enforcement Officer shall submit one copy to each member of the Planning Board and one copy of the application to the following professionals and boards:

(a) Borough Engineer.

(b) Fire Marshal.

(c) Local Fire Company.

(d) Borough Traffic Engineering Consultant.

(e) The Union County Planning Board and other agencies, where applicable (e.g., New Jersey Department of Transportation, the Clerk of the adjoining municipality, the Secretary of the School Board, etc.).

(f) Such other boards, agencies or professionals as the Planning Board may deem necessary or which may be required to be notified by law.

(3) Review. The professionals and boards shall have a period of 30 days after the filing date of a subdivision plat application of 10 or fewer lots or 60 days on a subdivision

plat application of more than 10 lots to make a report and recommendations concerning the preliminary plat. The Planning Board shall take such recommendations into account but shall have the right to proceed in the absence of any such recommendation.

E. Preliminary plat hearing. All actions of the Planning Board on preliminary subdivision plats shall be at a public hearing. Public notice of an application as provided in §77-62 of this chapter, shall be required for all major subdivision plats. Applicants for major subdivision plats requiring variances by the Planning Board shall also be required to provide public notice of application.

F. Preliminary plat action. After the conclusion of the hearing, but in no event later than the first regular meeting following the hearing, the Planning Board shall by resolution approve, disapprove or conditionally approve the preliminary plat, stating the reasons for any disapproval.

G. Decisions of Planning Board. See §77-63 for decisions on subdivision plat applications under varying procedural conditions.

H. Effect of preliminary approval. Preliminary approval of a subdivision plat shall, except as provided in Subsection **I.** below, confer upon the applicant the following rights for a three-year period from the date of the preliminary approval.

(1) 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 on-site and off-tract improvements and any requirements peculiar to the specific subdivision plat. The Borough may modify by ordinance such general terms and conditions of preliminary approval as they relate to public health and safety, provided that such modifications are in accord with amendments adopted by ordinance subsequent to approval.

(2) 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.

I. Extension of preliminary approval.

(1) 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.

(2) In the case of a subdivision plat for an area of 50 acres or more, the Planning Board may grant the rights referred to above for such period of time, longer than three years, as shall be determined by the Planning Board to be reasonable, taking into consideration the number of dwelling units and nonresidential floor area permissible under preliminary approval, economic conditions and the comprehensiveness of the development. The applicant may apply for thereafter and the Planning Board may thereafter grant an extension to preliminary approval for such additional period of time as shall be determined by the Planning Board to be reasonable, taking into consideration the number of dwelling units and nonresidential floor area permissible under preliminary approval, the potential number of dwelling units and nonresidential floor area of the section or sections awaiting final approval, economic conditions and the comprehensiveness of the development, provided that if the design standards have been revised, such revised standards may govern.

J. Variances; Planning Board review in lieu of Board of Adjustment. The Planning Board, when reviewing applications for subdivision plats, shall have the power to grant to the same extent and subject to the same restrictions as the Board of Adjustment variances from lot area, lot dimensions, setback and yard requirements, provided that relief shall not be granted for more than one lot.

K. Approved preliminary plat; municipal distribution.

(1) The Code Enforcement Officer shall distribute copies of the approved preliminary plat with construction plans to each of the following:

(a) Borough Engineer: one print.
(b) Applicant: one print.
(c) Planning Board file: one print.

§ 77-44. Final plat approval, major subdivisions.

A. Objectives of review. The final plat shall be reviewed to determine whether the documents to be utilized in construction of the project substantially conform with the approved preliminary plat and to assure proper posting of performance and maintenance bonds.

B. Application. Two or more copies of the final plat, an application in a form approved by the Planning Board and the requisite fee shall be delivered to the Code Enforcement Officer. The final plat shall be submitted to the Planning Board for final approval within three years from the date of preliminary plat approval or within such extension as provided herein.

C. Final plat details. The final plat, notwithstanding any other requirements stipulated by this Chapter 77 or other Borough ordinances, shall be drawn in ink on mylar at a scale of one inch equals 100 feet, except where otherwise permitted by the Planning Board and in compliance with all the provisions of Chapter 141 of the Laws of 1960 (Map Filing Law). The final plat shall contain or be accompanied by:

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

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

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

(4) Each block and lot shall be numbered in accordance with the system of numbers, which will ultimately be the numbers shown on the Borough Tax Map.

(5) Location of all monuments.

(6) Names of owners of adjoining unsubdivided land.

(7) Certification by a land surveyor licensed in the State of New Jersey as to the accuracy of the details of the plat.

(8) Certification that the applicant is agent or owner of the land or that the owner has given consent under an option agreement.

(9) When approval of a plat is required by any officer or body of such municipality, county or state, approval shall be certified on the plat.

(10) Final construction plans and profiles showing proposed utility layouts (sanitary sewers, storm drains, water, gas, electric, detention basins, etc.) showing connections to existing or proposed utility systems. Cross sections of streets may be required by the Borough Engineer.

(11) Final drainage plan.

(a) A final drainage plan shall accompany the final plat. Such drainage plan shall show existing and proposed contours as required in §77-43 and shall show the same information as required on the preliminary plat, with the addition that the individual lot grading shall be shown as follows: final grades shall be shown for

each lot corner, all high and low points and breaks in grade and at the corners of tentative house locations and the center line of the driveway at the right-of-way and center of the garage doors. If it is intended to use drainage swales, the elevation of these swales shall be shown. Easements are required for all cross lot drainage where drainage from one lot crosses over a downslope property either in swales or underground piping.

(b) All swales carrying cross-lot drainage shall be constructed in easements that are to be provided for the purpose of cross-lot drainage. The intent is to have all stormwater runoff drain to the street or to drainage swales without crossing the property of an adjacent lot unless there is an easement provided for that purpose.

(12) A soil erosion control plan and narrative shall accompany the final plat. Such soil erosion control plan shall show the same information as required on the final drainage plan and soil erosion control measures conforming with the Code of the Borough of Roselle. The soil erosion control plan and the final drainage plan may be combined as one plan and shall be submitted to the Union County Soil Conservation District for review and approval.

(13) Proposed grading plan.

(a) As a condition precedent to the application for a building permit, a proposed grading plan for each individual lot shall be submitted to the Borough Engineer for review and approval. This plan shall include the proposed building footprint, finished first floor elevation and proposed ground elevations at the following locations: at all lot corners, all building corners and at vehicle entrance to a garage. The plan shall also show the proposed finished basement floor elevation, the existing groundwater elevation, the highest seasonally high groundwater elevation, the methods of determining both the existing groundwater elevation and the highest seasonally high groundwater elevation and by whom these determinations were made. Proposed contours at one-foot intervals shall be shown.

(b) If the proposed individual lot grading plan deviates from the approved subdivision final drainage plan, then an amended subdivision final drainage plan shall be submitted to the Borough Engineer for review and approval.

(14) A copy of the preliminary approval resolution, together with all proposed additions, changes or departures therefrom, if applicable, shall be submitted with the final plat application.

(15) A landscape plan, prepared by a certified or licensed landscape architect at a minimum scale of one inch equals 50 feet or larger, illustrating the proposed site elements as they relate to existing woodlands, isolated trees greater than five-inch

caliper, existing topographic contours and any and all existing and proposed landscaping and buffering and the location, berm, height and width of other landscape architectural materials such as berms, fences, walls, site furnishings, bridges and walks.

(16) An aerial photograph with the site boundaries outlined to evaluate the existing surrounding land uses.

(17) A traffic signage plan conforming to the requirements of §77-75, Subsection **T.** of this chapter.

(18) As-built lot grading plan.

(a) As a condition precedent to the issuance of certificates of occupancy, pursuant to the State Uniform Construction Code, an as-built lot grading plan prepared by a land surveyor licensed in the State of New Jersey shall be submitted to the Construction Official and to the Borough Engineer, bearing a certification that the lot grading complies with the proposed lot grading plan and the final drainage plan as approved or as amended and approved by the Borough Engineer.

(b) The as-built plan shall be prepared with contours of one-foot intervals and shall include the building footprint, finished first floor elevation and ground elevations at all lot corners, all building corners, vehicle entrance to a garage, drainage swale inverts between adjacent interrupted landscape berms, top of the curb adjacent to the property corners, edge of the Borough-owned sidewalk adjacent to property corners and at the center of the driveway, inlet grate elevations (private and Township-owned) and all high points on the lot. The invert and surrounding ground elevation shall be shown for sanitary sewer clean-outs and for sump pump discharge line clean-outs. The plan shall also show the location of the lateral inverts and D-box outlet inverts, if applicable. All proposed ground elevations shown on the approved proposed grading plan shall be included on the as-built plan.

D. Final plat review.

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

(a) The detailed drawings and specifications meet all applicable Borough codes and ordinances.

(b) The final plats are substantially the same as the approved preliminary plats.

(c) Bonds have been posted to ensure the installation of all improvements.

(d) The applicant agrees, in writing, to all conditions of final approval.

(e) Proof has been submitted that all taxes and assessments for local improvements on the property have been paid.

(2) Distribution. Upon receipt of a complete application, the Code Enforcement Officer shall submit one copy to each member of the Development Review Committee and one copy to each of those professionals and boards or agencies having received a copy of the preliminary plat.

(3) Review. The professionals and boards or agencies shall have a period of 30 days after the filing date of the final plat to make a report and recommendation concerning the final plat. The Planning Board shall have the right to proceed in the absence of any such recommendation.

E. Decision of Planning Board. As set forth in §77-63, for decisions on subdivision applications under varying procedural conditions.

F. Effect of final approval. Final approval shall terminate the time period of preliminary approval for the section granted final approval and shall guarantee the applicant that the zoning requirements applicable to the preliminary approval and all other rights conferred upon the applicant as part of preliminary approval shall not be changed for a period of two years after the date of final approval, provided that these rights shall expire if the plat has not been duly recorded within the time prescribed in Subsection **G.** below.

G. Time limit for final approval and extensions. Final approval shall expire two years from the date of final approval unless the applicant has secured a building permit to commence construction. The Planning Board may extend final approval and the protection offered under Subsection **F.** above for one year. Up to three such extensions may be granted.

H. County Planning Board approval. Any plat which requires County Planning Board approval pursuant to N.J S.A. 40:27-6.2 shall be forwarded to the County Planning Board for its action. The Planning Board may grant final approval subject to approval by the County Planning Board.

I. Filing of approved final plat. The final plat shall be filed by the subdivider with the county recording officer within 95 days from the date of such approval. If any final plat is not filed within that period, the approval shall expire. For good cause, the Planning Board may extend the time for the filing of the plat for an additional period not to exceed 95 days. No plat shall be accepted for filing by the Clerk of the County of Union unless it has

been duly approved by the Borough of Roselle Planning Board and signed by its Chair and Secretary.

J. Approved final plat; municipal distribution.

(1) Before the Code Enforcement Officer returns any approved final plat to the subdivider or the Construction Official issues a building permit for the subdivision, the applicant shall provide the Code Enforcement Officer with a certificate of filing from the County Clerk's office.

(2) The Code Enforcement Officer shall distribute copies of the approved final plat as follows:

(a) Borough Engineer: one mylar print.

(b) Tax Assessor: one print of plat only.

(c) Construction Official: one print.

(d) Borough Clerk: one print of plat only.

(e) County Planning Board: one print.

(f) Planning Board file: one print.

K. Certificates showing approval.

(1) The prospective purchaser, prospective mortgagee or any other person interested in any land which forms part of a subdivision or which formed part of such a subdivision three years preceding the effective date of this Chapter 77 may apply, in writing, to the Code Enforcement Officer of the municipality for the issuance of a certificate certifying whether or not such subdivision has been approved by the Planning Board. Such application shall contain a diagram showing the location and dimension of the land to be covered by the certificate and the name of the owner thereof.

(2) The Code Enforcement Officer shall make and issue such certificate within 15 days after the receipt of such written application and the fees therefor. Said officer shall keep a duplicate copy of each certificate, consecutively numbered, including a statement of the fee charged, in a binder as a permanent record of his or her office. Each such certificate shall be designated a "certificate as to approval of subdivision of land," and shall certify:

(a) Whether there exists in said municipality a duly established Planning Board and whether there is an ordinance controlling subdivision of land adopted under the authority of this Chapter 77.

(b) Whether the subdivision, as it relates to the land shown in said application, has been approved by the Planning Board, and, if so, the date of such approval and any extensions and terms thereof, showing that the subdivision of which the lands are a part is a validly existing subdivision.

(3) The Code Enforcement Officer shall be entitled to receive for such certificate issued by said administrative officer a fee of $10.

Article IX. Design Standards for Subdivisions

§ 77-45. General.

The Planning Board shall apply the standards contained in this article when reviewing subdivision plans.

§ 77-46. Streets, sidewalks.

A. Classification of streets.

(1) In any major subdivision it shall be the duty of the Planning Board to classify proposed streets according to their types. The Planning Board, in making its decisions, shall refer to the Master Plan and shall consider conditions within the subdivision and surrounding area. Other design characteristics of streets are shown on the Table of Street Dimensions in Subsection **D.** below. Definitions of streets are as follows:

(a) Principal arterials: Any federal or state highway, street or road intended to carry regional, large traffic volumes at steady speeds through the Borough. The right-of-way shall be as established by jurisdictional agency of roadway.

(b) Major arterials: Any street intended to carry large volumes of traffic at steady speed with minimum interruptions to traffic flow, generally intended to carry traffic among various neighborhoods in the Borough to destinations outside the Borough and linking minor arterials and collectors to principal arterials. The right-of-way shall be 80 feet, with storage lanes for turning movements at key intersections.

(c) Minor arterials: Any street which is intended for inter-municipal traffic and generally serves as a feeder road to major arterials. The-right-of-way shall be 70 feet, with storage lanes for turning movements at key intersections.

(d) Major collectors: Any street which is intended for inter-municipal traffic and generally provides direct links to the arterial road system of the Borough. The right-of-way shall be 60 to 70 feet, depending on traffic volume characteristics. Generally, average daily traffic (ADT) existing and future of 2,000 to 5,000 would require a sixty-foot right-of-way, while over 5,000 ADT would require the seventy-foot right-of-way.

(e) Minor collectors: Any street which is intended to gather traffic from a series of local streets and distribute it to major collectors or minor arterials. The right-of-way shall be 60 feet.

(f) Minor or local streets: A street intended primarily for access to individual properties and designed for local traffic having either origins or destinations on the street. If it can serve traffic having origins or destinations on the street, it shall be considered a collector.

(2) Waiver of classification definitions. In those instances where a proposed subdivision abuts an existing subdivision where existing stub or cul-de-sac streets may be extended, the Planning Board may deem such extended streets local in nature for purposes of classification, provided that such extended street is likely to serve traffic having either origins or destinations on the street.

B. Lots abutting arterial roads. In a subdivision abutting a principal, major or minor arterial, one of the following shall be required:

(1) The frontage shall be reversed so that the lots contiguous to such roadways will front on a minor collector or local street.

(2) A marginal service road shall be provided along such arterial street and shall be separated from it by a raised landscaped divider strip at least 20 feet in width.

(3) Such other means of separating through and local traffic and of providing a suitable buffer shall be provided as the Planning Board may determine to be appropriate.

(4) The side yard of a lot abutting a designated arterial roadway shall be increased by an additional width of 50 feet as an easement exclusively for planting and screening, to be provided by the developer along the arterial street.

C. Lots abutting major collector streets. No residential lot shall abut a major collector street only. Access shall be provided by reverse frontage on a minor collector, local street or by

a marginal service road, but no additional setback is required. An appropriate landscaped buffer shall be provided on such reverse frontage lots along the collector street, containing a combination of shrubs, trees, conifers or berms conforming to a uniform landscape plan.

D. Nonresidential streets. The widths of internal streets in business or industrial development designed as a whole in accordance with a comprehensive site plan shall be determined by the Planning Board in each case in light of the circumstances of the particular situation and with a view to assuring the maximum safety and convenience of access for traffic and fire-fighting equipment, circulation and parking, including provisions for the loading and unloading of goods.

E. Subdivisions on existing streets.

(1) When a subdivision abuts an existing street, it shall be widened (if necessary) and improved to conform to the standards in this section.

(2) If the subdivision is only a small part of a longer run of a substandard street and such improvement would produce a hazardous saw-tooth arrangement, the municipality, on the advice of the Planning Board, may elect to receive a cash payment in lieu of the improvements and to hold the same in a separate escrow account until continuous improvement of the street can be accomplished.

F. Curved minor streets. Curved minor streets are preferred to discourage speed and monotony.

G. Crown slope. The crown or minor streets shall not be less than six inches in order to provide for proper surface drainage.

H. Cut and fill slopes. To prevent gulleying and erosion, street cuts and streets on fill shall be provided with side slopes no steeper than one vertical to three horizontal or shall be equipped with cribbing, loose concrete blocks or other form of retaining wall. Such slopes, including cribbing and blocks, shall be suitably planted with perennial grasses or other vegetation in accordance with a plan approved by the Planning Board and shall be suitably maintained for a period of three years.

I. Street names.

(1) Street names and subdivision names shall not duplicate or nearly duplicate the names of existing streets or subdivisions in the municipality or surrounding communities. The continuation of an existing street shall have the same name.

(2) The developer shall submit, in writing, on a form to be provided by the Code Enforcement Officer, a list of all proposed street names for any new development.

This list is to be forwarded by the Borough to the appropriate postmaster serving the particular zip code for review and verification of non-conflicting names within the zip code. The Borough Engineer shall then make final determination and recommendation for accepting new street names and will so notify the Planning Board or Zoning Board (as appropriate) and the developer of the Borough Engineer's decision.

§ 77-47. Street intersections.

A. Angle of intersections. No more than two streets shall cross the same point. Street intersections shall be at right angles wherever possible, and intersections of less than 60 degrees (measured at the center line of streets) shall not be permitted.

B. Spacing. Only one point of access and one point of egress may be allowed each property except where large frontages, 1,000 feet or larger, are present. In those latter cases, streets shall not enter the same side of major collector or minor arterial streets at intervals less than 800 feet, major arterial streets at intervals of less than 1,200 feet or principal arterials at intervals of less than 2,000 feet. Streets which enter a minor or major/minor collector street from opposite sides shall either be directly opposite to each other or they shall be separated by at least 200 feet between their center lines, measured along the center line of the intersected street.

C. Approaches. Approaches of any collector street to any intersection with another collector or an arterial street shall follow a straight line course within 100 feet of the intersection.

D. Extra widths. Where a nonresidential collector street or a collector/arterial street serving more than 100 residential lots or dwelling units intersects with another collector or arterial, both the right-of-way and the pavement shall be widened by 24 feet for a distance of 200 feet back from the intersection of the right-of-way lines.

E. Sight triangles. In addition to right-of-way widths required for the full length of streets and wider intersections as specified above, sight triangles shall be dedicated as follows: The area bounded by the right-of-way lines and a straight line connecting sight points on street center lines which are the following distances from the intersection of the center lines:

(1) Where a local street intersects another local street, 90 feet.

(2) Where a local street intersects a collector street or minor arterial, 90 feet on the local and 200 feet on the collector or minor arterial.

(3) Where a local, collector or minor arterial intersects a major or principal arterial street, 90 feet back on the local, collector or minor arterial streets and 300 feet back on the major or principal arterial street.

F. Sight triangle prohibited obstructions. No fences or any other obstruction nor any planting exceeding 30 inches in height as measured on a horizontal from the center line of the road may be placed in any sight triangle.

G. Property access. Unless necessary to provide access to a lot in separate ownership existing before the date of this Chapter 77, no driveway access to a property or additional street intersection may be permitted within the extra widths or sight triangles, as specified herein.

H. Street and neighborhood or directional signs.

(1) Street signs shall have reflectorized white letters on a green background. Letters shall be four inches high, except those marking collector or primary streets, which shall be six inches high. Signs shall be placed in accordance with the Manual on Uniform Traffic Control Devices, latest edition.

(2) At the discretion of the Planning Board, similar neighborhood or directional signs with letters eight inches high may be permitted or required.

§ 77-48. Curbs.

A. Vertical (straight-face) curbs shall be required. Curb cuts, mountable curbs or ramps shall be provided wherever sidewalks cross streets to accommodate wheelchairs and bicycles in accordance with New Jersey Barrier Free Design Criteria and the Americans with Disabilities Act of 1990.

B. Built-up ramps shall not encroach into loading/unloading zones, parking spaces or vehicular traffic lanes. Transitions from ramps to walks, gutters or streets shall be flush and free of abrupt changes. Detectable warnings on ramps shall extend the full width and depth of the ramp to assist the visually impaired in negotiating the change in slope.

§ 77-49. Culverts.

A. All culverts constructed within public rights-of-way shall be owned by the developer. All culvert designs shall be reviewed and approved by the County Engineer as a condition of preliminary approval.

B. Culverts shall have headwalls and railings, where necessary, placed on right-of-way lines, unless the stream flow is judged minor by the Planning Board and the Borough Engineer. In this case, at the option of the developer, pipes may be extended no less than 25 feet beyond the right-of-way line and a single headwall may be built to grade on

the upstream side without a rolling. Because of traffic hazard, intruding curbs and abutments near the paving lines are forbidden.

§ 77-50. Sidewalks.

A. Sidewalks shall be installed on both sides of all streets and shall consist of portland cement and concrete unless otherwise approved by the Planning Board at the time of the preliminary hearing. All sidewalks shall be in compliance with the requirements of the Americans with Disabilities Act of 1990 regarding walkways and curbs.

B. Sidewalks shall be at least four feet wide.

§ 77-51. Lots.

A. Lot size. Minimum lot size shall be governed by the provisions of this Chapter 77, based on the zoning district in which the lot is located.

B. Lot and house numbers. House and lot numbers shall be assigned each lot by the Borough Engineer.

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

D. Lot frontage and width. Each lot shall front on an approved street accepted by the municipality. Frontage shall be measured along a straight line between points where side lines meet street lines, e.g., the chord of a circle in a cul-de-sac.

E. Lot line on widened streets. Where extra width is provided for the widening of existing streets, lot measurements shall begin at such extra width line, and all setbacks shall be measured from such line.

F. Unsuitable lots. All lots shall be suitable for the purpose for which they are intended to be used. In order to prevent the use of lots which are not suitable because of adverse topography, flood conditions, the presence of wetlands or similar circumstances, the Planning Board may require such revisions in the layout of the subdivisions as will accomplish one of the following:

(1) That the area of the unsuitable lots is included in other lots by increasing the size of the remaining lots.

(2) That it is included in an area to be deeded to the municipality and held in its natural state for conservation and/or recreation purposes.

(3) That some other suitable arrangement, such as common ownership made permanent by deed covenants running with the land, is made.

§ 77-52. Structure location and driveway.

A. All lots shall be such that a structure conforming to the intended use and setback requirements of this Chapter 77 can be constructed in an area of the lot that is in conformity with the provisions of Article XII of this Chapter.

B. Any structure must be accessible by means of a driveway that complies with the provisions of §200-26 of this Chapter. Driveways shall be so laid out that it is possible to turn all vehicles on the lot and that it is not necessary to back any vehicle into a street.

§ 77-53. Easements.

A. Utility installation easements. Easements for utility installations may be required. Easements for sanitary sewer lines shall be constructed in such a manner so that all manholes have permanent, unrestricted access for highway-type trucks for the purpose of maintaining said sewer lines. Said easements shall be at least 20 feet in width or wider if necessary, of which an area of 12 feet in width by 12 inches in depth shall consist of quarry process with filter fabric with sufficient space for vehicles to turn around located at least every 1,200 feet. Such easement area may be seeded as long as the formation and the same is not diminished.

B. Utility/landscape planting easements; adjacent streets. Based on field conditions where existing utility placement containing overhead wires would interfere with future street tree plantings' canopy growth, then the Planning Board, upon recommendation of the Borough Engineer, may require an additional five feet for a landscape planting easement to be located outside the public right-of-way and utility easement in a manner compatible with an overall street tree planting plan.

C. Drainage and conservation easements.

(1) If the property on which a proposed subdivision is to be located is traversed by a watercourse of any kind, including a channel or a stream, the Planning Board may require that a stormwater and drainage easement and right-of-way along said watercourse be provided by the subdivider. The land which is the subject of such easement and right-of-way shall be a strip, which conforms substantially to the floodplain of such watercourse along both sides of the watercourse or extends along both sides of the top of the bank of the watercourse to a width of 15 feet in each

direction or is not less than an encroachment line established by a competent higher authority, whichever is the greater; except, however, that if the location of such watercourse is at or near the boundary of the subdivision, the dimension of the easement and right-of-way shall be modified to retain it within the confines of the subdivision. Said easement and right-of-way shall include provisions assuring the following: preservation of the channel of the watercourse; prohibition of alteration of the contour, topography or composition of the land within the easement and right-of-way; prohibition of construction within the boundaries of the easement and right-of-way which will obstruct or interfere with the natural flow of the watercourse; and reservation to the Department of Public Works of a right of entry for the purposes of maintaining the natural flow or drainage of the watercourse, of maintaining any and all structures related to the exercise of the easement and right-of-way and of installing and maintaining storm or sanitary sewer systems or other public utility and the right to add additional utility lines when needed.

(2) Drainage easements provided for the purpose of carrying overland flow or for underground storm drain piping shall include provisions assuring the following: preservation of the drainage swale or piping system contained within the easement, prohibition of construction within the boundaries of the easement and reservation to the Department of Public Works of a right of entry for the purposes of maintaining any and all structures related to the exercise of the easement.

§ 77-54. Sewers.

A. In the case of all major/minor subdivisions or site plans where sewer lines which will pass in front of existing lots are to be installed, the developer, as a condition of approval, shall provide:

(1) To vacant property: a wye.

(2) To improved property: a lateral to the existing curbline (including clean out). These laterals shall be provided in accordance with Borough details and shall be installed at locations approved by the Borough Engineer.

§ 77-55. Design standards for single-family houses.

A. Legislative findings and purposes. Uniformity in the exterior design and appearance of dwellings erected in the same residential neighborhoods tends to adversely affect the desirability of the immediate and neighboring areas for residential purposes and impairs existing residential property in such areas, tends to impair the value of both improved and unimproved real property in such areas and tends to deprive the municipality of tax revenue and destroys a proper balance between the taxable value of real property in such

areas and the cost of providing municipal services. It is the purpose of this section to prevent these and other harmful effects of uniformity in design and appearance of dwellings erected in any housing development in the same residential neighborhood and thus to promote and protect the general welfare of the community.

B. Required minimum distance between dwellings substantially similar in external appearance. Not more than one construction permit shall be issued for any particular single-family detached dwelling unit in any new housing development consisting of two or more detached dwellings when the houses are substantially alike in exterior design and appearance, unless such similar houses either are separated by a distance of at least 200 feet or are situated on individual lots which are themselves separated at all points by a distance of at least 100 feet. In addition, the lots of houses which are substantially alike in exterior design and appearance shall not be next to each other or across the street from each other in whole or in part.

C. Criteria for determining whether dwellings are substantially similar in external appearance. Houses described in the Subsection **B.** above shall be considered uniform in exterior design and appearance if they have any one of the following characteristics:

(1) The same basic dimensions and floor plans are used without substantial differentiation of one or more exterior elevations.

(2) The height and design of the roofs are without substantial change in design and appearance.

(3) The size and type of windows and doors in the front elevation are without substantial differentiation.

D. Number of house designs required. In addition to the foregoing, there shall be not less than one basic house design and two different exterior elevations in every housing development consisting of eight or fewer houses, not fewer than two basic house designs and four different exterior elevations in every housing development consisting of nine to 50 houses, not fewer than four basic house designs and seven different exterior elevations in every housing development consisting of 51 to 77 houses and not fewer than four basic designs and eight different elevations in every housing development consisting of 78 or more houses.

E. Type and model of house; building elevations and floor plans.

(1) No construction permit shall hereafter be issued for more than one dwelling unit in any housing development until the builder shall post or cause to be posted on each specified lot on the map of the subdivision on file with the Code Enforcement Officer the type and model of each house for which a construction permit has been or is being issued.

(2) Building elevations and floor plans for each required house design must be submitted for review by the Construction Department at final subdivision. Appeals therefrom may be made to the Planning Board. Where an applicant has no immediate plans for construction, these building elevations and floor plans must be submitted for review by the Construction Department prior to issuance of a building permit.

Article X. SUBIDIVISION AND SITE PLAN PROCEDURES

§ 77-56. Title

Article X. shall be known and may be cited as the "Subdivision and Site Plan Procedures Ordinance of Roselle Borough".

§ 77-57. Purpose

The purpose of this Article X. shall be to provide rules, administrative procedures, regulations and standards which would be applicable to both site plan and subdivision applications.

§ 77-58. Approving Authority

A. Planning Board. The provisions of this Article X. shall be administered by the Planning Board of the Borough of Roselle, except as set forth in Subsection **B.** below.

B. Zoning Board of Adjustment. The provisions of this Article X. shall be administered by the Zoning Board of Adjustment in applications before the Zoning Board of Adjustment involving variances provided for in N.J.S.A. 40:55D-70d on which subdivision and/or site plan approval would be required. For such application, any reference in this Article IX. to the Planning Board shall be considered to refer to the Zoning Board of Adjustment, where applicable.

§ 77-59. General intent.

The various rules and regulations contained herein are meant to enable processing of various development applications in accordance with procedures and objectives as established in Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.).

§ 77-60. Reservation of public areas.

A. If the Master Plan or the Official Map provides for the reservation of designated streets, public drainageways, flood control basins or public areas within the proposed development, before approving a subdivision or site plan, the Planning Board may further require that such streets, ways, basins or areas be shown on the plat in locations and sizes suitable to their intended uses. The Planning Board may reserve the location and extent of such streets, ways, basins or areas shown on the plat for a period of one year after the approval of the final plat or within such further time as may be agreed to by the developer. Unless during such period or extension thereof the Borough shall have entered into a contract to purchase or institute condemnation proceedings according to law for the fee or a lesser interest in the land comprising such streets, ways, basins or areas, the developer shall not be bound by such reservations shown on the plat and may proceed to use such land for private use in accordance with applicable development regulations. The provisions of this section shall not apply to the streets and roads, flood control basins or public drainageways necessitated by the land development and required for final approval.

B. The developer shall be entitled to just compensation for actual loss found to be caused by such temporary reservation and deprivation of use, provided that such request shall be made to the Borough Council within 10 days of final approval. In such instances, unless a lesser amount has previously been mutually agreed upon, just compensation shall be deemed to be the fair market value of an option to purchase the land reserved for the period of reservation, provided that determination of such fair market value shall include, but not be limited to, consideration of the real property taxes apportioned to the land reserved and pro-rated for the period of reservation. The developer shall be compensated for the reasonable increased cost of legal, engineering or other professional services incurred in connection with obtaining subdivision or site plan approval caused by the reservation. Payment for one-year compensation shall be based upon the applicant requesting of the Borough Council no greater than 5% of the current assessed value of the land so reserved. Requests for greater compensation shall require referral to the Borough Assessor, who shall make a recommendation to the Mayor.

§ 77-61. Simultaneous review.

The Planning Board shall have the power to review and approve or deny conditional uses or site plans simultaneously with review for subdivision approval without the developer being required to make further application to the Planning Board or the Planning Board being required to hold further hearings. The longest time period for action by the Planning Board, whether it be for subdivision, conditional use or site plan approval, shall apply. Whenever approval of a conditional use is requested by the applicant pursuant to this section, notice of the hearing on the plat or site plan shall include reference to the request for such conditional use.

§ 77-62. Hearings and notices.

A. When required. Hearings shall be required as part of approval for all applications for development.

B. Maps and documents and exhibits on file. A complete set of maps, documents and exhibits shall be on file at the office of the Planning Board at least 10 days prior to the date of the noticed hearing.

C. Public notice of application.

(1) When required. Proof of public notice shall be required for all applications for development and sign waiver applications.

(2) Contents of notice; to whom required and how served. Notice requirements for hearings, contents of such notices, to whom required and how served shall be in accordance with such requirements as stipulated in Article XII of this Chapter.

D. Transcript of hearings. If an applicant desires a court reporter, the cost of taking testimony and transcribing it and providing a copy of the transcript to the Borough shall be at the expense of the applicant, who shall arrange for the reporter's attendance.

§ 77-63. Decisions on applications for development.

A. Decisions to be in writing and contain findings and conclusions. Each decision of the Planning Board on any application for development shall be in writing and shall include findings of fact and conclusions based thereon.

B. County Planning Board approval. Whenever review or approval of any application by the County Planning Board is required, the Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or upon County Planning Board approval by default for failure to report thereon within the required time period.

C. Developments barred by administrative or judicial order. 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 court of competent jurisdiction to protect the public health and welfare, the Planning Board shall process such application for development in accordance with Article VII of this Chapter, and if such application complies with the requirements of Article VII, the Planning Board shall approve such application conditioned on removal of such legal barrier to development.

D. Approval by other governmental agencies. In the event that development proposed by an application for development requires an approval by a governmental agency other than the Planning Board, the Planning Board shall, in appropriate instances, condition its approval upon the subsequent approval of such governmental agency.

E. Decisions to be furnished to applicant and others. A copy of each decision shall be mailed by the Planning Board within 10 days after the date of decision to the applicant or, if represented then to the applicant's attorney, without separate charge, and to all others upon request for a fee of $10.

F. Filing in the office of the Code Enforcement Officer. A copy of each decision shall also be filed by the Planning Board in the office of the Code Enforcement Officer, who shall make a copy of the filed decision available to any interested party for a fee of $10, and available for public inspection at the Code Enforcement Officer's office during reasonable hours.

G. Publication. A brief notice of each decision shall be published by the Board Secretary, and the Borough may make a reasonable charge for such publication. The applicant, also, may cause such publication to be made if the applicant so desires. The time for appeal from the decision shall run from the first publication, whether made by the Board Secretary or the applicant.

H. Time for decision on applications to Planning Board for preliminary approval of site plans and major subdivisions. Preliminary approval shall be granted or denied on applications to the Planning Board for a site plan of 10 acres or less or for a major subdivision of 10 or fewer lots within 45 days and for a site plan of more than 10 acres or for a major subdivision of more than 10 lots within 95 days, after the date of submission of a complete application to the administrative officer, except as otherwise provided in Subsections J**.** through N**.** of this section.

I. Time for decision on applications to Planning Board for minor subdivision approval and final approval of site plans and major subdivisions. Final approval of site plans and major subdivisions and approval of minor subdivisions shall be granted or denied on applications to the Planning Board within 45 days after the date of submission of a complete application to the administrative officer, except as otherwise provided in Subsections J**.** through N**.** of this section.

J. Time for decision when Planning Board reviews conditional uses or site plans simultaneously with subdivisions. Whenever the Planning Board reviews conditional uses or site plans simultaneously with subdivisions, the longer or longest period of time for action in any such case shall apply to all such cases.

K. Time for decision when Planning Board reviews applications for subdivision, site plan or conditional use approval that includes request for variance. Whenever an application to the Planning Board for approval of a subdivision plat, site plan or conditional use includes

a request for a variance pursuant to N.J.S.A. 40:55D-60, the Planning Board shall grant or deny approval of the application within 120 days after the date of submission of a complete application to the Code Enforcement Officer. 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 or direction for issuance of a permit. The period for granting or denying and subsequent approval shall be as otherwise provided in this act.

L. Time for decision when Planning Board reviews application for conditional use that includes request for site plan approval. Whenever the Planning Board reviews an application for conditional use that includes a request for site plan approval, the Planning Board shall grant or deny approval of the application within 95 days after the date of submission of a complete application to the Code Enforcement Officer.

M. Time for decision when Board of Adjustment reviews subdivision, site plan or conditional use in conjunction with use variance. Whenever an application is made to the Board of Adjustment for subdivision, site plan or conditional use approval in conjunction with the Board's review of a use variance, the Board of Adjustment shall grant or deny approval of the application within 120 days after the date of submission of a complete application to the Code Enforcement Officer.

N. Extension of time for decision. Any time period for action by the Planning Board may be extended with the consent of the applicant or appellant.

O. Failure to make decision within time. The failure of the Planning Board to act within such time period or extension thereof shall constitute a decision favorable to the applicant or appellant. A certificate of the Code Enforcement Officer as to such failure shall be issued on request of the applicant or appellant, and it shall be sufficient in lieu of written endorsement or other evidence of approval required by Article VII and shall be accepted as such by the County Clerk for purposes of filing subdivision plats.

§ 77-64. Application by corporation or partnership.

A. A corporation or partnership applying to the Planning Board or the Board of Adjustment for permission to subdivide a parcel of land into six or more lots or for approval of a site to be used for commercial purposes shall list the names and addresses of all stockholders or individual partners owning at least 10% of its stock of any class or at least 10% of the interest in the partnership, as the case may be.

B. Disclosure of 10% ownership interest of corporation or partnership which is 10% of applying corporation or partnership. If a corporation or partnership owns 10% or more of the stock of a corporation or 10% or greater interest in a partnership, subject to disclosure pursuant to Subsection A**.** above, that corporation or partnership shall list the names and

addresses of its stockholders holding 10% or more of its stock or of 10% or greater interest in the partnership, as the case may be, and this requirement shall be followed by every corporate stockholder or partner in a partnership, until the names and addresses of the non-corporate stockholders and individual partners, exceeding the 10% ownership criterion established in Subsection **A.** above, have been listed.

C. Disapproval of application. The Planning Board, Board of Adjustment or governing body shall not approve the application of any corporation or partnership which does not comply with Subsections A**.** and B**.** of this section.

D. Penalty. Any corporation or partnership which conceals the names of the stockholders owning 10% or more of its stock or of the individual partners owning a 10% or greater interest in the partnership, as the case may be, shall be subject to a fine of $1,000 to $10,000, which shall be recovered in the name of the municipality in any court of record in the State in a summary manner pursuant to the Penalty Enforcement Law (N.J.S.A. 2A:58-1 et seq.).

§ 77-65. Sales map.

A. Display of sales map. Except for minor site plans and minor subdivisions, a developer who has obtained final approval shall maintain a sales office upon the issuance of the first construction permit and display therein in a prominent fashion the officially approved preliminary plat and the final plat and in addition thereto a sales map which may be observed and reviewed by any and all persons calling at such office.

B. Basis of sales map. The sales map shall be based upon the final plat as well as official tax map information at a scale of not more than 100 feet to the inch. The map shall show the development plan and all land contiguous for a distance of 2,000 feet within or outside of the Borough.

C. Provisions. The sales map shall clearly show and include for that area within 2,000 feet of the development the following information:

(1) The location of connector streets to the proposed street(s) within the development.

(2) The location of all state, county and municipal roads, both in existence and/or proposed by any governmental agency having jurisdiction to establish such roads. If any such roads are evidenced upon the Borough Master Plan or Union County Master Plan or State Transportation Master Plan, the same shall be indicated upon the sales map.

(3) The location of all railroads, rights-of-way, airports, heliports and airport runways, overhead easements for transmission of power or otherwise, rights-of-way for public utilities and location of public utility plans.

(4) The location of all sanitary landfill operations which are in existence, proposed or which have been closed.

(5) The location of all existing and proposed schools, parks, playgrounds and public buildings in accordance with the Master Plan.

(6) The location of all streams, ponds, floodplains, stormwater facilities and watercourses.

D. Waiver of restrictions with notation. All zoning restrictions or improvements applicable to the development shall be shown with notation as to which restricts have been waived, relaxed or varied by a Borough agency.

E. Zoning district classification. All contiguous property to the tract shall have prominently displayed thereon the zoning district classification, whether such property is within or outside the Borough, as well as any Borough restrictions on construction of accessory structures.

F. Property taxes displayed. There shall be displayed upon said sales map a reasonable estimate of the amount of property taxes to be levied upon the proposed property to be sold in the upcoming year.

G. Distribution of sales map. Prior to the issuance of a certification of occupancy by the Borough or the conveyance of a lot (improved or unimproved) by the developer, the developer shall file with the Construction Official of the Borough an acknowledgement executed by the contract purchasers that states that said purchasers acknowledge receipt of a sales map and a plain-language statement clearly explaining such sales map, which must set forth verbatim the provisions of Subsection **C.** herein at the time of contract between the developer and purchaser(s) as defined in this section.

§ 77-66. Conditional approvals.

A. Conditions precedent. Whenever any application for development is approved subject to specified conditions, intended to be fulfilled before the approval becomes effective, said conditional approval shall lapse and become null and void unless all specified conditions are fulfilled within 190 days of the date of conditional approval.

B. The fulfillment of all conditions precedent shall be reported, in writing, to the municipal agency, which may cause such reports to be verified in an appropriate manner. Only upon fulfillment of all conditions shall any subdivision map or site plan be signed or any required building permit, occupancy permit or zoning permit be issued.

C. Conditions subsequent. Whenever any application for development is approved subject to conditions which by their terms are incapable of being fulfilled or are not required to be fulfilled prior to the final approval of the application, the performance of which are not guaranteed by bonds or securities of any type, failure to fulfill any such conditions within six months from the date of the resolution memorializing final approval of the application for development shall be grounds for the issuance of a stop-work order by the enforcing official and the withholding of any zoning permit, certificate of occupancy or any other approval until such condition or conditions are fulfilled.

D. Nothing herein contained shall be construed as preventing the municipal agency from specifying a longer period of time within which any specific condition must be fulfilled or from granting an extension of time for good cause shown.

E. The fulfillment of all conditions shall be reported, in writing, to the municipal agency, which may cause such reports to be verified in an appropriate manner. Only upon fulfillment of all conditions shall any subdivision map or site plan be signed or any required building permit, occupancy permit, zoning permit or other required approval be issued.

§ 77-67. Electronic submission of documents.

A. The following documents shall be submitted electronically and by hard copy.

(1) Approved site plans and subdivision plats being submitted for signature by Planning Board officials.

(2) As-builts upon project completion but in any event prior to the release of bonds.

B. All electronic submissions shall be formatted using AutoCAD for plans and, for text, using either MS Word or Adobe Acrobat Portable Document Format (PDF).

§ 77-68. Guaranties required; surety; release.

Before recording final subdivision plats or as a condition of final site plan approval, the Planning Board shall require for the purpose of assuring the installation and maintenance of on-tract improvements and landscaping and shall accept in accordance with the standards adopted herein:

A. Amount of performance guaranty.

(1) For residential developments, the furnishing of a performance guaranty in favor of the Borough in an amount equal to 120% of the cost of installation, which cost shall be determined by the Borough Engineer, for improvements which the Planning Board may

deem necessary or appropriate, and including streets, grading, pavement, gutters, curbs, sidewalks, street lights, shade trees, surveyor's monuments, as-built drawings, material testing, water mains, culverts, storm sewers, sanitary sewers, 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, other on-site improvements and landscaping. Not less than 10% of the required guaranty shall be in cash. All interest on said funds shall inure to the benefit of the Borough and the developer in accordance with N.J.S.A. 40:55D-53.1.

(2) For all nonresidential developments, the furnishing of a performance guaranty in favor of the Borough in an amount not to exceed 25% of the cost of installation, which cost shall be determined by the Borough Engineer, for improvements which the Planning Board may deem necessary or appropriate, and including streets, grading, pavement, gutters, curbs, sidewalks, street lights, shade trees, surveyor's monuments, as-built drawings, material testing, water mains, culverts, storm sewers, sanitary sewers, 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, other on-site improvements and landscaping. Not less than 10% of the required guaranty shall be in cash. All interest on said funds shall accumulate to the benefit of the Borough and developer in accordance with N.J.S.A. 40:55D-53.1.

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

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

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

E. Upon substantial completion of all required appurtenant improvements and the connection of same to the public system, the obligor may notify the governing body, in writing, by certified mail addressed in care of the Borough Clerk, of the completion or

substantial completion of improvements and shall send a copy thereof to the Borough Engineer and, where applicable, to the homeowners' association and each member of its Board of Directors, by certified mail. Thereupon, the Borough Engineer shall inspect all improvements of which such notice has been given and shall file a detailed report, in writing, with the governing body, indicating either approval, partial approval or rejection of such improvements, with a statement of reasons for any rejection. The cost of the improvements as approved or rejected shall be set forth.

F. The governing body shall either approve, partially approve or reject the improvements on the basis of the report of the Borough Engineer and shall notify the obligor, in writing, by certified mail, of the contents of said report and the action of said approving authority with relation thereto in accordance with N.J.S.A. 40:55D-53. Where partial approval is granted, the obligor shall be released from all liability pursuant to the performance guaranty, except for that portion adequately sufficient to secure provision of the improvements not yet approved, provided that 30% of the amount of the performance guaranty posted may be retained to ensure completion of all improvements.

G. The performance guaranty may be released when:

(1) The Borough Council has authorized acceptance of improvements. Bonds, if any, shall be released first; cash shall be released last.

(2) The Borough Engineer has issued a certification in the following form:

I hereby certify that all of the improvements required to be installed by _____ in the subdivision (site plan) known as _____, which are covered by a performance bond issued by _____ Bond No. _____ and/or by cash escrow in the amount of $_____, said improvements have been installed in accordance with specifications of the Borough of Roselle and to my satisfaction.

(3) There has been delivered to the Borough Clerk a maintenance guaranty, which may be in the form of a maintenance bond. Such bond shall be issued by a bonding or surety company as approved by the Borough Council and shall be in the appropriate amount as determined from Subsection B**.** of this section.

H. 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.

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

J. The obligor shall reimburse the municipality for all reasonable inspection fees paid to the Borough Engineer for the foregoing inspection of improvements, provided that the

municipal may require of the developer a deposit for all or a portion of the reasonably anticipated fees to be paid to the Borough Engineer for such inspection.

K. In the event that final approval is by stages or sections of development, the provisions of this section shall be applied by stage or section. Similarly, if a developer should opt to delay acceptance of private road improvements by either a homeowners' association or the governing body, then the release of any performance guaranties shall be as provided for in this section. Maintenance responsibility shall remain with the developer, to be governed by any conditions of final approval of a development application. Upon acceptance of the improvements by a homeowners' association or the governing body, a maintenance guaranty as outlined herein shall be required.

L. Performance guaranties shall be approved by the Borough Attorney as to form, sufficiency and execution. A letter of credit shall be an acceptable form of performance guaranty if approved by the Borough Council and only under the following conditions:

(1) It is irrevocable for an initial period of at least one year with automatic one-year renewals, unless the bank notifies the Borough, in writing, at least 90 days before the initial date of expiration or each anniversary of such date that it will not be renewed.

(2) If the letter of credit is not renewed:

(a) The Borough shall have the right to immediately draw a draft on sight if the developer's performance is not satisfactory as of that date or to draw a draft 30 days after receipt of said notice if after notification by the municipality that the letter of credit will not be renewed the developer fails to submit a satisfactory replacement performance guaranty.

(b) The developer agrees to cease and desist all such work upon receipt of notification from the municipality that the letter of credit will not be renewed until such time as a satisfactory replacement performance guaranty is submitted.

(c) The developer shall execute any agreement(s) required by the Borough Attorney confirming the conditions set forth herein prior to the Borough's acceptance of said letter of credit.

§ 77-69. Off-tract water, sewerage and drainage improvements required.

As a condition of final subdivision or site plan approval, the board of jurisdiction shall require an applicant to pay its pro rata share of the cost of providing reasonable and necessary water, sewerage and drainage facilities and easements, located outside the property limits of the development but necessitated or required by construction or improvements within such

development. The proportionate or pro rata amount of the cost of such facilities shall be based on the criteria established herein, which shall be borne by each developer or owner.

§ 77-70. Water, sewerage and drainage improvements to be constructed at the sole expense of the developer.

In cases where the reasonable and necessary need for an off-tract water, sewerage or drainage improvement or improvements is necessitated or required by the proposed development application and where no other property owners receive a special benefit, the applicant may be required, as a condition of approval, at the applicant's sole expense, to provide for and construct such improvements as if such were an on-tract improvement, in the manner provided hereafter and otherwise provided by law.

§ 77-71. Other water, sewerage and drainage improvements.

In cases where the need for any off-tract water, sewerage or drainage improvement is necessitated by the proposed development application and where it is determined that properties outside of the development will also be benefited by the improvement, the following criteria shall be utilized in determining the proportionate share of such improvements to the developer.

A. Sanitary sewers. Distribution facilities, including the installation, relocation or replacement of collector, trunk and interceptor sewers, and the installation, relocation or replacement of other appurtenances associated therewith. The applicant's proportionate share shall be computed as follows:

(1) The capacity and the design of the sanitary sewer system shall be based on all applicable New Jersey Department of Environmental Protection regulations and all Roselle Borough Sewer Design Standards, including infiltration standards, and all other Borough stormwater drainage standards.

(2) The capacity of the existing system to service the entire improved drainage area shall be computed as follows:

(a) If the system is able to carry the total developed drainage basin, no improvement or enlargement cost will be assigned to the developer.

(b) If the existing system does not have adequate capacity for the total developed drainage basin, the pro-rated enlargement or improvement share shall be computed as follows:

$$\frac{\text{Total enlargement or improved cost}}{\text{Developer's cost}} = \frac{\text{Total tributary gpd}}{\text{Development gpd}}$$

(c) If it is necessary to construct a new system in order to service the proposed development, the pro-rated enlargement share to the developer shall be computed as follows:

$$\frac{\text{Total project cost}}{\text{Developer's cost}} = \frac{\text{Total tributary gpd to new system}}{\text{Development tributary gpd}}$$

B. Drainage improvements. For stormwater and drainage improvements, including the installation, relocation or replacement of storm drains, culverts, catch basins, manholes, rip-rap or improved drainage ditches and appurtenances thereto and relocation or replacement of other storm drainage facilities or appurtenances associated therewith, the applicant's proportionate share shall be determined as follows:

(1) The capacity and the design of the drainage system to accommodate stormwater runoff shall be based on a method described in Urban Hydrology for Small Watershed Technical Release 55, Soil Conservation Service USDA, January 1975, as amended, or a successor method, computed by the developer's engineer and subject to the approval of the Borough Engineer.

(2) The capacity of the enlarged, extended or improved system required for the subdivision or site plan and areas outside of the developer's tributary to the drainage system shall be determined by the developer's engineer, subject to approval of the Borough Engineer. The plans for the improved system shall be prepared by the developer's engineer and the estimated cost of the enlarged system calculated by the Borough Engineer. The pro-rated share for the proposed improvement shall be computed as follows:

$$\frac{\text{Total enlargement or improvement cost of drainage facilities}}{\text{Developer's cost}} = \frac{\text{Total tributary cfs}}{\text{Development cfs}}$$

§ 77-72. Escrow accounts.

Where the proposed off-tract water, sewerage or drainage improvement is to be undertaken at some future date, the moneys required for the improvement shall be deposited to the credit of the Borough in a separate account until such time as the improvement is constructed. If the off-tract improvement is not begun within 10 years of deposit, all moneys and interest shall be returned to the applicant.

§ 77-73. Computation of pro-rata share.

In any case in which an applicant does not provide the approving authority with the estimates of a consulting engineer with regard to estimated improvement costs and all other information necessary to proportion costs, the approving authority may rely on the estimates of the Borough Engineer and/or Planner in order to pro-rate costs.

§ 77-74. Improvements, general.

Prior to the granting of final approval, the developer shall have installed improvements required by the Planning Board or have posted a performance guaranty or surety sufficient to cover the costs of said improvements. The Planning Board may solicit local, county, state, federal, public or semipublic agencies and knowledgeable individuals on what improvements shall be required. Improvements recommended by other agencies, such as a utilities authority, county, state or other governmental agencies, may be required by the Planning Board as a condition of final approval. The following construction standards and improvements are necessary to protect the health, safety, welfare and convenience of the residents and public as well as needed to meet local, county, regional, state and national goals and objectives. It is recognized, however, that in peculiar situations, all of the improvements listed under §77-75 may not be appropriate or needed.

§ 77-75. Construction, maintenance and installation standards for specific improvements.

A. Streets.

(1) The developer shall submit plans, profiles, cross sections and design for the work to the Borough Engineer for approval prior to the start of any construction and at the developer's own expense, grade all streets for their full width, in conformity with the terrain and good engineering practices, shall have all underground utilities installed prior to any street paving construction, shall construct adequate underground pipe drainage systems to carry off surface waters, shall construct streets in accordance with specifications shown below and shall install a base course.

(2) The paved roadway areas shall be constructed in accordance with the following:

(a) Arterial streets: (as determined by the appropriate agency).

(b) Collector streets:

[1] Six-inch bituminous stabilized base course.

[2] Two-inch type FABC-1 surface course.

(c) Minor streets:

[1] Four-inch bituminous stabilized base course.

[2] Two-inch type FABC-1 surface course.

(3) Prior to placing the surface course, the base course shall have a tack coat of bituminous material. All of the above construction shall be in accordance with current New Jersey Department of Transportation Standard Specifications and supplements on file in the office of the Borough Engineer. The standard specifications are further supplemented to require that, prior to placing final surface course; the intermediate base course shall be open to traffic and shall so remain for at least one winter season. Thereafter, the Borough Engineer shall inspect the pavement and will require areas of pavement failure to be removed and replaced; settled areas shall be leveled with hot mixed bituminous concrete. The Borough Engineer may require compacted select fill or approved sub-base material as needed to replace native subgrade material.

(4) All traffic lanes, both moving and parking, shall be striped in accordance with the Manual on Uniform Traffic Control Devices, as amended (United States Department of Transportation, Federal Highway Administration, 1971).

(5) Construction standards, as specified herein, shall also apply to any private street as may be part of a development application receiving preliminary approval by the Planning Board.

(6) Fire lanes located in other than those paved portions of a lot shall be designed such that the subsurface base is at least 20 feet wide, of 12-inch-thick quarry blend over a quality subsoil necessary and sufficient to support a 30-ton fire apparatus vehicle. The subsurface base may be covered with at least two inches of topsoil prior to the placement of sod or alternative paving block or similar decorative paving may be used. Final design shall be approved by the Borough Engineer.

(7) Underdrains shall be installed if and where directed by the Borough Engineer.

B. Parking areas.

(1) Parking areas and driveways (excluding single-family residential dwellings) that are not subject to heavy truck movement shall be constructed with not less than three inches of compacted bituminous concrete stabilized base course (NJDOT Mix I-2) and two inches of compacted bituminous concrete surface course (NJDOT Mix I-5). The subgrade shall be as approved by the Borough Engineer.

(2) Areas that are subject to heavy truck movement, including fire apparatus, shall be constructed in accordance with the standards for a minor street.

C. Residential driveways.

(1) All garage door aprons shall be concrete and shall be higher than the curb at such elevation not less than ¼ inch pitch per foot from the top of the curb to the apron of the garage door. Said elevation shall be approved by the Borough Engineer prior to the issuance of a Building Permit.

(2) The garage floor shall be 1 ½ inches higher than the elevation of the garage door apron, as set forth in Subsection **A.** of this section. Said elevation shall be approved by the Construction Official prior to the issuance of a Building Permit.

D. Curbs.

(1) Curbs shall be constructed of Portland cement air-entrained concrete, Class B, having a standard strength of 4,500 pounds per square inch.

(2) Depressed curbs at driveways shall have a full depth of 18 inches.

E. Sidewalks.

(1) Shall be constructed of Portland cement air-entrained concrete, Class C, having a standard strength of 4,000 pounds per square inch.

(2) All required sidewalks for minor or local streets and major arterial streets shall be four feet wide by four inches thick, except at driveways and aprons, where they shall be six inches thick with welded wire fabric reinforcing. All required sidewalks for collector streets and minor arterial streets shall be five feet wide by four inches thick, expect a driveways and aprons, where they shall be six inches thick with welded wire fabric reinforcing. In addition, all sidewalks shall be constructed in accordance with applicable provisions of the Americans with Disabilities Act of 1990.

F. Water mains. Water mains are to be installed in accordance with the following:

(1) Engineering requirements for all water main installations are to comply with the rules and regulations of the New Jersey State Department of Health.

(2) All pipe shall be not less than Class 150 cast-iron pipe of the size determined by the Borough Engineer, but in no case less than six inches in diameter, and meeting the current specifications of the American Water Works Association. PVC water mains with push-on joints may be used if approved by the applicable public utility.

(3) All joints shall be lead or mechanical joint.

(4) The depth of pipe from the finished surface or roadway or grade shall be not less than four feet from the top of the pipe.

(5) Fire hydrants shall be generally located not more than 800 feet apart and spotted, where practicable, as follows: near streetlights, near inlets, near street intersections and on property lines.

(6) Valves shall be installed with all fire hydrants and at such other locations in the lines as directed by the Borough Engineer.

(7) House service connections, from the main to the curb stop and box, must be installed at all lots prior to placing any foundation or surface on the roadway.

(8) No installation shall be covered until inspected and approved by the Borough Engineer.

G. Sewers.

(1) Where required by the Planning Board, sanitary sewers, including service laterals and cleanouts at curbside, shall be installed in all streets and easements before the base materials for the streets are in place or the fine grading of the easement is complete, whether or not such sewers can be put to immediate use.

(2) Sewers in the streets and easements are to be constructed in accordance with the following:

(a) Standards. All sewers, manholes, appurtenances and equipment shall be designed, constructed and installed in accordance with the requirements of the Department of Environmental Protection, the approval of which shall be noted on plans and specifications submitted as part of the data required and in accordance with the most recent approved specifications and details of the Borough.

(b) Pipe material. Pipe shall be vitrified clay, PVC-SDR35 or cast iron, of the class, type and strength of each required for the particular use and location.

(c) Pipe dimensions. The minimum inside diameter shall be eight inches for sewers in roadways or easements and four inches for house connections; the diameter and slope (gradient) being such as to maintain theoretically a velocity of two feet per second when flowing half full (or full) with an assumed n = 0.013. Without special permission of all approving authorities, pipes larger in diameter with flatter slopes shall not be permitted if the project rate of flow does not theoretically fill the pipe half full.

(d) Joints. Sections of pipe shall be joined by slip-type rubber gasketed joints, mechanical joints and such other gasketed joints as approved. Hot poured bituminous joints and caulked lead joints may be used, if approved, where conditions are such that preformed gasketed joints are not applicable.

(e) Watertight caps or plugs. Termination of service laterals or any other temporary or permanent opening into the system shall be sealed by an acceptable means against the entrance of surface and ground water. Such sealed caps or plugs shall be so installed as to be watertight against any such internal pressure as might be applied in the testing of the sewer, as well as external subsurface water infiltration. Terminations of laterals shall be referred to "S" cuts on curbs or to other permanent monuments to facilitate locating the ends in the future.

(f) Manholes. Manholes may be either precast or built in place. No more than four courses of brick may be used for casting grade adjustments. No deviation from the approved standards will be permitted which may adversely affect watertightness, structural strength, safe use or maintenance of the manhole or the pipes connecting thereto.

(g) Service connections.

[1] Laterals for sanitary sewers shall be constructed from mains to a point two feet beyond the underground utility easement in front of the realty improvement to be sewered.

[2] The owner shall, at the time said owner deeds the streets within a development to the Borough, give a bill of sale to the municipality, transferring title to all sewer utility improvements within street line limits and within easement limits absolutely free to the Borough of Roselle.

H. Street signs.

(1) All street signs shall have reflectorized white letters on a green background (e.g., Type E-450 or equal). Both signs and poles shall either be of nonferrous metal or galvanized steel. Neighborhood or directional signs shall be installed on major roads to aid in circulation.

(2) All signs shall be mounted on two-inch-diameter posts embedded in concrete.

(3) Street signs shall be approved by the Borough Engineer prior to ordering by the developer.

(4) Street signs shall comply with the requirements contained within the Manual of Uniform Traffic Control Devices.

(5) Street signs shall be installed by the developer upon the completion of the base course of each roadway within the development. No certificates of occupancy will be issued until the signs are installed and approved by the appropriate Borough officials.

(6) No decorative street signs are permitted within the Borough of Roselle.

I. Street lights. All street lights shall be installed at least at all street intersections and as may be required by the Borough Engineer. They must be shielded so that no direct light or glare is visible from house or apartment windows and they do not produce glare in the eyes of a motorist.

J. Topsoil protection. No topsoil shall be removed from the site or used as spoil. Topsoil moved during the course of construction shall be redistributed so as to provide at least six inches of cover in all areas of the subdivision and shall be stabilized, seeded or planted so as to remain in place.

K. Monuments. All monuments are to be of the size and shape required by the Map Filing Law (1960), N.J.S.A. 46:23-9.9 et seq., or other applicable statutes, on both sides of all new streets.

L. Storm drainage systems.

(1) All storm drainage systems consisting of catch basins, underground sewers, paved swales, box culverts, rip-rap or otherwise stabilized stream banks, dams, retention basins and swales and other devices shall be installed so that all stormwater is led to and confined in natural drainage channels without causing erosion. Bicycle-safe storm sewer gratings shall be provided.
(2) Concrete pipe is preferred to box culverts for drainage under roads. In such cases, an easement of appropriate width extending at least 50 feet beyond the right-of-way line shall be granted on either side, and the pipe shall be covered for the full width of the right-of-way and 20 feet beyond.

M. Additional elements necessitated by topography. Retaining walls, cribbing, ground cover, diversionary swales and guide rails shall be installed as necessary to prevent erosion, hazard and unusual problems of maintenance.

N. Electrical, telephone lines and similar utilities. All such lines shall be underground from existing utility poles.

O. Landscape standards. Every applicant for subdivision or site plan approval shall comply with the following minimum standards, except that, with respect to the alternative design concepts set forth below, the applicant may choose between the concepts or present an alternative design equal or superior to the design concepts in terms of quality of

landscaping materials and suitability to the site and to the proposed development. The board of jurisdiction may require additional landscaping if necessary to create an appropriate landscaping scheme for the site, given the nature of the site and the proposed development thereof. Where subdivisions only are applied for, the minimum standards shall apply only to street trees and to common open space and areas proposed to be dedicated to the public.

(1) General. Landscape plans shall conform to the following general design principles.

(a) Use landscaping to accent and complement buildings. For example, groupings of tall trees to break up long, low buildings and lower plantings for taller buildings.

(b) Locate landscaping to provide for climate control. For example, shade trees on the south to shield the hot summer sun and evergreens on the north side for windbreaks.

(c) Provide for a variety and mixture of landscaping. The variety shall consider susceptibility to disease, colors, season, textures, shapes, blossoms and foliage.

(d) Local soil conditions and water availability shall be considered in the choice of landscaping.

(e) Consider the impact of any proposed landscaping plan at various time intervals so that, for example, shrubs do not grow and eventually block sight distances or encroach upon roads or sidewalks.

(f) All landscape plants shall be typical full specimens conforming to the American Association of Nurserymen Standards and/or Landscape Plans and Specifications for quality and installation.

(g) Assure that no aspect of the landscape design inhibits access to the development by emergency vehicles.

(2) Street trees. Street trees shall be provided for all streets. One of the following street tree planting concepts or an alternative concept complying with the standards set forth below shall be used.

(a) Living garden community concept:

[1] Use street trees as contextural and unifying element of outdoor living space, which reinforces the human scale.

[2] The designer shall develop a concept for a specific development and a street tree theme.

[3] Place trees in the right-of-way between the curb and the sidewalk.

[4] Spacing between trees shall be determined based upon species and the desired concept. In general, trees should be between 30 and 50 feet on center.

[5] The use of more than one street tree variety along a street shall be provided in order to avoid problems associated with monoculture (i.e. disease).

[6] Trees shall be planted in groupings of similar varieties. Use trees of similar form, height and character along a street to promote uniformity and allow for smooth visual transition between species.

[7] Tree variety section shall be based upon on-site conditions and tree suitability to these conditions.

[8] Trees should be a minimum of three inches to 3 ½ inches caliper (based upon American Nurserymen Standards). Within sight triangles, a single tree may be permitted only with site-specific approval of the Borough Engineer. Such trees, including those at driveways, shall be of such size as will enable them to be immediately pruned up to seven feet branching height upon planting.

(b) Formal concept:

[1] Use uniform street tree varieties.

[2] Coordinate new plantings with existing street tree plantings where applicable. A uniform canopy from both sides shall be provided.

[3] Use tree species tolerant of road salts and low maintenance.

[4] The location of street trees shall be within the right-of-way 30 to 50 feet on center, three to six feet from the curb line.

[5] Consider the use of double and triple rows of street trees for special emphasis.

[6] Trees should be a minimum of three inches to 3 ½ inches caliper (based upon American Nurserymen Standards). Within sight triangles, a single tree may be permitted only with site-specific approval of the Borough Engineer. Such trees, including those at driveways, shall be of such size as will enable them to be immediately pruned up to seven feet branching height upon planting.

(c) Naturalized street tree planting:

[1] Vary street varieties, spacing three feet to 15 feet from the curb line and sizes 2 ½ inches to 3 ½ inches caliper.

[2] The total number of street trees shall average one for every 35 linear feet measured at the curb line. Trees are grouped together and spaced at irregular patterns to look natural.

[3] Planting design shall accentuate views and integrate contrasting landscape elements.

[4] Trees within a sight triangle shall be of such size as will enable them to be pruned up to seven feet branching height upon planting. Planting within a sight triangle must be approved by the Borough Engineer.

[5] If existing trees are preserved within five feet of the curb, the requirements for street tree planting may be reduced.

(3) Cul-de-sac. Cul-de-sac islands provide an opportunity to create visual interest, soften the harshness of a large paved area, increase groundwater recharge, screen headlight glare into residences and preserve existing vegetation.

(a) The following standards apply:

[1] All plant material must exhibit a mature height under 30 inches or above seven feet, in order to allow for proper visibility.

[2] All plants shall be tolerant of harsh, dry roadside conditions.

[3] Ground cover plantings shall be consistent with the degree of maintenance expected for the cul-de-sacs and of sufficient density to entirely cover the ground plane.

(b) One of the following cul-de-sac planting concepts or an alternative concept complying with the standards set forth below shall be used.

[1] Use a specimen tree of five inches to six inches caliper with low shrub or ground cover planting.

[2] Use three or more trees of varying size (2 ½ inches to six inches caliper), with low shrub or ground cover and gentle berming.

[3] Use cul-de-sac islands to preserve existing stands or groves of trees. Assure protection during construction. Indicate ground cover treatment.

(4) Stormwater. Stormwater management areas include retention and detention basins, drainage ditches and swales and wetland areas. Sensitively designed basins and swales can benefit the health, welfare and safety of Borough residents. This may involve integration of these areas as aesthetic landscape features, naturalized wetland areas or active and passive recreation areas, in addition to their stormwater management function.

(a) Stormwater detention areas. One of the following landscape concepts for stormwater detention areas or an alternative concept complying with the standards set forth above shall be used.

[1] Reforestation. This landscape treatment is appropriate for detention basins and drainage areas that are not highly visible or are adjacent to areas of mature woodlands or wetlands. It returns the disturbed area to a revegetated, stable, low-maintenance natural landscape asset over time.

[a] The area shall be graded creatively to blend into the surrounding landscape and imitate a natural depression with an irregular edge. This shall include gentle berming. Linear, geometric basins are unacceptable.

[b] The quantity of trees to be planted on the interior of the basin shall be equal to the number of trees that would be necessary to cover the entire area, based upon a 20 by 20 foot grid to the high-water line or outflow elevation. Of this number, 10% shall be 2 ½ inches to three inches caliper, 20% shall be one inch to two inches caliper and 70% shall be six feet to eight feet height whips.

[c] The trees shall be planted in groves and spaced five feet to 15 feet on center.

[d] The ground plane shall be seeded with a naturalization, wildflower and/or meadow grass mix. The specific blend shall be approved by the Borough Engineer.

[e] All woody and herbaceous plants shall be species indigenous to the area and/or tolerant of typical wet/dry floodplain conditions.

[f] Planting shall not be located within 20 feet of low flow channels to allow for maintenance.

[g] The perimeter area (slopes above the high water line) shall include shade trees (80 per 1,000 linear feet), evergreens (40 per 1,000 linear feet), ornamental trees and shrubs screening drainage structures and creating visual interest.

[h] Provisions for emergency access as well as general maintenance of the basin shall be reviewed by the Borough Engineer. Plantings shall be designed to disguise yet not hinder vehicular access.

[i] Plantings are not permitted upon any dikes associated with a detention basin unless approved by the Borough Engineer.

[2] Recreation/open space features. This landscape concept is appropriate in situations where a basin is the largest or only portion of open space in an area or is adjacent to existing open space and recreational open space is desired. It is also appropriate for smaller, highly visible basins where a visually pleasing open area is desired. The objective in these situations is to integrate the area into the landscape using topography and plantings in order to complement the function of the area and to provide a visually interesting landscape feature and/or recreation space.

[a] The area shall be graded creatively to blend into the surrounding landscape and imitate a natural depression with an irregular edge. This shall include gentle berming.

[b] Provide perimeter plantings, including shade trees, formally or informally, evergreen trees to create and screen views and small trees and shrubs to provide a continuous landscape strip screening drainage structures and creating visual interest.

[c] Integrate buffer plantings with perimeter plantings where applicable.

[d] Guidelines for plant quantities: shade trees = 80 per 1,000 linear feet; evergreen trees = 40 per 1,000 linear feet; ornamental trees = 10 pre 1,000 linear feet; shrubs = 50 per 1,000 linear feet

[e] To provide recreational open space, concentrate frequently flooded detention in a basin area (five- to one-hundred-year storm volume) and provide a gently sloping, less often flooded area (ten- to one-hundred-year storm volume) as a recreational open field space. Provide ball fields and/or open play areas integrated with plantings in a park-like manner.

(b) Stormwater retention areas; open space/recreational features. This landscape treatment can take on a variety of landscape forms, from formal reflecting pools and canals or entry fountain features to natural park-like lakes and ravines.

[1] Water fountain/features are encouraged in the design of research/office/manufacturing parks and developments.

[2] The water's edge shall be easily maintained and stable. Possible treatments might include rip-rap, stone walls and natural plantings.

[3] The planting of the perimeter of the feature shall accentuate views and interest and integrate pedestrian paths, sitting areas and other uses.

[4] Plantings shall include formal or informally0massed deciduous and evergreen trees and shrubs to screen and frame views with ornamental trees, shrubs and grasses used for visual interest or special effects. A continuous landscape area shall be provided.

[5] If used as a recreational feature, the connection to the water must be addressed and controlled. The types of uses shall be specified and the plantings and pedestrian spaces shall be integrated with these uses.

(5) Open space. As a feature and asset, open space is encouraged in all developments, even when not required. The objectives of the landscape treatment of open space are to provide the opportunity and space for active and passive recreation and, finally, to protect and enhance natural amenities. All open space areas shall be designated as one of two types: preservation or recreation open space, as follows:

(a) Preservation open space. This treatment is appropriate in areas adjacent to and inclusive of natural amenities to be preserved, such as wooded areas and streams. The following standards shall apply:

[1] Open space shall preserve existing natural areas during site planning.

[2] Cleared areas shall be renaturalized where appropriate.

[3] The ground shall be seeded with a naturalization wildflower and/or meadow grass mix. The specific blend shall be approved by the Borough Engineer.

(b) Recreational open space. Recreational open space includes lands for active and passive recreation. The landscape treatment of these areas shall address safety, visual interest and use. The following standards shall apply:

[1] The proposed use of al open space areas shall be indicated.

[2] Open space in commercial and office developments shall include sitting and outdoor eating areas. Provisions for other active and passive recreation facilities are encouraged.

[3] Grading and plantings of the recreation areas shall remain consistent with the overall landscape design. The landscape design shall consist of massed deciduous and evergreen trees and berms to create spaces and views and ornamental trees and shrub masses for visual variety and interest.

[4] In general, plants shall be provided at the following rate. These quantities do not include plants necessary to achieve screening, which shall be provided.

Type of Plant	Number Per Acre
Shade trees	15
Evergreen trees	5
Flowering shrubs	3
Shrubs	20

[5] Irrigation of all open space/planted areas within nonresidential developments shall be provided.

[6] All plants shall be tolerant of specific site conditions. The use of indigenous species may be appropriate.

[7] If a recreation facility fronts onto a street, a post and rail fence or other protective measures may be integrated to provide protection and separation. The adjacent street tree planting shall be continued along this area and any reverse frontage buffer planting shall be integrated with open space planting.

(6) Buffers. Landscape buffers are provided to minimize and screen any adverse impacts or nuisances on a site. Included within any landscape buffer area shall be trees, conifers, shrubs, berms and, if appropriate, fences or walls. Landscape buffers shall be provided as required by ordinance and in the following areas:

(a) Nonconforming use buffer. These buffers shall be provided where a residential zone abuts an area currently used or zoned for a different or higher intensity use. The following landscape treatment shall be provided to assure complete visual screening.

[1] Provide a buffer area as per zoning ordinance yard/setback requirements.

[2] Preserve existing trees within the provided buffer area. If existing vegetation is insufficient, the landscape area shall be supplemented with new understory plantings of coniferous and ornamental trees in groupings to provide a complete visual screen. Shrubs shall also be provided.

[3] Areas void of existing vegetation shall receive landscape treatment, including berming and planting consisting of groupings of evergreen trees, with deciduous and ornamental trees and shrubs for visual interest and variety.

[4] Berming shall be two feet to six feet in height and meander in a naturalistic manner without adversely affecting natural drainage.

[5] Planting shall consist of evergreen trees that are six feet to eight feet planted 10 feet on center, shade trees 2.5 to three inches in caliper, flowering trees four to five feet in height and shrubs two feet in height, planted in groupings of mixed plant varieties and sizes.

(b) Reverse frontage buffer. Reserve frontage screening shall be required where residential units and/or lots back onto any arterial or major collector street. The following landscape treatments shall be provided in order to screen private residential spaces.

[1] Provide a continuous open space strip of not less than 20 feet.

[2] Preserve existing trees within the provided landscape buffer area. Supplement with evergreen and ornamental trees as well as shrubs in order to complete screening of residences.

[3] Where no vegetation exists, install berms to assist in screening. The berm shall be continuously planted with groupings of evergreen, shade and ornamental trees and shrubs. The following quantities shall be provided:

Type of Tree/Shrub	Quantity per 500 Linear Feet
Street tree	10
Shade tree (2.5-2 inch caliper)	25
Evergreen tree (5-6 feet high)	27
Ornamental tree (5-6 feet high)	5
Shrubs (24-36 inches high)	75

(c) Filtered buffer. Filtered screening shall be required around the perimeter of parking areas, especially where parking is visible from a public street. The following standards shall apply.

[1] Provide landscape buffer area of 25 feet in width or as per the requirements for front yards in Article XII of this Chapter, whichever is greater.

[2] Preserve existing trees within the landscape buffer area.

[3] In areas devoid of vegetation, provide gentle berming to install new vegetation on.

[4] Provide evergreen, shade and ornamental trees and shrubs. The planting shall be predominantly mixed varieties of shade trees and evergreen shrubs. Shrubs shall be used to screen headlight glare and shall be spaced a minimum of two feet on center.

[5] All plants shall be tolerant of harsh roadside conditions.

[6] Minimum plant sizes shall be shade trees two inches to 2.5 inches caliper, evergreen and ornamental trees four feet to five feet high and shrubs two feet high.

[7] Irrigation of all open space/planning areas within nonresidential developments shall be provided.

(7) Parking areas. The objectives of the landscape treatment of all parking areas shall be to provide for safe and convenient movement of vehicles, to limit pedestrian/vehicular conflicts, to limit paved areas, to provide for screening from public rights-of-way and buildings, to soften the overall visual impact of parking lots and to provide shade and reduce heat island effects.

(a) Large parking lots shall be subdivided into modules as per §77-26.K(3) of this chapter. Separation of modules should be achieved by a landscape strip that is 10 feet wide. Integrating pedestrian circulation into these strips should be considered.

(b) Trees within the parking areas shall be provided at a minimum rate of two trees per 10 parking spaces. Preservation or relocation of existing trees greater than five inches in caliper is encouraged to meet this requirement. Landscape buffer or parking area perimeter plantings do not satisfy this requirement.

(c) Any parking area in a front yard or within clear view from the public right-of-way shall be screened from view by a landscape buffer area.

(d) Parking areas shall be screened from interior drives using evergreen, deciduous and flowering trees and shrubs to create a continuous landscape strip that is a minimum of 10 feet wide. Consider integration of pedestrian walkways within these strips.

(e) Plant sizes shall be a minimum 2.5 to three inch caliper for shade trees, five to six feet high for evergreen and ornamental trees and two feet high for shrubs.

(f) Parking lot lighting should be sited within landscape islands. However, trees shall not hinder safe lighting coverage. Therefore, varieties must be considered.

(8) Pedestrian spaces. The objectives of landscape treatment for pedestrian access shall be to promote safe movement of pedestrians and bicycles into, in between and through the proposed and existing facilities and to provide pleasant pedestrian spaces at building entrances and nodes. The following standards shall apply:

(a) Pedestrian and bicycle access shall be provided from public roadways, parking lots and adjacent land uses where appropriate.

(b) The layout of pedestrian walkways shall be consistent with the overall design. In natural landscapes, walkways shall meander through plantings and berms. Formal landscapes may require long straight walkways. The views of the pedestrian shall be visually interesting.

(c) Plantings along pathways shall provide shade, orientation and views.

(d) Provide benches and sitting areas along pathways where appropriate and particularly where they can incorporate or provide views of a significant landscape feature or interesting site design of the project.

(e) All walkways shall have an unobstructed width of four to five feet for pedestrians and eight feet for pedestrians and bicycles and be paved appropriately. These standards do not apply to sidewalks along Borough streets.

(f) Connections to open space areas and facilities on adjacent properties shall be provided. Pedestrian easements between lots with a paved walkway may be required.

(g) Bicycle parking for each building, adequate space for bicycle movements and visual screening shall be provided.

(h) Building entrances and plazas shall receive detailed pedestrian scale landscape treatments. Plantings shall include shade trees, evergreen and ornamental trees and shrubs. The planting design shall provide visual variety and interest, spatial enclosure and separation from parking areas. Sitting areas with benches or seat walls shall be provided.

P. Landscape maintenance.

(1) A landscape management/maintenance specification shall be provided in conjunction with all approved subdivisions as to street trees, open space and areas to be dedicated to the public and all approved site plans. In addition, a copy of the reverse frontage maintenance specifications for the tasks outlined in the maintenance matrix for this area must be provided to all owners of fee simple reverse frontage lots at the time of sale.

(2) These documents shall provide specifications for perpetual maintenance in order to assure a safe and attractive landscape and to promote healthy growth of all plant materials. Documents may take the form of a monthly schedule or a categorized guideline. All maintenance items shall be on a site-specific basis and shall comply with the following standards:

(a) Maintenance tasks. Applicants shall prepare a customized set of maintenance specifications consistent with the following minimum standards, which shall apply to every approved subdivision with respect to trees, open space and areas for dedication to the public and to every approved site plan.

[1] Periodic inspection.

[a] All lands, development or undeveloped, shall receive periodic inspection to evaluate the performance of landscape areas and the need for maintenance. Such an inspection shall be conducted by the applicant or its successor in interest at a minimum interval of once every month. Stormwater areas shall be inspected after every storm or storm episode.

[b] Developments with a detailed maintenance specification shall be inspected based upon the details of the provided specifications.

Remaining areas shall be inspected in relation to the maintenance specifications contained in this subsection.

[2] Debris and weed control.

[a] This task shall include the removal of all litter, debris and weeds. The objective of this task is to provide a neat, well-maintained appearance. At the time of each monthly site inspection, a site shall be investigated for the presence of any debris or weeds.

[b] For areas exposed to public view (i.e. parking area buffers) investigation shall be undertaken on a biweekly basis during each mowing season.

[3] Irrigation.

[a] All developed landscaped areas shall be evaluated at the time of inspection for the general condition and success of irrigation methods. Any inadequacies in the performance of an irrigation system shall be rectified as soon as possible.

[b] Automatic sprinkler systems should be leaned out and turned off in the fall before the first frost and tested and turned on in the spring.

[4] Mulching.

[a] This task shall include the maintenance of all planting beds around trees, shrubs and ground covers for those ground areas covered with decorative stone or other materials.

[b] All planting beds with organic mulch shall be maintained with a minimum of two inches depth of shredded bark mulch or an equivalent. To maintain this level, new mulch shall be applied each spring. Turf or lawn adjacent to beds shall be edged to prevent encroachment of turf and present a neat border and appearance.

[c] Areas with decorative stone or other materials shall be maintained with a neat appearance.

[5] Mowing.

[a] The mowing standards shall apply to all lands planted as lawn, turf or wildflowers or those with naturalized grasses and weeds. The objective of all mowing shall be to create a neat, well-maintained appearance.

[b] Grasses and weeds around trees and shrubs will be trimmed to the same height as mowed areas by the use of appropriate hand tools, in order to prevent undesirable damage to the trees or shrubs. Clippings shall be removed from all paved surfaces. Alternating mowing patterns shall be utilized to prevent compactions.

[c] Lawn areas shall include grasses planted in passive recreation areas, stormwater areas, buffers and streetscapes and all other open lawn areas. The grass plantings in these areas shall not exceed a height of 12 inches. In order to maintain this standard, approximately 12 to 15 mowings per year will be required.

[d] Wildflowers shall include those planted with annual and perennial herbaceous plants. Those wildflower areas which are designed to be maintained as such shall be mowed once a year. This shall occur at the time recommended on the original landscaped plan or in the late fall while the wildflowers are dormant.

[e] The grasses, weeds and other natural material within undeveloped areas shall not exceed 12 inches in height.

[6] Pruning.

[a] Pruning shall include the removal of dead or diseased wood, wood infested with insects, weak or any irregular or damaged growth.

[b] All plants shall be checked during the periodic inspection to determine if pruning is necessary. Care shall be taken to prune flowering trees and shrubs properly during the dormant season or after flowering. Evergreen shrubs shall be pruned after flowering.

[c] Shrub material shall not be sheared as individual plants. Shrubs that are intended for screening or buffering shall be pruned in natural massed forms so as to enhance the shrubs' natural growth.

[d] Root pruning of all trees adjacent to curbs or sidewalks shall be undertaken as necessary to prevent heaving of the sidewalk. The need for such pruning shall be determined during the periodic inspection and with knowledge of the most recent pruning. Care shall be taken not to prune a root system in excess of 1/3 diameter of the tree per year.

[7] Fertilizer and amendments.

[a] Fertilizer and soil amendments should be added as necessary and/or on a seasonal basis.

[b] Fertilizer is optimally applied to lawn and turf areas three times per season. Timing, frequency and rate of application shall be adjusted according to weather and soil test conditions for each specific site.

[c] Fertilizer shall be applied by accepted methods only. Safety shall always be of prime consideration.

[d] Soil amendments such as lime, gypsum or peat moss may need to be added to the soil of lawn or planting areas periodically. The need for such soil amendments shall be analyzed during the periodic inspections and in conjunction with a soil test.

[8] Insect and disease control. The control of insects and disease associated with all landscaped areas shall be a maintenance priority. All plantings shall be periodically inspected for insect or disease infestation. Methods utilized to control insects and disease may range from spraying and pruning to plant removal. Whatever method is utilized, safety shall always be of prime concern. Certified and trained personnel shall always perform this task.

[9] Reseeding and/or replanting. Landscape areas shall be reseeded or replanted when areas are damaged, destroyed or failing due to insects,

disease, weather or physical damage. Specific areas will require detailed specifications. The following standards shall apply:

[a] Lawn or wildflowers. All areas where soil has been exposed shall be reseeded during the next planting season. Proper horticultural and soil erosion prevention methods shall be utilized. If soil erosion has occurred, the area shall be repaired. A seed mixture compatible to existing plantings and conditions shall always be utilized.

[b] Plantings. All plantings which are damaged or destroyed shall be replaced during the next planting season. A failing, damaged or destroyed landscaped screen or buffer shall be replaced within a reasonable amount of time, but not to exceed the subsequent growing season.

[10] Landscape lighting. All lighting essential to pedestrian and vehicular circulation shall be periodically inspected. Damaged or malfunctioning lights shall be replaced or repaired immediately.

[11] Paved surfaces.

[a] All paved surfaces shall be periodically inspected and maintained. Items of normal maintenance not listed below but found to be necessary shall be performed as soon as possible to keep these surfaces safe and in satisfactory condition.

[b] All roadways, parking areas, loading areas and pedestrian walkways shall be maintained free of snow, trash and debris at all times.

[c] All stains shall be washed off paved surfaces.

[d] Damaged pavements shall be repaired and properly resurfaced or replenished as necessary to assure safe usage.

Q. Installation and inspection of landscaping. The following installation, performance and inspection principles and procedures should be applied to all landscape installations.

(1) Prior to the issuance of any certificate of occupancy, the proposed landscape as shown on the approved landscape plan must be installed, inspected and approved by the

Borough Engineer. The Borough Engineer shall take into account seasonal considerations in this regard as follows.

(a) The planting of trees, shrubs or ground over as required by or associated with a subdivisions or site plan approval by the Planning Board or zoning Board of Adjustment shall be installed during the following fall and spring planting seasons:

Planting Season	Dates	Item
Fall	8/15 to 12/15	Evergreen Plants
	10/15 to 12/15	Deciduous Plants
Spring	3/1 to 5/15	All Plants

(b) Any plantings installed in conflict with this requirement must receive the written approval of the Borough engineer prior to planting. Failure to comply with these requirements will necessitate the removal of the plantings in question. This requirement does not apply to seeding or sodding or plantings specifically for soil stabilization purposes. The plantings associated with any lot given a certificate of occupancy outside these periods shall be provided during the previous or next appropriate seasons.

(2) All plantings shall be planted in a manner consistent with the instructions set forth in the following planting details.

(a) For all reverse frontage and other buffer areas, the following installations and inspection procedures shall be followed. First, the area should be rough graded for the approval of the Borough Engineer. Based upon comments made during these inspections, the sidewalk shall be formed for inspection and approval. Subsequent to sidewalk installation, the area should be fine graded and the planting staked for the approval of the Borough Engineer.

(b) If minor changes to the approved plan are made prior to or during construction, revised or record drawings must be submitted to the Borough Engineer for approval. Such revisions shall be indicated by a formal letter of request to the Borough with a copy to the Borough Engineer. Substantial changes shall require the approval of the board of jurisdiction. If unapproved or inadequate landscape is implemented, then appropriate replacement may be required.

(c) Subsequent to landscape installation and until release of performance bonds, the Borough shall have the right to inspect all landscape areas for conformance to the approved plans, proper installation and maintenance as well as performance of landscape material.

R. Bicycle-safe storm grates. Storm sewer grates installed on streets, including driveways and parking lot aisles shall be bicycle safe.

S. Other improvements. In the event that the Borough has not adopted standards for a specific type of improvement, the generally accepted engineering standards as set forth in engineering and construction manuals as may be approved and modified by the Borough Engineer for a specific situation shall be used.

T. Traffic signage plan.

(1) A proposed traffic control plan showing traffic signs to be installed by the developer at its sole expense shall be submitted with each application for subdivision or site plan approval. The plan shall indicate the nature and proposed location of traffic and street signs needed to assure the safe and controlled flow of traffic on the tract, including ingress and egress to the site. The information to be set forth on each sign, including street names, permissible speed limits, stop and yield signs at intersections, designations of one-way and dead end streets and prohibited parking locations shall be specified.

(2) Final sign locations shall be determined by the Borough Police Department after review of proposed traffic generation and vehicular movement data and relevant speed and accident sampling data.

(3) All signs shall be approved by the Borough Engineer prior to their purchase by the developer to assure uniformity and conformance with the standards contained in the Manual on Uniform Traffic Control Devices.

(4) No certificate of occupancy shall be issued for any structure located on the tract until the Borough Engineer has certified the satisfactory installation by the developer of all signage in accordance with the traffic control plan, as it may be modified by the Borough Police Department or the New Jersey Department of Transportation.

§ 77-76. Inspection and fees.

A. Prior to starting any construction of the required improvements, the developer must submit final detailed construction plans to the Borough Engineer for review and approval and shall pay to the Borough Chief Financial Officer, by cash or certified check, the inspection fee as stated in §77-78, for both private and public improvements.

B. All of the required public improvements for a development, during and upon completion of their construction, shall be subject to inspection and approval by the Borough Engineer, who shall be notified by the developer at least 24 hours prior to the start of construction.

On-site private improvements relating to drainage, landscaping and circulation as shown on an approved final development plan shall also be subject to inspection and approval by the Borough Engineer.

C. No underground installations shall be covered until inspected and approved by the Borough Engineer. At a minimum, the Borough Engineer will make the following inspections:

(1) Roadway subgrade prior to placing sub-base material and/or bituminous stabilized base course material.

(2) The bituminous stabilized base course material after complete compaction and prior to applying bituminous material tack coat for the bituminous concrete surface course.

(3) Bituminous concrete surface course materials while it is being laid.

(4) Finished bituminous concrete surface course pavement.

(5) Concrete curb and sidewalks, when the forms are laid and the subgrade is leveled and tamped prior to placing concrete, also during the placing and finishing of the concrete.

(6) Such inspections as the Borough Engineer shall deem necessary of the pipe drains, inlets, municipal utilities lines and appurtenances, etc., while pipes, etc., are being laid and prior to backfilling trenches, inlets and manholes while being constructed.

(7) Approval or reasons for withholding approval for either public or private improvements shall be given promptly and in any event within 45 days after inspection. If work proceeds without such approval or not in compliance therewith, the Borough Engineer, in addition to any other remedies available to the municipality, may issue an order requiring immediate cessation of the affected work and prohibiting resumption until approval is obtained or noncompliance corrected.

§ 77-77. Acceptance of streets and improvements.

A. Prior to the release of a performance bond covering any public or private improvements within a subdivision, there shall be filed with the Borough Engineer a deed of dedication containing a metes and bounds description of all easements, two paper prints plus one reproducible Polyester Film tracing (matte finish) (base thickness, 0.003 inches) and as-built plans and profiles drawn to a scale of one inch equals five feet vertically, which plans and profiles shall be based on a final survey and shall be in the United States Coast and Geodetic Control Survey datum. Such drawing shall show how streets and other improvements were actually constructed or installed. The following data must be shown with measurements from the property lines:

(1) Plans and profiles of the streets showing elevations as constructed and reference bench marks.

(2) Plans and profiles of sanitary and storm sewers showing elevations of inverts of manholes and catch basins and elevations of inlet gratings and manhole rims; also locations of sanitary sewer laterals dimensioned from main and reference dimensions to T or V connections from manholes.

B. Upon the submission of the following documents and the approval thereof by the Borough Engineer and the Borough Attorney, the Borough shall accept those streets, rights-of-way and other public improvements in a subdivision by resolution:

(1) Satisfaction of all items in Subsection **A.** of this section.

(2) Deeds of dedication with metes and bounds descriptions for all easements, detention basins or other public improvements other than streets and rights-of-way intended to be owned by the Borough.

(3) Final plat filed with the Union County Clerk's Office showing all streets, rights-of-way, easements, detention basins, greenbelts or other public or quasi-public improvements.

(4) All applicable streets, rights-of-way and/or other public improvements have been inspected and have received final approval by the municipal engineer.

(5) Posting of the required maintenance guaranties with the Borough and approved by the Borough prior to acceptance by the Borough Council of the applicable streets, rights-of-way and/or other public improvements, in an amount provided by law.

§ 77-78. Maintenance of streets prior to acceptance.

A. Until such time as the streets are accepted by the governing body in accordance with §77-77, the developer shall be obligated to perform all maintenance, including but not limited to snowplowing, on said streets.

B. In the event that the developer fails to maintain the streets and thereby creates a hazard, the Borough may perform such maintenance as is necessary to remove the hazard. The costs incurred by the Borough shall be billed to and paid by the developer. Emergency maintenance work performed by the Borough as a result of the developer's failure to properly maintain shall not constitute an acceptance of the streets.

C. With regard to snow and ice removal, the developer shall cause the removal of snow and ice within 24 hours after the snow has ceased.

D. Any developer violating provision of this section shall be subject to all the available penalties established by the Borough of Roselle.

Article XI. ADMINSTRATION, ENFORCEMENT AND FEES

§ 77-79. Establishment, composition and powers of the Planning Board.

A. The Planning Board previously established is hereby continued pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-23 et seq.) and shall consist of nine members of the following four classes:

(1) Class I: the Mayor, or the Mayor's designee in the absence of the Mayor.

(2) Class II: one of the officials of the Borough other than a member of the governing body, to be appointed by the Mayor.

(3) Class III: a member of the governing body, to be appointed by it.

(4) Class IV: six citizens of the Borough, to be appointed by the Mayor. The members of Class IV hold no other municipal office, except that one member may be a member of the Zoning Board of Adjustment and one may be a member of the Board of Education.

B. Alternates.

(1) Two alternate members shall be appointed by the Mayor and shall be designated at the appointment as "Alternate No. 1" and "Alternate No. 2." Alternate members shall meet the qualifications of Class IV members.

(2) 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.

C. Terms.

(1) The term of the member composing Class I shall correspond with the Mayor's official tenure of office, or if the member is the Mayor's designee in absence of the Mayor, the designee shall serve at the pleasure of the Mayor during the Mayor's official tenure.

(2) The terms of the members composing Class II and Class III shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first.

(3) The term of a Class IV member who is also a member of the Board of Adjustment or Board of Education shall terminate whenever he or she is no longer a member of such other body or at the completion of his or her Class IV term, whichever occurs first. The terms of all other Class IV members shall be four years.

(4) The terms of alternate members shall be for two 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 years.

(5) A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only. All terms shall run from January 1 of the year in which the appointment is made.

D. Organization.

(1) The Planning Board shall elect a Chairperson and Vice Chairperson from the members of Class IV and may select a Secretary, who may or may not be a member of the Planning Board or a Borough employee, and create and fill such other offices as established by ordinance.

(2) The Chairperson shall preside at all meetings and hearings of the Board, decide all points of order and matters of procedure governing said meetings or hearings and perform all the duties normally appertaining to his or her office, as required by law, ordinance, rule or the Board. His or her designee shall swear all witnesses giving testimony before the Board.

(3) The Vice Chairperson shall preside at all Board meetings and hearings in the absence of or disqualification of the Chairperson.

E. Attorney. There is hereby created the office of Planning Board Attorney. The Planning Board may annually appoint and fix the compensation of or agree upon the rate of compensation of the Planning Board Attorney, who shall be an attorney other than the Borough Attorney.

F. Experts and staff. The Planning Board may also employ or contract for the services of experts and other staff and services as it may deem necessary. The Board shall not,

however, exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

G. Powers and duties. The Planning Board shall have the following powers and duties:

(1) To make and adopt and from time to time amend a Master Plan for the physical development of the municipality, considering any areas outside its boundaries, which, in the Board's judgment, bear essential relation to the planning of the municipality, in accordance with the provisions of N.J.S.A. 40:55D-28. The Master Plan is to be reviewed, revised and amended every ten years from the date of the last update.

(2) To approve or deny applications for development in accordance with the provisions of this chapter.

(3) To approve or deny conditional use applications in accordance with the provisions of this chapter pursuant to N.J.S.A. 40:55D-67, Conditional uses; site plan review.

(4) To prepare and recommend for adoption an Official Map pursuant to N.J.S.A. 40:55D-32, Establish an official map.

(5) To prepare, when authorized by the governing body, a capital improvements program pursuant to N.J.S.A. 40:55D-29, Preparation of capital improvement program.

(6) To participate in the preparation and review of programs or plans required by state or federal law or regulations.

(7) To assemble data on a continuing basis as part of a continuous planning process.

(8) To consider and make a report to the governing body, within 35 days after referral, as to any proposed development regulation submitted to the Planning Board pursuant to the provisions of N.J.S.A. 40:55D-26(a) or 40:55D-26(b) and also to pass upon other matters specifically referred to the Planning Board by the governing body pursuant to the provisions of N.J.S.A. 40-55D-26(a) or N.J.S.A. 40:55D-26(b).

(9) Whenever the proposed development requires approval pursuant to this chapter of a subdivision, site plan or conditional use, the Planning board shall have the power to grant to the same extent and subject to the same restrictions as the Board of Adjustment:

(a) Variances pursuant to N.J.S.A. 40:55D-70c.

(b) Direction for issuance of a permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved on the Official Map.

(c) Direction pursuant to N.J.S.A.55D-36 for issuance of a permit for a building or structure not related to a street.

(10) 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 boy or other agencies or officers.

§ 77-80. Establishment, composition and powers of the Zoning Board of Adjustment.

A. A Zoning Board of Adjustment is hereby established pursuant to N.J.S.A. 40:55D-69 et seq. consisting of seven regular members and two alternates, all of whom are residents of the Borough of Roselle. Zoning Board members shall be appointed by the Mayor with the consent of the Council to serve for terms of two years from January 1 of the year of their appointment. 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 years after their appointment, provided that the initial term of no member shall exceed four years. Nothing in this chapter 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.

B. Conflicts of interest; removal; vacancies. No member may hold any elective office or position under the municipality. No member of the Board of Adjustment shall be permitted to act on any matter in which the member has, either directly or indirectly, any personal or financial interest. A member may, after public hearing if the member requests it, be removed by the Council for cause. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only.

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

D. Attorney. There is hereby created the office of Attorney to the Zoning Board of Adjustment. The Zoning Board of Adjustment may annually appoint and fix the compensation of or agree upon the rate of compensation of the Zoning Board of Adjustment Attorney who shall be an attorney other than the Borough Attorney.

E. Experts and staff. The Zoning Board of Adjustment may also employ or contract for and fix the compensation of such experts and other staff and services as it may deem necessary. The Board shall not authorize expenditures which exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

F. 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 chapter. 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. 2A:67A-1 et seq.) shall apply.

G. Powers and duties.

(1) The powers of the Zoning Board of Adjustment shall be in accordance with N.J.S.A. 40:55D-70 et seq. and amendments and supplements thereto, and with the provisions of this chapter.

(2) It is further the intent of this chapter to confer upon the Zoning Board of Adjustment as full and complete powers as may lawfully be conferred upon such Board, including, but not by way of limitation, the authority, in connection with any case, action or proceeding before the Board, to interpret and construe the provisions of this chapter, or any term, clause, sentence or word hereof, and the Zoning Map, in accordance with the general rules of construction applicable to legislative enactments.

(3) The Board may, in appropriate cases and subject to appropriate conditions and safeguards, grant variances from the terms of this chapter in accordance with the general or specific rules contained herein, and with the general rules hereby laid down that equity shall be done in cases where the strict construction of the provisions of this chapter would work undue hardship. The powers and duties of the Board having been delegated to and imposed upon it by statute, the Board shall in all cases follow the provisions applicable to it in said N.J.S.A. 40:55D-1 et seq. and/or subsequent statutes in such case made and provided, and it shall from time to time furnish to any person requesting the same a copy of its rules and information as to whom appeals or applications may properly be filed with the Board for its decision thereon.

H. Appeals and applications.

(1) 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 Chapter 77 or the Official Map. Such appeal shall be taken within 20 days by filing a notice of appeal with the officer from whom the appeal is taken specifying the grounds of such 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.

(2) Applications addressed to the original jurisdiction of the Board of Adjustment without prior application to an administrative officer shall be filed with the Secretary of the Zoning Board of Adjustment. Three copies of the application shall be filed. At the time of filing the appeal or application, but in no event less than 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 provision 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 a proceeding and of the regular meeting dates of the Board.

(3) An appeal stays all proceedings in furtherance of the action in respect to 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 a restraining order which may be granted by the Board of Adjustment or by the Superior Court of New Jersey on application or notice to the officer from whom the appeal is taken and on due cause shown.

I. Power to reverse or modify decisions. In exercising the above-mentioned power, the Board of Adjustment may, in conformity with the provisions of N.J.S.A. 40:55D or amendments thereto or subsequent statutes applying, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from, and make such other requirement, decision or determination appealed from and to that end have all the powers of the administrative officer from whom the appeal was taken.

J. Expiration of variance. Any variance from the terms of this chapter 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 year from the date of publication of the notice of the judgment or determination of the Board of Adjustment. Time limits which have been determined in accordance with the foregoing may thereafter be extended upon application to the Board of Adjustment, provided that the application shall be made prior to the expiration of the time limitations sought to be extended. Upon a showing of good cause may be the applicant before the Board of Adjustment, the Board may extend the time limitation by resolution. The running of the period of time limitation provided shall be tolled from the date of filing an appeal from the decision of the Board of Adjustment to the court of competent jurisdiction until the termination of such appeal or proceeding.

K. Powers granted by law.

(1) The Board of Adjustment shall have such powers as are granted by law to:

(a) Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by a zoning official or agency based on or made in the enforcement of the Zoning Ordinance.

(b) Hear and decide requests for interpretation of the Map or Zoning Ordinance or for decisions upon other special questions upon which such Board is authorized by the Zoning Ordinance to pass.

(c) Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property or by reason of other extraordinary and exceptional situation uniquely affecting a piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to Article 8 of N.J.S.A. 50-55D-1 et seq. would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship.

(d) Where in an application or appeal relating to a specific piece of property the purposes of N.J.S.A. 40:55D-1 et seq. would be advanced by a deviation from the requirements of the Zoning Ordinance, Chapter 77, and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations pursuant to this chapter; provided, however, that no variance from those departures enumerated in (5) below shall be granted under this Subsection; and provided, further, that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board has power to review a request for a variance pursuant to this chapter.

(e) In particular cases and for special reasons grant a variance to allow departure from zoning regulations to permit a use or principal structure in a district restricted against such use or principal structure, an expansion of a nonconforming use, deviation from a specification or standard pertaining solely to a conditional use, an increase in the permitted floor area ratio or an increase in the permitted density, except as applied to the required lot area for a lot or lots for detached one- or two-dwelling unit buildings, which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision. A variance under this Subsection shall be granted only by affirmative vote of at least five members.

(2) 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 Zoning 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.

L. Additional powers. The Zoning Board of Adjustment shall, in addition to the powers specified in K. above, have power given by law to:

(1) 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 on the Official Map.

(2) Direct issuance of a permit pursuant to N.J.S.A. 40:55D-36 for a building or structure not related to a street.

(3) 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 N.J.S.A. 40:55D 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 N.J.S.A. 40:55D-70d. 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 granting 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 such subsequent approval shall be as provided in N.J.S.A. 40:55D-1 et seq. for the approval in question, and the special vote pursuant to the aforesaid N.J.S.A. 40:55D-70d shall not be required.

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

§ 77-81. Provisions Applicable to Both Planning Board and Zoning Board of Adjustment

A. Conflicts of interest. No member of the Boards shall act on any matter in which he or she has, either directly or indirectly, any personal or financial interest. Whenever any such member shall disqualify himself or herself from acting on a particular matter, he or she shall not continue to sit with the Board on the hearing of such matter and not participate in any discussion or decision relating thereto.

B. Compensation. All members of the Boards shall serve without compensation.

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

D. Meetings.

(1) Each board shall hold regular meetings at the times and places fixed by its rules. Meetings of each Board shall be scheduled at least once a month, unless canceled for lack of applications.

(2) Special meetings may be provided for at the call of the Chairperson or on the request of four Board members, which shall be held on notice to its members and the public in accordance with all applicable legal requirements.

(3) No action shall be taken at any meeting without a quorum being present. All actions shall be taken by majority vote of all members present except as otherwise required by any provisions of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.). In absence of a quorum, the members present may adjourn the meeting and the hearing on any motion or petition to another date by a majority vote of those present. A member of the Planning Board or Board of Adjustment 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 or her absence from one or more of the meetings; provided, however, that such Board member has available to him or her the transcript or recording of all of the hearings from which he or she was absent and certifies, in writing, to the Board that he or she has read such transcript or listened to such recording.

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 Act (N.J.S.A. 10:4-6 et seq.). An executive session for the purpose of discussing and studying any matters to come before the board shall not be deemed a regular or special meeting within the meaning of the Municipal Land Use Law.

E. Minutes. 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 represented by counsel, the action taken by the Board, the findings, if any, made by it and reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the Borough Clerk. Any interested party shall have the right to compel production of the minutes after they have been approved by the Board for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party shall be charged a fee of $0.50 for each page for reproduction of the minutes.

F. Hearings.

(1) Rules. The Boards shall make rules governing the conduct of hearings, which rules shall not be inconsistent with the provisions of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) or of this chapter.

(2) Oaths. The officer presiding at the hearing or such person as he or she may designate shall have 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, c. 38, P.L. 1953 (N.J.S.A. 2A:67A-1 et seq.) shall apply.

(3) Testimony. The testimony of 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. Witnesses include all interested parties, including members of the public, regardless of residence, who wish to testify with regard to an application.

(4) Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Boards may exclude irrelevant, immaterial or unduly repetitious evidence.

(5) Records. Each Board shall provide for the verbatim recording of the proceedings by either stenographic, mechanical or electronic means. The Board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his or her expense. The cost of said transcript shall not be in excess of the limits prescribed in N.J.S.A. 40:55D-10. Said transcript shall be certified in writing by the transcriber to be accurate.

(6) Maps and documents. Any maps and documents for which approval is sought shall be on file and available for public inspection at least 10 days before the date of the hearing during normal business hours in the office of the Boards. The applicant may produce other documents, records or testimony at the hearing to substantiate or clarify or supplement the previously filed maps and documents.

G. Notice requirements.

(1) Public notice. Public notice of a hearing shall be given in the following cases:

(a) Application for preliminary approval of a major subdivision.

(b) Application which requires a variance, whether before the Planning Board or the Board of Adjustment.

(c) Application for major site plan approval.

(d) Application for exception or waiver for signs, fences or number of parking spaces.

(e) Variances in the floodplain.

(2) Public notice procedures.

(a) Public notice shall be given by publication in the official newspaper of the Borough at least 10 days prior to the date of the hearing. Such notices shall be arranged by the Borough.

(b) Notice shall be given to the owners of all real property as shown on the current tax duplicate, located in the state and within 200 feet in all directions of the perimeter of the property which is the subject of such hearing, provided that this requirement shall be deemed satisfied by notice to the condominium association, in the case of any unit owner whose unit has a unit above or below it, or the horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given by serving a copy thereof on the property owner as shown on 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 or her address as shown on said current tax duplicate.

(c) 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, a 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) Notice of all hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given by personal service or certified mail to the Clerk of such municipality, which notice shall be in addition to the notice required to be given pursuant to Subsection **(2)(b)** above to the owners of lands in such adjoining municipality, which are located within 200 feet of the subject premises.

(e) Notice shall be given by personal service or certified mail to the County Planning Board of hearings on applications for development of property adjacent to an

existing or proposed road on the Official County Map or on the County Master Plan, adjoining other county land or situated within 200 feet of a municipal boundary.

(f) Notice shall be given by personal service or certified mail the Commissioner of Transportation of a hearing on application for development of property adjacent to a state highway.

(g) 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 150 acres or 500 dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the Borough Clerk pursuant to N.J.S.A. 40:55D-10b.

(h) Notice of hearing on the Master Plan, capital improvements programs or Official Map shall be given in accordance with N.J.S.A. 40:55D-13 and N.J.S.A. 40:55D-15, respectively.

(i) All notices hereinabove specified in this section shall be given at least 10 days prior to the date fixed for hearing, and the applicant shall file an affidavit of proof of service with the board holding the hearing on the application for development.

(j) Any notice made by certified mail as hereinabove required shall be deemed to be complete upon mailing in accordance with the provisions of N.J.S.A. 40:55D-14.. All notices required to be given pursuant to the terms of this section shall state the date, time and place of the hearing, the nature of the matters to be considered, including a description of any waivers that may be required by the applicant 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 Tax Assessor's office. The notice shall indicate the location and times at which any maps and documents for which approval is sought may be reviewed by the public. If the application for development includes consideration of a conditional use, the hearing notice shall include a reference to the conditional use.

(3) List of property owners furnished. Pursuant to the provision of N.J.S.A. 40:55D-12c, the Tax Assessor, within seven days after receipt of a request therefor and upon receipt of payment of a fee of $10 or $0.25 per name, whichever is more, shall make and certify a list from the current tax duplicate of names and addresses of owners in the Borough to whom the applicant is required to give notice pursuant to this section. The applicant shall also supply to the Tax Assessor at the time of request a map showing all properties and current Tax Map information for the subject property and all properties within 200 feet of the perimeter of the subject property. 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.

H. Material to be filed with the Boards. The applicant shall file an affidavit of proof of service, form of notice, list of property owners served and map specified in Subsection **G.** above with the Board prior to the meeting.

I. Decisions.

(1) 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 number of votes required for approval shall be deemed an action denying the application. The board shall provide the findings and conclusions through:

(a) A resolution adopted at a meeting held within the time period provided in N.J.S.A. 40:55D-1 et seq. for action by the board on the applications for development.

(b) A memorializing resolution adopted at a meeting held not later than 45 days after the date of the meeting at which the board voted to grant or deny the approval. Only the members of the board who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution. An action resulting from the failure of a motion to approve an application shall be memorialized by resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution. The vote on any such resolution shall e deemed to be a memorialization of the action of the board and not to be an action of the board; however, the date of adoption of the memorializing resolution as hereinabove specified, any interested party may apply to the Superior Court in a summary manner for an order compelling the board to reduce its findings and conclusions to writing within a stated time, and the cost of the application, including attorney's fee, shall be assessed against the municipality.

(2) A copy of the decision shall be mailed by the Secretary of the Board within 10 days of the date of decision or resolution of memorialization to the applicant or, if represented, then to his or her 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 prescribed for such service. A copy of the decision shall also be filed in the office of the Borough Clerk, who shall make a copy of such filed decision available to any interested party upon the payment of a fee calculated in the same manner as those established for copies of other public documents in the Borough.

(3) Publication. A brief notice of every final decision shall be published in the official newspaper of the Borough. Such publication shall be arranged by the Secretary of the Planning Board or Zoning Board of Adjustment, as the case may be, without separate charge to the applicant. Said notice shall be sent to the official newspaper for

publication within 10 days of the date of any such decision or date of resolution of memorialization.

J. Payment of taxes. Pursuant to the provisions of N.J.S.A. 40:55D-39 and N.J.S.A. 40:55D-65, every application for development submitted to the Planning Board or to the 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 application; or, if it is shown that taxes or assessments are delinquent on said property, any approvals or other relief granted by either Board shall be conditioned upon either the prompt payment of such taxes or assessments or the making of adequate provision for the payment thereon in such manner that the Borough will be adequately protected.

K. Conditional approval.

(1) In the event that a developer submits an application 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 Board of Adjustment shall process such application in accordance with this chapter, and if such application complies with all Borough regulations, the Planning Board or Zoning Board of Adjustment shall approve such application conditioned on removal of such legal barrier to development.

(2) In the event that, during the period of approval heretofore or hereafter granted to an application the developer is barred or prevented, directly or indirectly, from proceeding with the development otherwise permitted under such approval by a legal action instituted by any state agency, political subdivision or court of competent jurisdiction to protect the public health or welfare and the developer is otherwise ready, willing and able to proceed with said development, the running of the period of approval under this Article shall be suspended for the period of time said legal action is pending or such directive or order is in effect.

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

L. Time extensions. The Board and an applicant may mutually agree to extend the time limit specified for action. Such extension shall be made for a specific period of time and shall be indicated in the minutes of the meeting.

§ 77-82. Development Review Committee.

A Development Review Committee shall be established to review all applications for development or requests for review presented to the Planning Board. The Development Review Committee shall be chaired by the Development Coordinator and shall include the Borough Engineer, Construction Official, Tax Assessor and, in addition, any member of the Planning Board, the public or any other municipal, county or state official as appointed by the Chairperson of the Planning Board whose particular expertise may be required on a specific application.

A. The Development Review Committee shall have the following responsibilities:

(1) To determine compliance with the technical standards set forth in the provisions of this chapter.

(2) To make recommendations on the design and technical elements of any application.

(3) To make nonbinding recommendations to the Board of Adjustment in the case of waiver applications and nonbinding recommendations to the Planning Board in the case of exception applications.

B. The Development Review Committee shall provide its findings prior to the meeting when the application is to be considered via a memorandum or report that covers the following topics:

(1) Compliance with the Master Plan.

(2) Variances and waivers requested.

(3) Design concept.

(a) Relationship to adjacent properties (i.e. air, light, space).

(b) Internal site design.

(c) Environment (i.e. contamination, stream).

(d) Circulation, parking and loading.

(e) Lighting.

(f) Signage.

(g) Landscaping, including buffers and fencing.

(4) Date of plans reviewed and any revision dates.

§ 77-83. Zoning Officer.

The Zoning Officer shall be the Code Enforcement Officer unless another person is appointed by the governing body. The Zoning Officer shall review all applications for development to ensure they meet the requirements of this chapter except for those sections where another official is specifically given enforcement or administrative responsibilities. The Zoning Officer shall in no case, except upon a written order of the Boards or the governing body, approve the issuance by the Construction Official of any permit or certificate for the erection or structural alteration or occupancy of any building or land where the proposed erection, structural alteration or use thereof would be in violation of any structural alteration or use thereof would be in violation of any of the provisions of this chapter. If a violation of this chapter is found to exist, the Zoning Officer shall serve notice upon the owner and, if said violation is not corrected within a reasonable period, shall prosecute a complaint to terminate said violations before the Municipal Judge.

§ 77-84. Borough Engineer.

The Borough Engineer shall be responsible for the following provisions of this chapter:

A. Administration and enforcement of the Stormwater and flood-control Articles.

B. Review of all engineering plans accompanying applications for development.

C. Inspection of improvements constructed or installed as part of any application for development other than those which are the responsibility of the Construction Official.

D. Certification before acceptance that all such improvements meet applicable Borough codes and ordinances.

§ 77-85. Permits and certificates.

A. Certificates of subdivision approval or exempt subdivisions. These shall be issued by the Borough Engineer in accordance with N.J.S.A. 40:55D-56 of the Municipal Land Use Law. A fee of $10 shall be charged for each certificate of approval.

B. Building permits and certificates of occupancy.

(1) Building permits. No building permit shall be issued by the Construction Official until final approval has been granted to the application for development.

(2) Certificates of occupancy.

(a) No land or new construction shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of occupancy shall have been issued by the Construction Official stating that the use of the land or building complies with the provisions of this chapter.

(b) No change, extension or alteration of the use of any land or structure shall be made until a certificate of occupancy shall have been issued by the Construction Official upon notification by the Zoning Officer that such change, extension or alteration is in conformity with the provisions of this chapter, specifically see § 46-9B.

(c) No certificate of occupancy for any land or structure shall be granted until all required improvements or conditions of approval have been met, installed or completed. A temporary certificate of occupancy may be issued but only for a specific period, upon such conditions as the Borough Engineer may impose, such as bonding, to ensure the completion or installation of any such improvements unfinished because of weather or unforeseen delay. The installation of any required public or private improvements may also be delayed if the Borough Engineer warrants in writing to the Construction Official that the delay is in the best interests of the Borough.

(3) Zoning permits. Where an application for development does not require a building permit, the Code Enforcement Officer shall review the application for development and issue a zoning permit upon payment of the required fee of $75. In the event that an application for development requires a building permit, the issuance of a building permit shall be deemed to include the issuance of a zoning permit.

§ 77-86. Violations and penalties.

A. Subdivision.

(1) General. If, before final subdivision approval has been granted, any person transfers or sells or agrees to transfer or sell, except pursuant to an agreement expressly conditioned on final subdivision approval, as owner or agent, any land which forms a part of a subdivision for which Borough approval is required, such person shall be subject to a penalty not to exceed $1,000, and each lot disposition so made may be deemed a separate violation.

(2) Specific relief. In addition to the foregoing, the Borough may institute and maintain a civil action:

(a) For injunctive relief.

(b) To set aside and invalidate any conveyance made pursuant to such a contract of sale, if a certificate of compliance has not been issued in accordance with N.J.S.A. 40:55D-56 of the Municipal Land Use Law.

(3) In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land from which the subdivision was made that remains in the possession of the developer or his or her assigns or successors to secure the return of any deposits made or purchase price paid and also a reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within two years after the date of the recording of the instrument of transfer, sale or conveyance of said land or within six years, if unrecorded, as set forth in N.J.S.A. 40:55D-55.

B. Conditions of approval. It shall be the responsibility of an applicant to maintain and enforce all conditions required by the Boards in granting approval of an application for development as set forth in the resolution of approval, minutes of the Boards or on the site plan or subdivision plat submitted as part of the application. Failure to do so shall be considered a violation of this chapter.

C. Other violations. Unless otherwise specifically provided herein, any violation of the provisions of this chapter shall be punishable by a fine not to exceed $500 or by imprisonment in the county jail for a term not to exceed 90 days, or both, at the discretion of the Municipal Court. Each day the violation shall continue after a notice and a reasonable opportunity to correct or remedy the violations shall constitute a separate violation.

§ 77-87. Fees and escrow deposits.

A. Fees.

(1) Fees for applications or for the rendering of any service by the Boards or any member of their administrative staffs shall be as follows:

	Application Fee	**Escrow**
Relief from use regulation		
1 or 2 family	$250/variance	$500
3 or more units	$250/variance	$1,500
Commercial/business use	$300/variance	$1,500
Industrial	$300/variance	$1,500

	Application Fee	Escrow
Relief from bulk regulations/site req. (each)		
Sign variance	$200	
Floodplain variance	$250	
Bulk variances – 1 or 2 family	$200 + $50/variance	
Bulk variances – other residential	$200 + $100/variance	
Bulk variances – non-residential	$200 + $100/variance	

	Application Fee	Escrow
Conditional use authorization		
1 or 2 family	$250 res. & $300 non-res	
Other residential	$250 res. & $300 non-res	
Non-residential	$250 res. & $300 non-res	
Cond use without site plan or subdivision	$250 res. & $300 non-res	
Cond use with site plan or subdivision	$250 res. & $300 non-res	

	Application Fee	Escrow
Preliminary site plan		
1 or 2 units	$0	$500
3 or more units	$0	$1,500
Other residential	$200 + $50/1,000 SF floor area	$1,500
Non-residential, lot area 0 to 20,000 SF	$200 + $50/1,000 SF floor area	$1,500
Non-residential, lot area 20,000 to 50,000 SF	$200 + $50/1,000 SF floor area	$3,000
Minor		$1,000 min.
Major		$1,500 min.

	Application Fee	Escrow
Final site plan		
1 to 6 units		$2,500
Non-res, lot area 0 to 20,000 SF		$3,500
Non-res, lot area 20,00 to 50,000 SF		$4,500

	Application Fee	Escrow
Subdivision		
Sketch plan for major subdivision		$500
Preliminary minor	$300 + $50 for each lot over 3 lots	$750
Preliminary major	$400 + $100/lot	$1,500
Final minor	$400 + $100/lot	$750
Final major	$400 + $100/lot	$1,500

	Application Fee	Escrow
Miscellaneous items		
Hearing scheduled for special meeting	$350/ meeting	
Special professional meeting	$350/ meeting	
Development Review Committee	$250/meeting	
Legal notice publication fee	Actual cost of publication	

(2) Fees for inspection of constructed improvements.

(a) Each applicant shall pay all reasonable costs for the municipal inspection of the construction site and off-site improvements. An escrow fund will be established with the Borough before construction begins and such funds shall be used to pay the fee and costs of professional services employed by the Borough to inspect the construction.

(b) An initial fee, except for extraordinary circumstances, of the greater of $500 or 5% of the cost improvements shall be deposited prior to the issuance of any construction permit. The estimated cost of improvements shall be calculated by the Borough Engineer based on documented construction costs for public improvements prevailing in the general area of the municipality. For those developments for which the reasonably anticipated fees are less than $10,000, fees may, at the option of the developer, be paid in two installments. The initial amount deposited by a developer shall be 50% of the reasonably anticipated fees. When the balance on deposit drops to 10% of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid for inspections, the developer shall deposit the remaining 50% of the anticipated inspection fees. For those developments for which the reasonably anticipated fees are $10,000 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited by a developer shall be 25% of the reasonably anticipated fees. When the balance on deposit drops to 10% of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid for inspections, the Borough Chief Financial Officer shall provide the developer with a notice of insufficient deposit balance and the developer shall make additional deposits of 25% of the reasonably anticipated fees. The Borough Engineer shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit, except that any required health and safety inspections shall be made and charged back against the replenishment of funds. If an inspection deposit contains insufficient funds to enable the Borough to perform required improvement inspections, the Borough Chief Financial Officer shall provide the developer with a notice of insufficient deposit balance. In order for work to continue on the development, the developer shall within 10 days post a deposit to the account in an amount to be agreed upon by the Borough and the developer. Upon the

improvements being approved, the deposit shall be closed out in the same manner as is set forth for escrow accounts subsection.

(3) All fees shall be paid as follows:

(a) Fees shall be paid at the time of application.

(b) In the event that the application is for more than one category of relief or action, the fee shall consist of the total or the normal fees for each category of action.

(c) Additional fees. Applicants shall be required to pay any extraordinary costs relating to subdivision, site plan or conditional use review and/or approval. Applicants shall be required to pay all inspection fees for professionals with respect to the installation of improvements. All such fees and charges shall be based upon a schedule established by resolution of the Borough Committee.

(d) Transcribing fees. The Boards may require the taking of testimony stenographically and having the same transcribed, the cost of which shall be borne and paid for by the appellant or applicant. The Boards may require such deposit to be made for such purposes as shall be reasonable in the circumstances.

(4) Escrow account.

(a) The escrow account is established to provide payment for the technical and professional costs of the review of applications and the review and preparation of documents and is based on the fee schedule of this section. Reviewing applications shall include, but shall not be limited to, all time spent at meetings by the professional staff.

(b) All deposits for technical, professional review and inspection fees shall be kept in an escrow account for that purpose by the Borough. This account shall be managed by the Chief Financial Officer of the Borough, in accordance with the terms of this section.

(c) Whenever an amount of money in excess of $5,000 shall be deposited by an applicant with the Borough for professional services employed by the Borough or the approving Board to review applications for development, municipal inspection fees in accordance with this chapter or to satisfy the guaranty requirements of this chapter, the money, until repaid or applied to the purposes for which it was deposited, including the applicant's portion of the interest earned thereon, except as otherwise provided by law, shall continue to be the property of the applicant and shall be held in trust by the Borough. Money deposited shall be held in escrow. The Borough receiving the money shall deposit it in a banking institution or savings and loan association in this state insured by an agency of the federal government or in any other fund or depository approved for such deposits by the state, in an account

bearing interest at the minimum rate currently paid by the institution or depository on time or savings deposits. The Borough shall notify the applicant, in writing, of the name and address of the institution or depository in which the deposit is made and the amount of the deposit. The municipality shall not be required to refund an amount of interest paid on a deposit which does not exceed $100 for the year. If the amount of interest exceeds $100, that entire amount shall belong to the applicant and shall be refunded to the applicant by the Borough annually or at the time the deposit is repaid or applied to the purposes for which it was deposited, as the case may be; except that the municipality may retain for administrative expenses a sum equivalent to no more than 1/3 of the entire amount, which shall be in lieu of all other administrative and custodial expenses.

B. Professional fees.

(1) As used in this section, the following definitions shall apply:

IN-HOUSE PROFESSIONAL

Engineers, planners, attorneys, traffic officers and other professionals whose salary, staff support and overhead are provided by the Borough of Roselle.

OUTSIDE PROFESSIONALS

Time spent by a professional engineer, professional planner, attorney, traffic consultant or other professionals in connection with review of an application and/or review and preparation of documents in regard to such application. In appropriate cases, such services shall include, without limitation, review of plans, reports, relevant ordinance provisions, statutory law, case law and prior approvals for the same parcel; site inspections; and preparation of resolutions, developer's agreements and other documents.

(2) Prospective developers shall bear the cost of all fees for professional services in connection with land development matters under consideration by the Planning Board, Zoning Board of Adjustment or the Borough Council.

(a) Said land development matters shall include but not be limited to applications for development, appeals, interpretations, application approvals, amendments to the Land Development Ordinance and amendments to the Master Plan.

(b) All fees and deposits shall be paid at the time of application. In the event that any escrow deposit shall be depleted, the Zoning Officer shall determine the additional deposit required and shall notify the applicant. No application shall be heard or otherwise processed until and unless all fees and deposits have been paid.

(3) Professional services are:

(a) Services rendered by outside professionals to the Borough and/or the reviewing board in connection with an application, plus all actual out-of-pocket disbursements incurred in regard to such services. All charges for services by each outside professional shall be billed at the same rate as all other work of the same nature performed by such professionals for the Borough when fees are not reimbursed or otherwise imposed on an applicant. Charges for professional services of outside professionals shall be based upon a schedule of fees established by resolution, which may include a contract authorized by resolution. Such schedules shall be subject to annual review by the Borough Council.

(b) Services rendered by in-house professionals to the Borough and/or the reviewing board in connection with an application. Services for in-house professionals shall be billed 200% of the hourly base salary multiplied by both the total number of hours of professional services spent by each in-house professional in connection with the application. The hourly base salary of each in-house professional shall be established by ordinance annually.

(4) Applicable professional services shall be:

(a) Services which include but are not limited to inspections, investigations, reviews and attendance at meetings by planners, engineers, architects, landscape architects and other personnel and experts deemed necessary with respect to action on said land development matters.

(b) Attorneys services, including those of the board and/or municipal attorney in connection with an application which is presently pending before, or which has been approved by, a reviewing board. Such services include extraordinary legal research and preparation or review of documents, such as performance guarantees, developer and redeveloper agreements, easements, maintenance or property owners agreements, or any other matters in connection with any approval. Such services shall not include review of applications, attendance at meetings or preparations of resolutions granting or denying applications

(5) A professional shall not review items which are subject to approval by a state governmental agency and which are not under municipal jurisdiction, except to the extent that research or consultation with a state agency is necessary due to the effect of a state approval on the applicant's application.

(6) Developers or applicants in applications deemed routine shall be exempt from the payment of professional fees. The following applications shall be deemed routine:

(a) Variance applications pertaining to a single one- or two-family dwellings.

(b) Applications for which no escrow deposit is required by §77-87A(1) above.

(7) At the time of filing any application, each applicant shall make a deposit for professional fees in accordance with the schedule contained at §77-87A(1) above. The applicant shall pay the deposit required for ach approval which is requested or deemed necessary to cover the cost of professional services.

(8) Payments.

(a) The Chief Financial Officer of the Borough shall make all of the payments to professionals for services rendered to the Borough or approving board for review for applications for development, review and preparation of documents, inspection of improvements or other purposes under this chapter. Such fees or charges are to be based upon the ordinances herein.

(b) Each payment charged to a deposit for review of applications, review and preparation of documents and inspection of improvements shall be pursuant to a voucher from the professional, which voucher shall identify the personnel performing the service, and, for each date the service is performed, the hours spent in 1/4 of an hour increments, the hourly rate and the expenses incurred. All professionals shall submit vouchers to the Chief Financial Officer on a monthly basis, in accordance with the schedules and procedures established by the Chief Financial Officer. The professional shall send an information copy of all vouchers or statements submitted to the Chief Financial Officer simultaneously to the applicant. The Chief Financial Officer shall prepare and send to the applicant a statement which shall include an accounting of the funds listing all deposits, interest earnings, disbursements and the cumulative balance of the escrow account. This information shall be provided on a quarterly basis, if monthly charges are $1,000 or less, or on a monthly basis, if the monthly charges exceed $1,000. If an escrow account or deposit contains insufficient funds to enable the Borough or approving board to perform required application reviews or improvements inspections, the Chief Financial Officer shall provide the applicant with a written notice of the insufficient escrow or deposit balance. In order for work to continue on the development or the application, the applicant shall, within 10 days, post a deposit to the account in an amount to be agreed upon by the Borough or the approving board and the applicant. With regard to review fees, if the applicant fails to make said deposit within the time prescribed herein, the approving board shall be authorized to dismiss the application without prejudice, subject to the right of the applicant to seek reinstatement of said application by written notice to the Chief Financial Officer that the deposits have been posted. The application will be reinstated upon written notification by the Chief Financial Officer to the approving board that said deposits are, in fact, posted. In the interim, the required health and safety inspections shall be made and charged back against the replenishment of funds. With regard to inspection fees, the Borough Engineer shall not perform any inspection if sufficient funds to pay for the inspections are not on deposit. Failure to post or maintain

balances in accordance with the requirements of these sections will subject the developer to a stop-work order and/or suspension of construction permits.

(c) In addition, no hearing before any Borough board or committee may be convened and no construction permit or certificate of occupancy may be issued if such amounts are due and payable.

(d) The applicant and Chief Financial Officer shall follow the following close-out procedures for all deposits and escrow accounts established herein. Said procedures shall commence after the approving authority has granted final approval of the development application, including completion of all conditions of said approval, and/or has signed the appropriate subdivision map or deed or after all of the improvements have been approved. The applicant shall send written notice, by certified mail, to the Chief Financial Officer and the approving board and to the relevant municipal professional that the application or the improvements, as the case may be, are completed. After receipt of such notice, the professional shall render a final bill to the Chief Financial Officer within 30 days and shall send a copy simultaneously to the applicant. The Chief Financial Officer shall render a written final accounting to the applicant on the uses to which the deposit has been put within 45 days of the receipt of the final bill. Any balances remaining in the deposit or escrow account, including interest, shall be refunded to the applicant along with the final accounting.

(e) All professional charges for review of the application for development, review and preparation of documents or inspection of improvements shall be reasonable and necessary, given the status and progress of the application or construction review. Inspection fees shall be charged only for actual work shown on a subdivision or site plan or required by an approving resolution. Professionals inspecting improvements under construction shall charge only for inspections that are reasonably necessary to check the progress and quality of the work, and such inspections shall be reasonably based on the approval development plans and documents.

(f) If the municipality retains a different professional or consultant in the place of the professional originally responsible for development, application review or inspection of improvements, the municipality or approving board shall be responsible for all time and expenses of the new professional to become familiar with the application or the project, and the municipality or approving board shall not bill the applicant or charge the deposit or the escrow for any such services.

(9) Dispute of charge; appeals; rules and regulations. All disputes relating to charges and appeals thereof shall be in accordance with N.J.S.A. 40:55D-43.2a.

§ 77-88. Performance guaranties.

A. Before the 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, the approving authority may require and shall accept, in accordance with the standards adopted by ordinance for the purpose of assuring the installation and maintenance of on-tract improvements and a pro rata share of off-tract improvements as permitted by law:

(1) The furnishing of a performance guaranty in favor of the municipality in an amount not to exceed 120% of the costs 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, 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.

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

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

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

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

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

D. The governing body shall either approve, partially approve or reject the improvements on the basis of the report of the Borough Engineer and shall notify the obligor, in writing, by certified mail, of the contents of said report and the action of said approving authority with relation thereto, not later than 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 guaranty, except for that portion adequately sufficient to secure provision of the improvements not yet approved, provided that 30% of the amount of the performance guaranty posted may be retained to ensure completion of all improvements. Failure of the governing body to send or provide such notification to the 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 guaranty for such improvements.

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

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

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

H. In the event that final approval is by stages or sections of development pursuant to this chapter, the provisions of this section shall be applied by stage or section.

§ 77-89. Reserved.

Article XII. ZONING

§ 77-90. General provisions.

A. General intent.

(1) The intent of this Article is to establish a precise and detailed plan for the use of land and buildings in the Borough of Roselle, based upon the Borough Master Plan and any amendments thereto and other studies and findings, enacted in order to promote and protect the public health, safety, morals, comfort, convenience and the general welfare of the people.

(2) This Article shall be viewed as permissive. After the adoption of this Article, no use or structure shall be permitted in the Borough which is not listed as a permitted use by this Article.

B. Zone districts.

(1) Designation of zoning districts. For the purpose of this Article, the Borough of Roselle is hereby divided into 11 districts or zones, which terms may be used interchangedly, to be designated as follows:

Residence A Zone (Low Density, Single-Family)

Residence B Zone (Medium Density, Single- and Two-Family)

Residence C Zone (High Density, Single-Family)

Residence D Zone (High Density, Multi-Family)

Residence E Zone (High Density, Townhouse)

Residence F Zone (High Density, Single-, Two- and Multi-Family)

Business/Commercial Zone

Professional Office Zone

Commercial-Industrial Zone

Industrial Zone

Public Use Zone

(2) Zoning Map. The location and boundaries of the above districts are hereby established on the Zoning Map of the Borough of Roselle in Union County adopted as part of Ordinance #_____, which is attached hereto and made a part of this Article. Editor's Note: The Zoning Map is on file in the office of the Borough Clerk. Said map or maps and all notations, references and designations shown thereon shall be a part of this Article as if the same were all fully described and set forth herein.

(3) Designation of zone boundaries.

(a) Unless otherwise noted, the district boundary lines are intended generally to follow the center lines of streets; the center lines of railroad rights-of-way; existing lot lines; and the municipal boundary lines. However, where a district boundary line does not follow such a line, its position shall be shown on the Zoning Map by a specific dimension expressing its distance in feet from a street line or other boundary line as indicated.

(b) In the event that a district boundary line divides one or more lots, then the zone boundary line shall be considered the lot limit for computing all area, bulk, yard, buffer and any other dimension requirements specified in this Article, unless a zone district boundary line falls within 20 feet of a lot line existing at the time of passage of this Article, then the lot line shall be considered the zone boundary line.

(c) In cases of uncertainty or disagreement as to the true location of any district boundary line, the determination shall be made by the Board of Adjustment.

C. Definitions. Refer to §77-4 for terms and definitions.

D. Supplementary zone district regulations.

(1) General.

(a) No business or commercial use shall operate on any lot wherein no principal structure devoted to said use exists, except that seasonal sales may be permitted on lots in nonresidential districts pursuant to the provisions of the Transient Merchants Ordinance, §85-18 through §85-22. No person shall receive more than one transient merchant license per year per lot.

(b) No building or structure shall be erected and no existing building or structure shall be moved, altered, added to or enlarged, nor shall any land or building be designed, used or intended to be used, for any purpose or in any manner other than as specified among the uses listed as permitted, accessory or conditional in the district in which such building or land is located.

(c) No building or structure shall be erected, reconstructed or structurally altered to exceed in height the limit designated for the district in which such structure is located.

(d) No building or structure shall be erected, no existing buildings or structures shall be altered, enlarged or rebuilt nor shall any open space surrounding any building 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.

(e) No yard or other open space provided for any building for the purpose of complying with the provisions of this Article shall be considered as providing a yard or other open space for any other building on any other use on a lot.

(f) No land in a residential zone shall be used to fulfill open space, minimum area, minimum yard and setback requirements, parking or other similar requirements for uses in nonresidential zones.

(g) The area or dimension of any lot, yard, parking area or other space shall not be reduced to less than the minimum required by this Article; and, if already less than the minimum required by this Article, said area or dimension shall not be further reduced.

(h) The maximum floor area ratio or impervious surface coverage set forth in this Article shall not be exceeded or, if already more than the maximum, shall not be further increased.

(i) No lot shall have erected upon it more than one principal residential building (except for multi-family developments and garden apartments) and no yard or other open space provided about any building for the purpose of complying with the provisions of this Article shall be considered to provide a yard or open space for any other building except in the case of multi-family, townhouse and garden apartment developments.

(j) Every principal building, except townhouse and garden apartment structures, shall be built upon a lot with frontage upon a public street improved to meet the Borough's requirements, or for which such improvements have been insured by the posting of a performance guaranty pursuant to §77-88, unless relief has been granted by the Board of Adjustment, pursuant to N.J.S.A. 40:55D-36. In the case of townhouse and garden apartment complexes, every building shall be built such that all access is to an improved public street or improved private roadway connected with an improved public street.

(k) Where a building lot has frontage on a street which the Master Plan or the Official Map of the Borough indicates is proposed for right-of-way widening, the required front yard area shall be measured from such proposed right-of-way line.

(l) No front yard shall be used for open storage of boats, trailers, vehicles or equipment except for passenger automobile parking on driveways. Boats, trailers or vehicles, other than those that are abandoned or in a state of disrepair as defined in the Residential Property Maintenance Code or that are incapable of locomotion under their power, may be stored on paved material behind the front property setback. Under no circumstance may a vehicle, operable or not, be stored on a residential lawn. All open storage areas, other than a driveway, in other yard areas shall be suitably screened from view from a public street. No lot having a lot width of less than 70 feet shall have more than one driveway or a circular driveway.

(m) Business establishments or uses shall not display goods for sale purposes, nor shall coin-operated vending machines of any type be installed in any location which would infringe upon the required yard areas specified in this Article, except as provided for below.

[1] Between the hours of 7:00 a.m. and 9:00 p.m., business establishments may display items or goods for sale purposes on a stand not to exceed four feet from the front building line, providing there is four feet of sidewalk space available for pedestrian traffic. The business establishment must first obtain a permit which must be issued annually by the Borough Zoning Department after inspection and payment of a fee of $50.

[2] Restaurants may establish outdoor eating areas outside of their establishment, provided that there is four feet of sidewalk space available for pedestrian traffic. The restaurant establishment must first obtain a permit which must be issued annually by the Borough Zoning Department after inspection and payment of a fee of $50. Any tables and chairs used for outdoor dining shall be secured at closing time. Outdoor dining is only permitted between the hours of 7:00 a.m. and 11:00 p.m.

(n) When a new lot is formed so as to include within its boundaries any part of a former lot on which there is an existing building or use, the subdivision must be carried out in such a manner as will not infringe upon any of the provisions of this Article either with respect to any existing structures or use and any proposed structures or use.

(o) The limitations of signs as set forth for the various zones shall not apply to any sign or direction device erected by the federal, state, county or local government or agency thereof.

(p) The limitations of sign area as set forth in Chapter 98 for the non-residential zones shall not apply to parking lot markers, directional signs, entrance and exit signs and other such signs which are erected on the premises, provided that such signs do not exceed two square feet in area on any one side and do not contain any advertising of the use on the premises.

(q) Fences may be erected, altered or reconstructed to a height not to exceed four feet above ground level when located in a front yard area or to a height six feet above ground level if located elsewhere on the lot, except that in no case shall any fence be higher than four feet above ground level when located beyond a projection of any front building line of any adjacent improved lots or the setback line of any adjacent unimproved lots. The finished face side of all fences shall face the adjacent property and/or street. To the extent that the provisions of §46-136 are in conflict, the most restrictive shall apply.

(r) No dwelling units or apartments shall be permitted on any floor level which is lower than 12 inches below finished grade.

(s) Width of streets. Street line shall be no less than 25 feet and no more than 50 feet from the center line of the street.

(t) Structures for transmitting electric currents prohibited. No person shall erect poles and towers for use in the transmission of electric currents nor poles and towers on which are strung wire for the transmission of electric currents; provided, however, that a permit for the erection of such structures may be granted in the manner provided by law for the granting of variances and exceptions from the provisions of this Article where such structures are found not to be detrimental to the health, safety and general welfare of the Borough and reasonably necessary for its convenience.

(u) Use regulations supersede district regulations; exceptions. The height, area, frontage, private garage and accessory building and parking regulations which apply to uses other than those permitted because permitted in another district shall apply to such uses wherever located; provided, however that the regulations of the zone where the use is located shall prevail wherever such regulations require that the structure has less area, bulk or height.

(2) Accessory structures in all zones.

(a) Accessory structures not attached to the principal structure may be erected in the rear yard in accordance with the following regulations:

[1] No accessory use shall be permitted in a side or front yard.

[2] No accessory building shall be constructed on any lots in which there is not a principal building or structure.

[3] Rear dwellings are prohibited and no accessory building, including garages shall be used as dwellings.

[4] In the Residence A, Residence B, Residence C, Residence D, Residence E and Residence F Zones, accessory structures may be erected in the rear yard not closer than 5 feet to the rear lot line. Accessory structures over 15 feet in height shall be set back from side and rear lot lines a distance equal to one-half the height of the structure.

[5] Accessory structures in non-residential zones shall meet the setback requirements of the principal building.

[6] In all non-residential zones, the distance accessory structures shall be located from any principal structure shall be determined as part of site plan review.

(3) Off-street parking and loading facilities.

(a) See §77-24 for the schedule of off-street parking and loading requirements. See §77-25 and §77-26 for additional parking and loading standards.

(b) Except for campers commonly used for dwelling purposes, trucks, tractors and/or trailers over three tons' gross weight shall be prohibited from parking in any Residence A, Residence B, Residence C, Residence D, Residence E or Residence F Zone on any lot, whether improved or unimproved.

(4) Height regulations.

(a) General application. No building or structure shall have a greater number of stories or greater height than permitted in the zone where such building or structure is located.

(b) Permit exceptions.

[1] Height limitations stipulated elsewhere in this Article shall not apply to the following when attached to the principal structures: spires, belfries, cupolas and domes, monuments, chimneys, flagpoles, private radio and telephone antennae, fire towers, tanks, water towers and standpipes. All freestanding structures shall be considered as accessory structures and shall meet the height requirements as set forth in this Article, except that freestanding light structures shall not exceed 16 feet in height in any zone.

[2] Mechanical appurtenances, such as condensers, elevator penthouses, exhaust fans, air-conditioning equipment and other similar equipment, are exempt from height restrictions, provided that they do not extend more than 12 feet above the maximum height limitations, cover no more than 20% of the roof area, and are properly shielded by a parapet wall.

(c) Where there is a limitation on stories, that portion of a building under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than three feet above the ceiling of the story beneath, shall not be considered a story but shall be considered as a permitted extension; however, the height from grade to the apex of the roof shall not exceed the height limitations for the zone, and provided further that the space between the roof and the ceiling below shall not be used for dwelling purposes.

(5) Yard regulations.

(a) Required yards shall be open to the sky and unprotected, except that parapets, windowsills, door posts, rainwater leaders and similar ornamental or structural fixtures may project up to one foot into such yards.

(b) Cornices, eaves and chimneys and room air conditioners may project up to three feet into any minimum required front, side or rear yard as set forth in this Article.

(c) Patios may be located within any rear yard but shall be not less than seven feet from any property line. Central air-conditioning equipment shall be located in the rear yard only.

(d) An open or lattice iron fire escape or fireproof outside stairway and a solid-floor open balcony to a fire tower may extend into a rear yard, provided that such extension is not more than five feet.

(e) Bay windows that do not aggregate in width more than 1/3 of the frontage of the building may extend into a front yard, provided that such extension is not more than three feet.

(f) Ground story porches and piazzas, either open or enclosed with glass as sun porches, may extend into a front yard, provided that such extension is not more than six feet.

(g) Ornamental planters, antique wagons or sleds and other similar units shall be permitted in the front yard if deemed an acceptable use by the Roselle Board of Adjustment.

(6) Lot regulations.

(a) Lot width. On regularly shaped lots, the minimum lot width of any lot shall be measured at the front property line and required front yard setback line as required for the zone in which it is located and shall be maintained for a distance of not less than 40 feet to the rear of the required front yard setback line. Where lots form on cul-de-sacs or curved streets, the minimum lot width is measured on the arc of right-of-way line.

(b) Corner lots. The required front yard shall be maintained on both streets.

(c) Through lots. Through lots shall be considered as having two street frontages, both of which shall be subject to the front yard requirements of this Article.

(d) Where a lot is bounded on three or more sides by roads, the side opposite the front yard shall be considered the rear yard and the minimum rear yard setback shall be maintained. The remaining frontage shall be considered side yard but the front yard setback shall be maintained for the side street.

(e) Frontage upon a street. Every principal building shall be built upon a lot with the minimum required frontage upon an approved street which shall be improved in accordance with the street standards established by the Borough of Roselle.

(f) Number of buildings restricted. There shall not be more than one principal structure on each lot in the Residence A and B Zones.

§ 77-91. Residence A Zone.

The regulations set forth in this section or set forth elsewhere in this Article when referred to in this section are the regulations in the Residence A Zone.

A. Purpose. The purpose of this zone district is to promote the development of appropriately zoned land within the Borough for single-family detached dwellings at a low density and to permit other compatible uses in accord with the spirit of this Article.

B. Use regulations. A building or premises shall be used only for the following purposes:

(1) Permitted principal uses.

(a) A one-family dwelling. Nothing herein shall prevent the taking of boarders or the leasing of rooms, provided that:

[1] There is no more than a total of two such boarders.

[2] There is no display of advertising.

[3] Each sleeping room has at least 80 square feet in area.

[4] There are no cooking facilities in any sleeping room.

(b) Playgrounds and parks.

(c) Community residence.

(2) Permitted accessory uses.

(a) Residential professional offices, provided that:

[1] Not more than two employees, be they other professionals or staff employees, may be employed in the premises other than the residential professional.

[2] The site must provide at least one off-street parking space for each professional and employee in addition to the required residential parking.

[3] There shall be no display of goods or advertising.

[4] Not more than 25% of the gross floor area of the principal building, excluding cellar area, shall be permitted to be used for a professional's office.

[5] Notwithstanding the provisions of §98-13.B, the professional may display a nameplate or sign, not exceeding 72 square inches in area, indicating his or her name and the professional practice or use. Such nameplate sign shall be affixed to the door or wall adjacent to the entrance to the premises where such use is conducted or maintained.

(b) Home occupations, provided that:

[1] Not more than 30% of a single story shall be permitted to be used for a home occupation.

[2] There shall be no display of goods.

[3] No employee other than the resident member(s) of the household shall be permitted.

[4] No signs shall be permitted.

(c) Family daycare home.

(d) Private garages not in excess of 600 square feet of building area, including detached and attached garages. The provisions of Roselle Borough Code §46-116 through §46-121 and BOCA shall apply and govern the erection and construction of private garages.

(e) Customary residential storage buildings not in excess of 200 square feet of building area.

(f) Shelters for domestic pets not in excess of 50 square feet of building area, exclusive of runs.

(g) Roof-mounted solar panels, in accordance with §77-106.

(h) Other customary residential accessory structures such as private swimming pools, private tennis courts, fireplaces, trellises, post lights and the like.

(i) Signs, in accordance with Chapter 98.

(3) Conditional uses, see §77-105 for standards.

(a) Churches, synagogues and places of worship.

(b) Public utility.

C. Bulk regulations.

(1) Principal Uses.

(a) Minimum lot area – 6,000 square feet.

(b) Minimum lot width and lot frontage – 60 feet.

(c) Minimum lot depth – 100 feet.

(d) Minimum front yard setback – 25 feet.

(e) Minimum side yard setback, each - 5 feet at the ground story level and 7 feet at the second story level.

(f) Minimum rear yard setback – 25 feet.

(g) Maximum permitted impervious coverage – 40%.

(h) Maximum permitted building height – 40 feet and 2.5 stories.

§ 77-92. Residence B Zone.

The regulations set forth in this section or set forth elsewhere in this Article when referred to in this section are the district regulations in the Residence B Zone.

A. Purpose. The purpose of this zone district is to promote the development of appropriately zoned land within the Borough for single-family detached dwellings and two-family dwellings and to permit other compatible uses in accord with the spirit of this Article.

B. Use regulations. A building or premises shall be used only for the following purposes:

(1) Permitted principal uses.

(a) A one-family dwelling. Nothing herein shall prevent the taking of boarders or the leasing of rooms, provided that:

[1] There is no more than a total of two such boarders.

[2] There is no display of advertising.

[3] Each sleeping room has at least 80 square feet in area.

[4] There are no cooking facilities in any sleeping room.

(b) A two-family dwelling.

(c) Clubhouses.

(d) Parks and playgrounds.

(e) Community residence.

(2) Permitted accessory uses.

(a) Residential professional offices, provided that:

[1] Not more than two employees, be they other professionals or staff employees, may be employed in the premises other than the residential professional.

[2] The site must provide at least one off-street parking space for each professional and employee in addition to the required residential parking.

[3] There shall be no display of goods or advertising.

[4] Not more than 25% of the gross floor area of the principal building, excluding cellar area, shall be permitted to be used for a professional's office.

[5] Notwithstanding the provisions of § 98-13B, the professional may display a nameplate or sign, not exceeding 72 square inches in area, indicating his or her name and the professional practice or use. Such nameplate sign shall be affixed to the door or wall adjacent to the entrance to the premises where such use is conducted or maintained.

(b) Home occupations, provided that:

[1] Not more than 30% of a single story shall be permitted to be used for a home occupation.

[2] There shall be no display of goods.

[3] No employee other than the resident member(s) of the household shall be permitted.

[4] No signs shall be permitted.

(c) Family daycare home.

(d) Private garages not in excess of 600 square feet of building area, including detached and attached garages. The provisions of Roselle Borough Code §46-116 through §46-121 and BOCA shall apply and govern the erection and construction of private garages.

(e) Customary residential storage buildings not in excess of 200 square feet of building area.

(f) Shelters for domestic pets not in excess of 50 square feet of building area, exclusive of runs.

(g) Roof-mounted solar panels, in accordance with §77-106.

(h) Other customary residential accessory structures such as private swimming pools, private tennis courts, fireplaces, trellises, post lights and the like.

(i) Signs, in accordance with Chapter 98.

(3) Conditional uses, see §77-105 for standards.

(a) Public utility.

(b) Churches, synagogues and places of worship.

C. Bulk regulations.

(1) Principal uses.

(a) All permitted principal uses, except for two-family dwellings.

[1] Minimum lot area – 5,000 square feet.

[2] Minimum lot width and lot frontage – 50 feet.

[3] Minimum lot depth – 100 feet.

[4] Minimum front yard setback – 25 feet.

[5] Minimum side yard setback, each - 5 feet at the ground story level and 7 feet at the second story level.

[6] Minimum rear yard setback – 25 feet.

[7] Maximum permitted impervious coverage – 40%.

[8] Maximum permitted building height – 40 feet and 2.5 stories.

(b) Two-family dwelling.

[1] Minimum lot area – 7,000 square feet.

[2] Minimum lot width and lot frontage – 70 feet.

[3] Minimum lot depth – 100 feet.

[4] Minimum front yard setback – 25 feet.

[5] Minimum side yard setback, each - 10 feet.

[6] Minimum rear yard setback – 25 feet.

[7] Maximum permitted impervious coverage –50%.

[8] Maximum permitted building height – 2.5 stories and 40 feet.

§ 77-93. Residence C Zone.

The regulations set forth elsewhere in this Article when referred to in this section are the zone regulations in the Residence C Zone.

A. Purpose. The purpose of this zone district is to promote the development of appropriately zoned land within the Borough for single-family detached dwellings at a high density.

B. Use regulations. A building or premises shall be used only for the following purposes:

(1) Permitted principal uses.

(a) A one-family dwelling.

(b) Playgrounds and parks.

(c) Community residence.

(2) Permitted accessory uses.

(a) Residential professional office.

[1] Not more than two employees, be they other professionals or staff employees, may be employed in the premises other than the residential professional.

[2] The site must provide at least one off-street parking space for each professional and employee in addition to the required residential parking.

[3] There shall be no display of goods or advertising.

[4] Not more than 25% of the gross floor area of the principal building, excluding cellar area, shall be permitted to be used for a professional's office.

[5] Notwithstanding the provisions of § 98-13B, the professional may display a nameplate or sign, not exceeding 72 square inches in area, indicating his or her name and the professional practice or use. Such nameplate sign shall be affixed to the door or wall adjacent to the entrance to the premises where such use is conducted or maintained.

(b) Home occupations, provided that:

[1] Not more than 30% of a single story shall be permitted to be used for a home occupation.

[2] There shall be no display of goods.

[3] No employee other than the resident member(s) of the household shall be permitted.

[4] No signs shall be permitted.

(c) Family daycare home.

(d) Private garages not in excess of 600 square feet of building area, including detached and attached garages. The provisions of Roselle Borough Code §46-116 through §46-121 and BOCA shall apply and govern the erection and construction of private garages.

(e) Customary residential storage buildings not in excess of 200 square feet of building area.

(f) Shelters for domestic pets not in excess of 50 square feet of building area, exclusive of runs.

(g) Roof-mounted solar panels, in accordance with §77-106.

(h) Other customary residential accessory structures such as private swimming pools, private tennis courts, fireplaces, trellises, post lights and the like.

(3) Conditional uses, see §77-105 for standards.

(a) Public utility.

(b) Churches, synagogues and places of worship.

C. Bulk regulations.

(1) Principal uses.

(a) Minimum lot area – 4,000 square feet.

(b) Minimum lot width and lot frontage – 40 feet.

(c) Minimum lot depth – 100 feet.

(d) Minimum front yard setback – 25 feet.

(e) Minimum side yard setback, each - 5 feet.

(f) Minimum rear yard setback – 25 feet.

(g) Maximum permitted impervious coverage – 50%.

(h) Maximum permitted building height – 40 feet and 2.5 stories.

§ 77-94. Residence D Zone.

The regulations set forth in this section or set forth elsewhere in this Article when referred to in this section are the district regulations in the Residence D District.

A. Purpose. The purpose of this zone district is to promote the development of appropriately zoned land within the Borough for garden apartments and multi-family dwellings at a high density.

B. Use regulations. A building or premises shall be used only for the following purposes:

(1) Permitted principal uses.

(a) Garden apartments.

(b) Multi-family dwellings.

(c) Community residence.

(2) Permitted accessory uses.

(a) Family daycare home.

(b) Home occupations, provided that:

[1] Not more than 30% of a single story shall be permitted to be used for a home occupation.

[2] There shall be no display of goods.

[3] No employee other than the resident member(s) of the household shall be permitted.

[4] No signs shall be permitted.

(c) Private garages, including attached and detached garages.

(d) Customary residential storage buildings not in excess of 200 square feet of building area.

(e) Playgrounds and parks.

(f) Roof-mounted solar panels, in accordance with §77-106.

(g) Other customary residential accessory structures such as community swimming pools, community tennis courts, fireplaces, trellises, post lights and the like, including trash enclosures in accordance with §77-28.

(3) Conditional uses.

(a) (Reserved.)

C. Bulk regulations.

(1) Permitted principal uses.

(a) Minimum lot area – 40,000 square feet.

(b) Minimum lot width and lot frontage – 150 feet.

(c) Minimum lot depth – 200 feet.

(d) Minimum front yard setback – 35 feet.

(e) Minimum side yard setback, each - 15 feet.

(f) Minimum rear yard setback – 25 feet.

(g) Minimum property line setback – 35 feet.

(h) Interior setbacks between buildings – 30 feet.

(i) Maximum permitted impervious coverage – 50%.

(j) Maximum permitted building height – 50 feet and 5 stories.

(k) Maximum permitted density – 38 units per acre.

(l) Open space – 30% of the total tract area, dedicated for green open space, either for recreation or some other suitable use, public or private.

(2) Building design.

(a) For garden apartments, not more than 16 dwelling units shall be located in a single structure, and there shall be a setback in the building facade of at least four feet for not over each eight units.

(b) Each dwelling unit shall have or have immediate access to two separate entrances not on the same exterior wall.

(c) Each dwelling unit in a garden apartment shall have not less than two exposures.

(d) In each dwelling unit there shall be access to at least one bathroom without passing through any bedroom.

(e) No dwelling unit, or portion thereof, shall be permitted below the first floor of any building.

(f) A minimum storage area of not less than 500 cubic feet shall be provided for each dwelling unit within the same building. Such storage areas shall be exclusive of any garage, or any closet or other space within the dwelling unit.

(g) The maximum length of the front elevation of any building shall not exceed 85 feet without an offset, and such offset shall be no less than four feet.

(h) No building shall be constructed so that the angle between any two abutting exterior walls is less than 90 degrees.

§ **77**-**95**. Residence E Zone.

A. Purpose. The purpose of this zone district is to promote the development of appropriately zoned land within the Borough for townhouse developments within the Borough.

B. Use regulations. A building or premises shall be used only for the following purposes:

(1) Permitted principal uses.

(a) Townhouses.

(b) Parks and playgrounds.

(c) Community residence.

(2) Permitted accessory uses.

(a) Family daycare home.

(b) Home occupations, provided that:

[1] Not more than 30% of a single story shall be permitted to be used for a home occupation.

[2] There shall be no display of goods.

[3] No employee other than the resident member(s) of the household shall be permitted.

[4] No signs shall be permitted.

(c) One private attached or detached garage per townhouse unit. A private garage may not exceed 600 square feet of building area.

(d) Customary residential storage buildings not in excess of 200 square feet of building area.

(e) Shelters for domestic pets not in excess of 50 square feet of building area, exclusive of runs.

(f) Roof-mounted solar panels, in accordance with §77-106.

(g) Other customary residential accessory structures, such as fireplaces, trellises, post lights and the like, including trash enclosures in accordance with §77-28.

(3) Conditional uses.

(a) (Reserved.)

B. Bulk regulations. Townhouse dwellings shall comply with the following regulations:

(1) Area regulations.

(a) Open space. Not less than 20% of the total tract area shall be dedicated for green open space, either for recreation or some other suitable use, public or private, as approved by the Planning Board. For the purpose of this subsection, individual lots or portions thereof shall not be construed as open space.

(b) Development density. Each dwelling unit shall be constructed on an individual lot, and there shall be a minimum of 5,000 square feet of tract area per dwelling unit.

(c) Individual lots.

[1] Minimum width. The required average width of all individual lots shall be not less than 20 feet, and no individual lot shall have a width of less than 18 feet, said width to be measured at the actual building setback line for each individual lot.

[2] Minimum area. The required average area of all individual lots shall be not less than 1,600 square feet, and no individual lot shall have an area of less than 1,400 square feet.

[3] Front and rear yards. The required average for front and rear yards on all individual lots shall be not less than 25 feet, and no individual lot shall have a front or rear yard of less than 20 feet, except that where the front or rear property line of an individual lot abuts open space as defined in §77-4.B., which open space shall have a minimum dimension of 50 feet measured at right angles along the full length of the abutting property line, then the required average and minimum yard requirements set forth herein may be reduced by not more than 10 feet for the abutting yard.

[4] Side yards. There shall be a single side yard of not less than 10 feet required only for each individual lot occupied by a semi-detached dwelling unit.

(d) Buildings.

[1] Design.

[a] Each dwelling unit shall have not less than two means of ingress and egress.

[b] Each dwelling unit shall have not less than two exposures.

[c] There shall be no more than eight dwelling units in any single group of dwelling units.

[2] Siting.

[a] Each group of dwelling units shall be set back not less than 35 feet from principal or accessory arterial streets as designated in the Master Plan and not less than 25 feet from all other streets, roads or ways, whether public or private. New buildings shall not project closer to the street than

the established on improved lots within 200 feet of the subject lot. However, in no case need the setback from any public street exceed 50 feet.

[b] Each group of dwelling units within a tract shall set back not less than 30 feet from any other group of dwelling units within the same tract and shall be set back not less than 15 feet from the tract boundary line.

(2) Private garages.

(a) Design. All garages shall conform architecturally to and be of similar materials as the principal building in the development.

(b) Location. Garages may be built into townhouses or may be constructed on individual lots or on common areas, subject to the approval of the Planning Board.

(c) A garage not attached to a townhouse shall be setback at least 20 feet from a townhouse.

(3) Ownership of common areas. Common areas of any tract utilized for a townhouse development which are not accepted by the Borough shall be deeded to a corporation, association, individual or individuals or other legal entity consisting of a majority of the property owners within the development for their use, control, management and maintenance. Any agreement providing for such ownership shall be reviewed and approved by the Borough Attorney to ensure that adequate safeguards are included guaranteeing the continuance of the agreement in perpetuity and protecting the Borough from harm. In any event said agreement shall give the Borough the right to perform maintenance and assess the cost to the property owners in the event said property owners fail to maintain the property in accordance with the agreement.

§ 77-96. Residence F Zone.

The regulations set forth in this section or set forth elsewhere in this Article when referred to in this section are the district regulations in the Residence F Zone.

A. Purpose. The purpose of this zone district is to promote the development of appropriately zoned land within the Borough for residential development at a high density.

B. Use regulations. A building or premises shall be used only for the following purposes:

(1) Permitted principal uses.

(a) One-family dwelling.

(b) Two-family dwelling.

(c) Multi-family dwelling, provided that:

[1] The maximum density is 15 dwelling units per acre.

[2] Dwellings with three or more livable floor levels shall contain at least one passenger elevator of sufficient capacity to serve all occupants.

(d) Community residence.

(2) Permitted accessory uses.

(a) Family daycare home.

(b) Home occupations, provided that:

[1] Not more than 30% of a single story shall be permitted to be used for a home occupation.

[2] There shall be no display of goods.

[3] No employee other than the resident member(s) of the household shall be permitted.

[4] No signs shall be permitted.

(c) Private garages, including detached and attached garages. The provisions of Roselle Borough Code §46-116 through §46-121 and BOCA shall apply and govern the erection and construction of private garages.

(d) Customary residential storage buildings not in excess of 200 square feet of building area.

(e) Shelters for domestic pets not in excess of 50 square feet of building area, exclusive of runs.

(f) Roof-mounted solar panels, in accordance with §77-106.

(g) Other customary residential accessory structures such as private swimming pools, private tennis courts, fireplaces, trellises, post lights and the like, including trash enclosures in accordance with §77-28.

(3) Conditional uses, see §77-105 for standards.

(a) Public utility.

(b) Churches, synagogues and places of worship.

C. Bulk regulations.

(1) Principal uses.

(a) Minimum lot area:

[1] One-family dwelling – 5,000 square feet.

[2] Two-family dwelling – 7,000 square feet.

[3] Multi-family dwelling – 10,000 square feet.

(b) Minimum lot width and lot frontage:

[1] One-family dwelling – 50 feet.

[2] Two-family dwelling – 70 feet.

[3] Multi-family dwelling – 100 feet.

(c) Minimum lot depth – 100 feet.

(d) Minimum front yard setback – 25 feet.

(e) Minimum side yard setback:

[1] One-family dwelling – 5 feet at the ground story level and 7 feet at the second story level.

[2] Two-family dwelling – 10 feet.

[3] Multi-family dwelling – 15 feet.

(f) Minimum rear yard setback – 25 feet.

(g) Maximum permitted impervious coverage:

[1] One-family dwelling – 40%.

[2] Two-family dwelling – 50%.

[3] Multi-family dwelling – 70%.

(h) Maximum permitted building height – 50 feet and 5 stories.

D. Multi-family dwelling design standards. In addition to the design standards located in Article VI of this Chapter 77, the following design standards shall be followed:

(1) Dwelling units. Each dwelling shall conform to the following requirements:

(a) There shall be access to at least one bathroom without passing through any bedroom.

(b) No dwelling unit or any portion thereof, shall be permitted below the first floor of any multi-family dwelling.

(c) A minimum storage area of not less than 500 cubic feet shall be provided for each dwelling unit within the same building. Such storage areas shall be exclusive of any garage or any closet within the dwelling unit.

(2) Off-street parking.

(a) The off-street parking requirements set forth in §77-24 through §77-26 shall apply. In addition, the following regulations shall apply:

[1] No parking shall be permitted within the front yard area. Driveways do not count as parking areas.

[2] Borough Engineer certification required. The parking requirements as herein specified shall be certified by the Borough Engineer for adequacy in an appropriate space or box on the building plans before a building permit is issued by the Borough.

(3) Drainage. Surface water shall be drained so as not to affect adversely abutting properties, and a plan prepared by a licensed professional engineer showing the proposed drainage design shall be submitted to and approved by the Borough Engineer. Said approval of the Borough Engineer shall appear on building plans submitted to the Building Inspector and shall be a prior condition to the issuance of the building permit.

(4) Buffer. Where a multi-family dwelling abuts a residence located in the Residence A or Residence B Zone a landscaped buffer shall be provided to minimize and screen any adverse impacts or nuisances on a site in accordance with the following:

(a) The landscape buffer shall be a minimum of 10 feet wide, which shall be composed of 75% evergreens planted 10 feet on center.

(b) The landscaped buffer shall include a mixture of shade trees, evergreens, ornamental trees and understory shrubs planted in a staggered fashion.

(c) At the time of installation, shade trees shall be a minimum 3 inch caliper, evergreens shall be a minimum 8 feet in height, ornamental trees shall be a minimum of 10 feet in height and understory shrubs shall be a minimum of 36 inches in height.

§ 77-97. Business/Commercial Zone.

A. Purpose. The purpose of this zone district is to provide an appropriate location for retail and personal service uses within the Borough.

B. Use regulations: A building or premises shall be used only for the following purposes:

(1) Permitted principal uses.

(a) Retail stores, which sell goods or merchandise to the general public.

(b) Restaurants, except no drive-through windows shall be permitted.

(c) Personal service establishments.

(d) Business and professional offices.

(e) Medical and health services.

(f) Studios including dance, art, aerobic and music.

(g) Child care centers.

(h) Residential uses, including apartments and condominiums, only on the upper floors of a structure. The maximum density for residential uses shall not exceed 10 units per acre.

(i) Mixed-use structures with a combination of two or more of the aforementioned permitted principal uses.

(2) Permitted accessory uses.

(a) Off-street parking and loading facilities, in accordance with §77-24 through §77-26.

(b) Private or public garage. The provisions of Roselle Borough Code §46-116 through §46-121 and BOCA shall apply and govern the erection and construction of private garages.

(c) Roof-mounted solar panels, in accordance with §77-106.

(d) Street furnishings, including benches, planters, street lights, etc.

(e) Sidewalk cafes associated with a restaurant, in accordance with §77-90.D(1)(m).

(f) Signs, in accordance with Chapter 98.

(3) Prohibited uses. The following uses are specifically prohibited from the Business/Commercial Zone:

(a) Any facility which, for the purposes hereof, is defined as a commercial establishment open to the public providing food and/or drink, which also provides entertainment in the form of dancing by live performers other than the patrons thereof.

(b) Tattoo shops.

(4) Conditional uses, see §77-105 for standards.

(a) Antique, used furniture and used clothing stores.

(b) Gasoline stations.

(c) Automotive repair garage shall be permitted along First Avenue, which meet the conditions of §77-105.

(d) Automotive body shops shall be permitted along First Avenue, which meet the conditions of §77-105.

(e) Automotive sales and services shall be permitted along First Avenue, which meet the conditions of §77-105.

(f) Automotive sales lot shall be permitted along First Avenue, which meet the conditions of §77-105.

(g) Automotive service stations.

(h) Drive-through pickup and deposit facilities.

(i) Fast-food restaurants shall be permitted on parcels fronting on First Avenue and St. George Avenue, which meet the conditions for drive-through pickup facilities.

(j) Public utility.

(k) Ground-mounted solar panels, see §77-106.

C. Bulk regulations.

(1) Principal uses.

(a) Minimum lot area – 7,500 square feet.

(b) Minimum lot width and lot frontage – 75 feet for an interior lot and 100 feet for a corner lot.

(c) Minimum lot depth – 100 feet.

(d) Minimum front yard setback – 10 feet.

(e) Minimum side yard setback, each – 15 feet.

(f) Minimum rear yard setback – 30 feet.

(g) Maximum permitted impervious coverage – 80%.

(h) Maximum permitted building height – 50 feet and 5 stories.

D. Buffer. Where a nonresidential use abuts a residence located in the Residence A, Residence B, Residence C or Residence F Zone a landscaped buffer shall be provided to minimize and screen any adverse impacts or nuisances on a site in accordance with the following:

(a) The landscape buffer shall be a minimum of 10 feet wide, which shall be composed of 75% evergreens planted 10 feet on center.

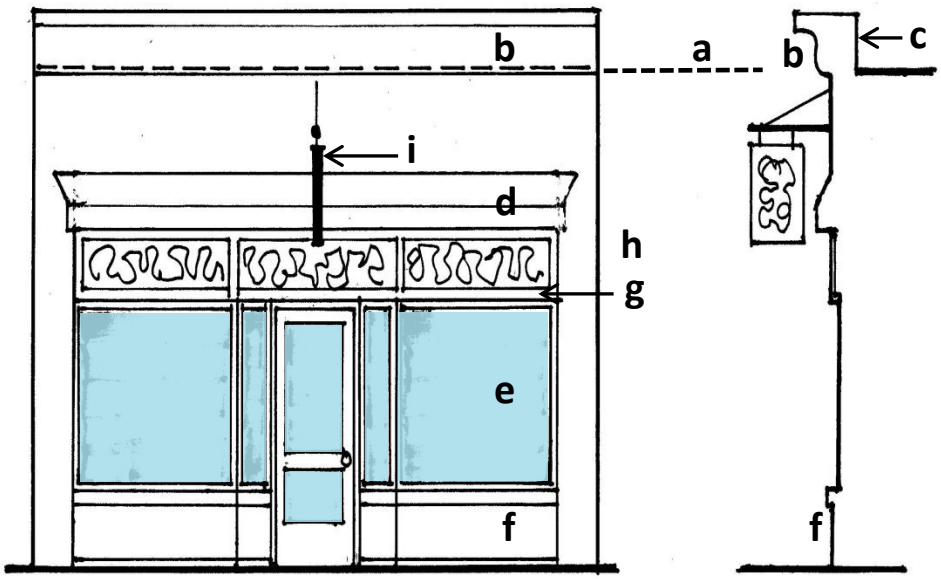
(b) The landscaped buffer shall include a mixture of shade trees, evergreens, ornamental trees and understory shrubs planted in a staggered fashion.

(c) At the time of installation, shade trees shall be a minimum 3 inch caliper, evergreens shall be a minimum 8 feet in height, ornamental trees shall be a minimum of 10 feet in height and understory shrubs shall be a minimum of 36 inches in height.

E. Design standards. In addition to the design standards located in Article VI of this Chapter 77, the following shall apply:

(1) Purpose. The purpose of the design standards is to establish a set of principles and requirements to guide future development within the Business/Commercial Zone. These principles will enhance the Borough's commercial areas and encourage development at a scale that is pedestrian-oriented. The guidelines below work to provide standards that allow for flexibility and creativity while encouraging high-quality development. High-quality development is long-lasting and increases property values. The goal is to create buildings that are attractive, improve the Borough's image and enliven the streetscape.

(2) Definitions.



a = Roofline
b = Cornice
c = Parapet
d = Fascia
e = Storefront
f = Base panel
g = Lintel
h = Wall sign
i = Hanging sign

(3) Articulation.

(a) All street-facades building facades shall have a clearly defined base, body and cap (see photo to the right for an example).

(b) The base of the building shall align with the base panel, sill or lintel level of the first story. The body of a building may be horizontally divided at floor, sill or lintel levels with belt courses or other architectural elements.

(c) The architectural treatment of a building façade shall be completely continued around all street-facing facades of a building.

(4) Façade materials.

(a) Brick and stone are highly durable building materials that extend the life of a building and reduce maintenance, which is particularly important for building facades. Where these materials exist as original materials, they should be stripped of applied siding materials and restored. Restoration may include cleaning, pointing, sealing and, where appropriate, painting.

(b) Natural and synthetic stucco finishes can be combined with brick to create handsome facades (see example to the bottom right).

(c) Large areas of blank stucco require additional detailing to create three-dimensional quality and a pedestrian-friendly scale. This can be accomplished in stucco or wood by recreating reveals, moldings, accent trim, fascias and cornices, as well as variations in color. Accent trim elements include window and storefront frames, roof cornices, shutters, trim, moldings, brick banding and

other architectural details (see example to the right).

(5) Colors.

(a) Subtle, complementary colors are suitable for facades and signage. Earth tones and natural masonry colors are preferable for the larger painted areas. The total number of colors for an entire building façade, including the façade, awning or canopy, and accent elements should be limited to four colors.

(b) Brighter, punchy colors should be used sparingly for accent elements, not for large field surface areas. Anodized aluminum storefront window and door frames should be painted soft metallic colors. Aluminum gutters, downspouts and parapet capping should be painted a soft metallic color to blend in with the façade color. Steel fire escapes should be painted to blend in with the façade color.

(c) For large areas of blank brick and stucco along side streets and backs of buildings facing onto public parking lots, painting with earth tones and natural masonry colors adds scale and improves the appearance significantly. Wall murals done in partnership with local organizations and artists should also be considered as part of a Borough pride project.

(d) When choosing colors, consider how they complement adjoining storefronts and buildings. Building colors should not be chosen to stand out and compete for attention.

(6) Traditional design elements.

(a) Combine traditional façade elements such as storefront windows, awnings and canopies, projecting fascias, building lighting and signage to create distinctive buildings. Raised roof parapets offer an opportunity to create beautiful eaves and cornices (see example to the right).

(b) To organize and help unify a façade for a building with multiple storefronts, consider adding a wood-framed projecting fascia. The fascia acts as a canopy and can also provide the framework for concealed down-lighting. Work with businesses sharing the same building structure to develop a compatible approach to design.

(c) Uncover and restore hidden façade elements such as existing cornices, fascias and brickwork patterns. Consider replacing aging window storefronts with bay windows and recessed doorways.

(d) Roll-down security screens and roof-mounted billboards are not permitted within the Business/Commercial Zone.

(7) Visual access.

(a) Provide clear visibility into street level storefronts using large, transparent windows, good lighting and thoughtful window displays.

(b) Ground floor uses in the Business/Commercial Zone shall have large pane display windows on all street-facing facades. Such windows shall be framed by the surrounding wall. A minimum of 60% of the total ground level façade area shall be transparent on each street-facing building façade. A building's "ground level façade area" is the area bounded by the side edges of the building and the plane coincident with the internal floor of the building and the internal ceiling of the building.

(c) Window sills shall not be more than three feet above the sidewalk along the front façade of a building. Base panels or bulkheads are encouraged between the sidewalk and the window sills.

(d) Windows shall be vertically proportioned (taller than wider) where possible.

(e) Mirrored, frosted and tinted glass, glass blocks and interior blinds are not permitted at ground floor level on street-facing facades. Solar shades, which are constructed with a screen fabric that allows transparency, that have a 3% or higher openness

factor are permitted at the ground floor level to assist with light control and glare reduction.

(f) The lowest edge of awnings and façade projections must be at least eight feet above the sidewalk.

(8) Entrances.

(a) All entrances to a building shall be defined, visible and adequately lit.

(b) Entrances shall be defined and articulated by utilizing such elements as lintels, pediments, pilasters, columns, porticos, porches, overhangs, railings, balustrades and other such elements, where appropriate.

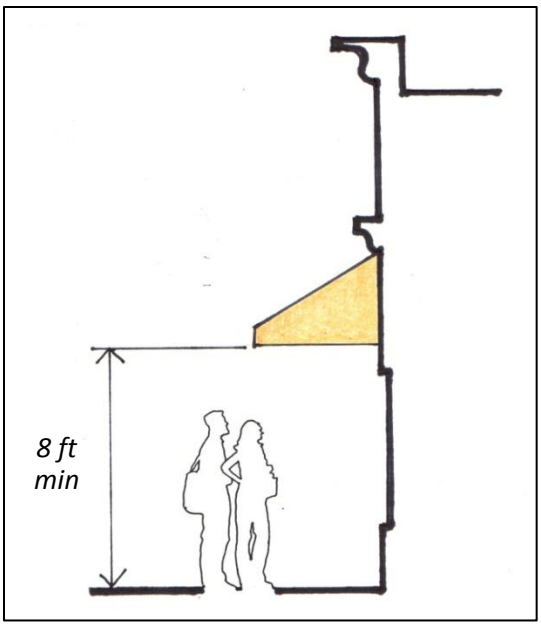
(c) Federal law requires that entrances be accessible to handicapped patrons wherever feasible. People with physical disabilities should be able to use the same entrance as everyone else and be provided with an accessible route into the building. When renovating, use the Americans with Disabilities Act Accessibility Guidelines with the assistance of building officials to determine the adequacy of proposed renovations in addressing the needs of the disabled.

(9) Awnings.

(a) Awnings add interest and visual depth to a storefront. They create shelter from sun and rain, provide an opportunity for good graphics and color and create a covered area for displaying merchandise.

(b) Awnings are only permitted above ground level doors and windows.

(c) The lower edge of an awning shall be at least 8 feet above the sidewalk at its leading edge (see diagram to the right). The length of the awnings shall be limited to the width of the storefront lintel opening.



(d) When awnings occur within the same building structure, they shall be compatible in style, color, dimension and mounting height.

(e) Awnings shall be made of fire-resistant canvas, cloth or durable architectural standing seam metal.

(10) Building lighting.

(a) Building exteriors are encouraged to use lighting to highlight businesses, enliven the Commercial/Business Zone at night and create a safe streetscape. This is a signal to motorists that the Zone is “open for business” and contributes a sense of safety to the building and street. Continuity of lighting across multiple businesses within the same building structure is a unifying design element and helps create a sense of neighborhood, which is recommended.

(b) Surface lighting shall be aimed directly at the façade, parapet or signage and away from traffic. Light spillage or glare onto adjacent parcels is not permitted. Moving and automated lighting creates visual distractions and is not permitted. The use of energy efficient lighting is encouraged.

(11) Roof.

(a) If a building has a flat roof, a parapet shall project vertically to hide any roof-mounted mechanical equipment. Additionally, a cornice shall project out horizontally from the façade and shall be ornamented with moldings, brackets or other details.

(b) Roof top heating, ventilating and air-condition systems, exhaust pipes and stacks, satellite dishes and other telecommunications receiving devices shall be screened or otherwise specially treated to be inconspicuous as viewed from the street.

§ 77-98. Professional Office Zone.

The regulations set forth in this section or set forth elsewhere in this Article, when referred to in this section, are the district regulations in the Professional Office Zone.

A. Purpose. The purpose of this zone district is to provide an appropriate location for professional offices along Chestnut Street. The zone district is intended to allow for the conversion of existing residential structures for office uses and limited personal services, while preserving the residential character, scale and features of the buildings and the streetscape.

B. Use regulations. A building or premises shall be used only for the following purposes:

(1) Permitted principal uses.

(a) One-family dwelling.

(b) Business, medical, professional, executive and administrative offices.

(c) Churches, synagogues and places of worship.

(d) Personal service establishments.

(e) Child care center.

(2) Permitted accessory uses.

(a) Off-street parking and loading facilities, in accordance with §77-24 through §77-26.

(b) Private or public garage. The provisions of Roselle Borough Code §46-116 through §46-121 and BOCA shall apply and govern the erection and construction of private garages.

(c) Residential professional office.

[1] Not more than two employees, be they other professionals or staff employees, may be employed in the premises other than the residential professional.

[2] The site must provide at least one off-street parking space for each professional and employee in addition to the required residential parking.

[3] There shall be no display of goods or advertising.

[4] Not more than 25% of the gross floor area of the principal building, excluding cellar area, shall be permitted to be used for a professional's office.

[5] Notwithstanding the provisions of § 98-13B, the professional may display a nameplate or sign, not exceeding 72 square inches in area, indicating his or her name and the professional practice or use. Such nameplate sign shall be affixed to the door or wall adjacent to the entrance to the premises where such use is conducted or maintained.

(d) Home occupations, provided that:

[1] Not more than 30% of a single story shall be permitted to be used for a home occupation.

[2] There shall be no display of goods.

[3] No employee other than the resident member(s) of the household shall be permitted.

[4] No signs shall be permitted.

(e) Customary residential storage buildings not in excess of 200 square feet of building area associated with a one-family dwelling.

(f) Roof-mounted solar panels, in accordance with §77-106.

(g) Signs, in accordance with Chapter 98.

(h) Other customary residential accessory structures such as private swimming pools, private tennis courts, fireplaces, trellises, post lights and the like

(3) Conditional uses, see §77-105 for standards.

(a) Public utility.

B. Bulk regulations.

(1) Principal uses.

(a) Minimum lot area:

[1] Churches, synagogues and places of worship – 40,000 square feet.

[2] All other uses – 5,000 square feet.

(b) Minimum lot width and lot frontage – 50 feet.

(c) Minimum lot depth – 100 feet.

(d) Minimum front yard setback – 25 feet.

(e) Minimum side yard setback, each – 7 feet.

(f) Minimum rear yard setback – 30 feet.

(g) Maximum permitted impervious coverage – 60%.

(h) Maximum permitted building height – 40 feet and 2 stories.

C. Landscaping and buffers.

(1) Landscaping. Front yards and such portions of rear and side yards not allocated for off-street parking shall be attractively planted with trees, shrubs and grass lawns.

(2) Buffers. Where a nonresidential use abuts the Residence A Zone a landscaped buffer shall be provided to minimize and screen any adverse impacts or nuisances on a site in accordance with the following.

(a) The landscape buffer shall be a minimum of 10 feet wide, which shall be composed of 75% evergreens planted 10 feet on center.

(b) The landscaped buffer shall include a mixture of shade trees, evergreens, ornamental trees and understory shrubs planted in a staggered fashion.

(c) At the time of installation, shade trees shall be a minimum 3 inch caliper, evergreens shall be a minimum 8 feet in height, ornamental trees shall be a minimum of 10 feet in height and understory shrubs shall be a minimum of 36 inches in height.

D. Building design.

(1) All new construction, additions and renovations in this zone district shall be designed to convey a residential scale and shall be compatible with the architectural design of the existing residence.

(2) Additions or renovations to residences shall respect the structure's features and maintain its original scale, proportion and organization of architectural elements (i.e. columns, shutters, cornice, dormers, molding and windows).

(3) Front porches shall not be enclosed and converted to work space.

F. Design standards. In addition to the design standards located in Article VI of this Chapter 77, the following shall apply:

(1) Off-street parking and loading.

(a) For off-street parking and loading standards, see §77-24 through §77-26.

(b) No parking shall be permitted within the front yard.

§ 77-99. Reserved.

§ 77-100. Industrial Zone.

The regulations set forth in this section or set forth elsewhere in this Article when referred to in this section are the zone regulations in the Industrial Zone.

A. Purpose. The purpose of the Industrial Zone is to provide for the expansion and development of light industrial land uses in the Borough of Roselle to provide for a compatible land use relationship; to restrict the emission of any environmental pollutants; and to provide for the safe and efficient flow of vehicles to and from industrial areas.

B. Use regulation. A building or premises shall be used only for the following purposes:

(1) Permitted principal uses.

(a) Office buildings for executive, engineering and administrative purposes but not professional or general offices.

(b) Scientific or research laboratories, but not including manufacturing, comprising any of the following: biological, chemical, dental, pharmaceutical and general research.

(c) The following manufacturing, processing, packaging or assembly use, provided that they can demonstrate the capability to maintain the performance standards set forth in Article V of Chapter 77 at all times in this operation:

[1] Manufacturing of light machinery.

[2] Fabrication of metal products.

[3] Fabrication of paper products, including but not limited to the following: bags, books, bookbinding, boxes and packaging materials, office supplies and toys.

[4] Fabrication of wood products, including but not limited to any of the following: boats, boxes, cabinets and woodworking, furniture and toys.

[5] Food and associated industries, including but not limited to the following: bakeries, bottling of food and beverages, food and cereal mixing and milling, food processing, food sundry manufacturing, ice cream manufacturing.

[6] Other permissible manufacturing use comprising any of the following: brush and broom manufacturing, electronic products, glass and glass products manufacturing, jewelry manufacturing, including polishing, laundering and cleaning establishments, leather goods manufacturing except curing, tanning and finishing of hides, sporting goods manufacturing, warehouses and storehouses.

[7] In addition to the above, any industry not inconsistent with the above that are totally similar in purpose, function, character and effort.

(d) Wholesale sales and distribution.

(e) Contractors storage yards and other such outdoor storage of equipment and vehicles, provided that no such area is within the existing or required front yard area, whichever is smaller and is screened by fencing or landscaping from public view, from a public street or from an adjacent residential zone.

(2) Permitted accessory uses.

(a) Off-street parking and loading facilities, in accordance with §77-24 through §77-26.

(b) Garage and storage buildings which are necessary to store any vehicles, equipment or materials on the premises incidental to the principal structure or use.

(c) Roof-mounted solar panels, in accordance with §77-106.

(d) Signs, in accordance with Chapter 98.

(3) Conditional uses, see §77-105 for standards.

(a) Automotive sales lot.

(b) Automotive sales and services.

(c) Car wash.

(d) Public utility.

(e) Ground-mounted solar panels, see §77-106.

C. Bulk standards.

(1) Principal uses.

(a) Minimum lot area – 10,000 square feet.

(b) Minimum lot width and lot frontage – 100 feet.

(c) Minimum lot depth – 100 feet.

(d) Minimum front yard setback – 35 feet.

(e) Minimum side yard setback, one side 5 feet, one side 15 feet.

(f) Minimum rear yard setback – 15 feet, except where rear yard abuts a residence zone a rear yard shall be 15 feet at ground-story level, 20 feet at second-story level and 25 feet at third-story level.

(g) Distance between buildings – 20 feet.

(h) Maximum permitted impervious coverage – 80%.

(i) Maximum permitted building height – 45 feet and 3 stories.

D. Performance standards. All uses in this zone shall meet the performance standards outlined in Article V of Chapter 77.

E. Landscaping and buffer.

(1) Landscaping. Each use established in this zone shall set aside 15% of the tract for seeding and landscaping and use this area for no other purpose. All front yards shall be attractively planted with trees, shrubs and grass lawns.

(2) Buffer. Wherever a use in this zone is on a lot which abuts a residence zone, or residential use, a 10' wide buffer area shall be provided adjacent to the residence zone boundary to minimize and screen any adverse impacts or nuisances on a site in accordance with the following:

(a) The landscape buffer shall be a minimum of 10 feet wide, which shall be composed of 75% evergreens planted 10 feet on center.

(b) The landscaped buffer shall include a mixture of shade trees, evergreens, ornamental trees and understory shrubs planted in a staggered fashion.

(c) At the time of installation, shade trees shall be a minimum 3 inch caliper, evergreens shall be a minimum 8 feet in height, ornamental trees shall be a minimum of 10 feet in height and understory shrubs shall be a minimum of 36 inches in height.

(3) Enclosure. All industrial activities or processes shall take place within an enclosed building. Incidental storage of materials and equipment out of doors shall be shielded from any adjacent public street or adjacent lots by fencing, landscaping or other appropriate measures and shall not be without in the existing or required yard areas facing the street or streets. If the property abuts residential property, a wood or vinyl board-on-board fence, eight feet high, shall be installed on all side and rear property lines abutting the residential zone.

F. All uses in this zone shall comply with the design standards outlined in Article VI of Chapter 77. Additionally, no parking shall be permitted within the front yard area.

G. Prohibited uses. The following uses or activities are specifically prohibited in this zone:

(1) Auction markets.

(2) Automobile wrecking yards, junkyards or disassembly yards, or the sorting or bailing of scrap metal, paper, rags or other scrap material.

(3) Gas (illuminating or heating) storage, except for consumption on premises.

(4) Incineration, reduction, storage dumping of slaughterhouse refuse, rancid fats, garbage, trash, sewerage, refuse, junk, dead animals or offal, except by the municipality or its agents.

(5) Petroleum or its derivatives except when stored in underground tanks and not in excess of 40,000 gallons of fuel oil or 20,000 gallons of gasoline or kerosene.

(6) Residential dwelling units.

§ 77-101. Public Use Zone.

The regulations set forth in this section or set forth elsewhere in this Article when referred to in this section are the zone regulations in the Public Use Zone.

A. Purpose. The purpose of this zoning district is to provide zoning to address publically-owned tracts where public administrative, educational and recreational lands presently exist.

B. Use regulations. A building or premises shall be used only for the following purposes:

(1) Permitted principal uses.

(a) Parks, playgrounds and open space.

(b) Schools.

(c) Government buildings.

(d) Library.

(e) Administrative offices.

(2) Permitted accessory uses.

(a) Off-street parking facility.

(b) Private garages.

(c) Storage buildings.

(d) Playgrounds and parks.

(e) Roof-mounted solar panels, in accordance with §77-106.

(f) Ground-mounted solar panels, see §77-106.

(g) Signs, in accordance with Chapter 98.

C. Bulk standards.

(1) Principal uses.

(a) Minimum lot area – none.

(b) Minimum lot width and lot frontage – none.

(c) Minimum lot depth – none.

(d) Minimum front yard setback – 25 feet.

(e) Minimum side yard setback, each – 15 feet.

(f) Minimum rear yard setback – 25 feet.

(g) Maximum permitted impervious coverage – 60%.

(h) Maximum permitted building height – 45 feet and 3 stories.

D. Other standards.

(1) Nothing herein shall be deemed to rezone a parcel simply because it is purchased, deeded to or confiscated by a public entity. Any such parcel shall continue to be regulated by the requirements of the zone in which it is located.

(2) In the event of any such lands being abandoned with respect to their use, and any such land in which public use shall have ceased, then prior to the transfer of such lands from the public body to a private owner and upon proper application to the Roselle Planning Board by the public body owning said lands, the Roselle Planning Board shall thereafter recommend to the Roselle Borough Council the appropriate zoning classification that would be in the best interest of the Borough and without detriment to the Zoning Plan and Ordinance and, upon receipt of the recommendation from the Planning Board, the Roselle Borough Council shall, by ordinance, after public hearing, taking into account said recommendation, arrive at a determination establishing the zoning classification for said lands.

§ 77-102. Commercial-Industrial Zone.

A. Purpose. The purpose of the Commercial-Industrial Zone is to provide for the development of commercial and compatible light industrial uses along West First Avenue, which has gradually seen a transition from industrial to commercial use. It is the intent of this section to foster commercial development and compatible light industries in this zone.

B. Use regulation. A building or premises shall be used only for the following purposes:

(1) Permitted uses.

(a) Retail stores, which sell goods or merchandise to the general public.

(b) Restaurants, except no drive-through windows shall be permitted.

(c) Personal service establishments.

(d) Medical and health services.

(e) Studios, including dance, art, aerobic and music.

(f) Child care centers.

(g) Office buildings for executive, engineering and administrative purposes, but not professional or general offices.

(h) Scientific or research laboratories, but not including manufacturing, comprising any of the following: biological, chemical, dental, pharmaceutical and general research.

(i) The following manufacturing, processing, packaging or assembly use, provided that they can demonstrate the capability to maintain the performance standards set forth in Article V of Chapter 77 at all times during operation:

[1] Fabrication of paper products, including but not limited to the following: bags, books, bookbinding, boxes and packaging materials, office supplies and toys.

[2] Fabrication of wood products, including but not limited to any of the following: boats, boxes, cabinets and woodworking, furniture and toys.

[3] Food and associated industries, including but not limited to the following: bakeries, bottling of food and beverages, food and cereal mixing and milling, food processing, food sundry manufacturing, ice cream manufacturing.

[4] Other permissible manufacturing use comprising any of the following: brush and broom manufacturing, electronic products, glass and glass products manufacturing, jewelry manufacturing, including polishing, laundering and cleaning establishments, leather goods manufacturing establishments, leather goods manufacturing, except curing, tanning and finishing of hides, sporting goods manufacturing, warehouses and storehouses.

[5] In addition to the above, any industry not inconsistent with the above that is totally similar in purpose, function, character and effort.

(j) Wholesale sales and distribution.

(k) Mixed-use structures with a combination of two or more of the aforementioned permitted principal uses

(2) Permitted accessory uses.

(a) Off-street parking and loading facilities, in accordance with §77-24 through §77-26.

(b) Garage and storage buildings which are necessary to store any vehicles, equipment or materials on the premises incidental to the principal structure or use.

(c) Roof-mounted solar panels, in accordance with § 77-106.

(d) Signs, in accordance with Chapter 98.

(3) Conditional uses, see §77-105 for standards.

(a) Antique, used furniture or clothing store.

(b) Automotive body repair garage.

(c) Automotive gasoline station.

(d) Automotive repair garage other than body.

(e) Automotive sales lot.

(f) Automotive sales and service.

(g) Car wash.

(h) Churches, synagogues and places of worship.

(i) Drive-through pickup and deposit facilities for retail stores.

(j) Public utility.

(k) Ground-mounted solar panels, see §77-106.

(4) Prohibited uses. All uses prohibited in §77-100.G are specifically prohibited in this zone.

C. Bulk regulations.

(1) Principal uses.

(a) Minimum lot area – 7,500 square feet.

(b) Minimum lot width and lot frontage – 75 feet for interior lots and 100 feet for corner lots.

(c) Minimum lot depth – 100 feet.

(d) Minimum front yard setback – 25 feet.

(e) Minimum side yard setback, each – 15 feet.

(f) Minimum rear yard setback – 30 feet.

(g) Distance between buildings – 30 feet.

(h) Maximum permitted impervious coverage – 70%.

(i) Maximum permitted building height – 40 feet and 3 stories.

D. Performance standards. All uses in this zone shall meet the performance standards outlined in Article V of Chapter 77.

E. All uses in this zone shall comply with the design standards outlined in Article VI of Chapter 77. Additionally, no parking shall be permitted within the front yard area

F. Landscaping and buffer.

(1) Landscaping. Each parcel established in this zone shall set aside 15% of the tract for seeding and landscaping, and use this area for no other purpose. All front yards shall be attractively planted with trees, shrubs and grass lawns.

(2) Fence and buffer area.

(a) No structure shall be erected without the construction of a wood or vinyl board-on-board fence six feet high of uniform construction along the boundary line of an abutting residential zone, except that if the building faces the residential zone, a fence shall not be required in the front of the building.

(b) The buffer area shall be used for no other purposes than as set forth in this subsection. The landscape buffer shall be a minimum of 10 feet wide, which shall be composed of 75% evergreens planted 10 feet on center.

(c) The landscaped buffer shall include a mixture of shade trees, evergreens, ornamental trees and understory shrubs planted in a staggered fashion.

(d) At the time of installation, shade trees shall be a minimum 3 inch caliper, evergreens shall be a minimum 8 feet in height, ornamental trees shall be a minimum of 10 feet in height and understory shrubs shall be a minimum of 36 inches in height.

(3) Enclosure. All industrial activities or processes shall take place within an enclosed building. Incidental storage of materials and equipment out of doors shall be shielded from any adjacent public street or adjacent lots by fencing, landscaping or other appropriate measures and shall not be without in the existing or required yard areas facing the street or streets. If the property abuts residential property, a wood or vinyl board-on-board fence, eight feet high, shall be installed on all side and rear property lines abutting the residential zone.

§ 77-103. Miscellaneous provisions.

A. Swimming pools. The provisions of §104-1, §104-2, §104-5 and §104-11 are incorporated by reference herein. The Board of Adjustment shall have jurisdiction to entertain appeals of the Building Inspector's decisions in conformance with N.J.S.A. 40:55D-70a and 55D-70b and for variances pursuant to N.J.S.A. 40:55D-70c and 55D-70d from §104-1, §104-2, §104-5 and §104-11 only. All other sections of Chapter 104 shall be deemed exercises of the Borough's police powers not zoning.

B. Signs. The provisions of Chapter 98, are incorporated by reference herein. The Board of Adjustment shall have jurisdiction to entertain appeals from the Building Inspector's decision in conformance with N.J.S.A. 40A:55D-70a and 55D-70b and for variances pursuant to N.J.S.A. 40:55D-70c and 55D-70d from the following sections of the chapter only: §98-1, §98-21, §98-22, §98-23, §98-24, §98-25, §98-26 and §98-27. To the extent that §98-24A(5) provides for an appeal to the Roselle Borough Council, that provision is hereby repealed.

C. Nonconforming uses or structures.

(1) Continuance. Except as otherwise provided in this Article, the lawful use of land or buildings existing at the date of the adoption of this Article may be continued although such use of building does not conform to the regulations specified by this Article for the zone in which such land or building is located; provided, however, that:

(a) No nonconforming lot shall be further reduced in size.

(b) No existing building or premises devoted to a nonconforming use shall be enlarged, extended, reconstructed, substituted or structurally altered except when changed to a conforming use, or as follows.

(2) Restoration. Except as in Subsection C(4) below any nonconforming use or structure damaged by fire, casualty or act of God may be repaired, restored, reconstructed or used as before, provided that the area of such use or structure shall not exceed the area which existed prior to such damage and further provided that the nonconforming use or structure has not been abandoned.

(3) Destruction. No nonconforming structure or use which is more than partially destroyed may be reconstructed unless it meets all bulk requirements of this Article.

(4) Repairs. Normal maintenance and repair of a structure containing nonconforming use is permitted, provided that it does not extend the area or volume of space occupied by the nonconforming use and does not increase the number of dwelling units. Nothing in this Article shall prevent the strengthening or restoring to a safe or lawful condition any part

of any building or structure declared unsafe or unlawful by the Construction Official or other authorized state or Borough official.

(5) Abandonment. A nonconforming use is abandoned according to law.

(6) Reversion. No nonconforming use shall, if once changed into a conforming use, be changed back again to a nonconforming use.

(7) Zone changes. Wherever the boundaries of a zone shall be changed so as to transfer an area from one zone to another of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein or created thereby.

D. Width of streets. Street lines shall be no less than 25 feet and no more than 50 feet from the center line of the street.

E. Structures for transmitting electric currents prohibited. No person shall erect poles and towers for use in the transmission of electric currents nor poles and towers on which are strung wires for the transmission of electric currents; provided, however, that a permit for the erection of such structures may be granted in the manner provided by law for the granting of variances and exceptions from the provision of this Article where such structures are found not to be detrimental to the health, safety and general welfare of the Borough of Roselle and reasonably necessary for its convenience.

F. Mobile units. Mobile units, as defined in Section 201.0 of the BOCA National Building Code as "a structure of vehicular, portable design built on a chassis and designed to be moved from one site to another and to be used with or without a permanent foundation," shall be prohibited from use in all districts.

(1) No mobile unit shall be altered or modified so that its definition can be changed.

(2) No mobile unit shall be placed in any district and referred to as a pre-manufactured assembly, accessory building, storage shed, diner, office building, clubhouse, ticket booth, amusement stand, medical unit, workshop, hot dog, pizza or soft drink stand and similar usage.

(3) Exceptions to the foregoing subsections are:

(a) Mobile units used for the purpose of emergency housing due to fire or flooding, with permission and time stipulation as set by Mayor and Council.

(b) Mobile units that are used only and exclusively as a job office on a construction site, under a Roselle Borough building permit and only for the duration of that project.

(c) Any emergency or acceptable use as deemed necessary by the Roselle Zoning Board of Adjustment.

§ 77-104. Certificates of occupancy; fee.

A. Issuance by Building Inspector. It shall be unlawful to use or permit the use of any building or premises or part thereof hereafter created, erected, changed, converted or enlarged or which has a change of ownership or lessee, wholly or partly, in its use of any building whose ownership or occupancy has been changed wholly or partly, until a certificate of use, to effect that the building or premises or part hereof so created, erected, changed, converted or enlarged or which has a change of ownership or lessee conforms to the provisions of all applicable codes and ordinances, shall have been issued by the Building Inspector within 20 days after a request for the same shall be filed in his office by any owner of such building or premises if the proposed use thereof conforms to all the requirements herein set forth, except that no certificate of use shall be issued where title to premises is derived, directly or indirectly, through a deed from the Borough of Roselle in which a covenant, condition or restriction is imposed by the Borough of Roselle and where said covenant, condition or restriction has not been complied with by the applicant or his predecessors in title.

B. Temporary certificate. A temporary certificate of use may be issued by the Building Inspector, provided that the building has complied with the requirements of the ordinances of the Borough of Roselle.

C. Existing premises. Upon written request by the owner, the Building Inspector shall issue a zoning permit for any building or premises certifying, after inspection, the use made of the building or premises and whether such use conforms to all applicable ordinances of the Borough of Roselle.

D. The cost of inspection and certificate for one and two-family dwellings shall be $40 and $10 for the certificate of compliance or zoning permit; all other uses will cost $100 for the inspection and $25 for the certificate of use or zoning permit, and inspections shall be made by one inspector.

E. All fees hereinbefore referred to shall cover two inspections made on one application. Any inspections over two will require a re-inspection fee of $20. Someone must be present at the site for the inspection to be made.

§ 77-105. Conditional uses.

A. Guiding principles. Recognizing that certain uses, activities and structures are necessary to serve the needs and convenience of the Borough, and at the same time

recognizing that such uses may be or become inimical to the public health, safety and general welfare if located and operated without proper consideration being given to existing conditions and character of the surrounding area, such uses are hereby designated as conditional uses. The Roselle Planning Board shall have the original jurisdiction for the granting of a conditional use pursuant to and established by this Article, under the following stipulations and guiding principles:

(1) The design, arrangement and nature of the particular use is such that the public health, safety and welfare will be protected and reasonable consideration is afforded to the:

(a) Character of the neighborhood.

(b) Conservation of property values.

(c) Health and safety of residents and workers on adjacent properties and in the surrounding neighborhood.

(d) Potential congestion of vehicle traffic or creation of undue hazard.

(e) Stated principles and objectives of this Article and the Master Plan of the Borough.

(2) In addition, such conditional uses shall adhere to such additional conditions and safeguards as, in the opinion of the Roselle Planning Board, will implement the intent and objectives of this Article.

B. Permitted conditional uses.

(1) Public utility uses, such as water filtration plants, sewerage disposal plants, pumping stations, high voltage transmission lines and towers, electric substations, telephone exchanges and repeater stations, but not service or storage yards, subject to the following:

(a) Proof is furnished that the proposed installation in the specific location is necessary for the efficiency of the public utility system and that the satisfactory and convenient provisions of service to the neighborhood or area in which the facility is to be located.

(b) The design of any building or structure required for such use conforms to the general character of the area in which it is located.

(c) All bulk regulations for the zone in which the use is to be located must be complied with.

(d) The lot on which the building is located is sufficient in size to adequately accommodate the proposed facility, together with any parking space required to serve the facility without any of the structural portions of the use or parking facilities being closer than 25 feet to adjacent properties.

(e) Where a public utility abuts a residential zone, it shall provide a board on board fence 6 feet in height to screen the public utility.

(2) Public schools and private schools and institutions of higher learning operated by charitable, religious or eleemosynary organizations, which are not conducted as a business, subject to the following:

(a) The site area is five acres plus one additional acre for every 100 pupils or portion thereof of maximum capacity.

(b) The lot coverage does not exceed 15%.

(c) No structure is located within 75 feet of a street or property line.

(d) Sufficient off-street parking space shall be provided to ensure that the use will not cause parking in a public street during the course of normal educational programs.

(3) Automotive gasoline, service, repair, body shops, sales and service. Conditions regarding automotive gasoline, service, repair, sales and service and sales lots shall be as follows:

(a) Requirements.

[1] In each of the above cases, the use is permitted, subject to the following requirements:

Type of Use	**Minimum Lot Size (square feet)**	**Minimum Lot Frontage (feet)**	**Maximum Building Coverage (percent)**	**Maximum Lot Coverage (percent)**
Automotive gasoline station	20,000	150	20	80
Automotive service station	40,000	200	20	80
Automotive repair garage	40,000	200	45	80
Automotive body shop	40,000	200	45	80
Automotive sales and service	80,000	200	25	80
Automotive sales lot (includes used car lots)	20,000	100	20	80

[2] In addition, if the Planning Board finds that the nature of the particular use proposed, either by virtue of scale, intensity of use, hazard or other such considerations is such that a larger site is in the public interest, then it shall impose such additional requirements.

(b) Such lot shall be located within the following limitations:

[1] No closer than 1,000 feet to a public or private school, hospital, church, library or other similar place of public assembly.

[2] No closer than 100 feet from the intersection of any two streets.

(c) Yard requirements, which are applicable to all pumps, mechanical equipment and other appliances in addition to the main structure are as follows:

[1] Front, side and rear yard areas: 25 feet.

[2] Maximum building height: one story.

(d) Fuel tanks.

[1] All fuel tanks or other such containers for the storage of flammable materials, either liquid or solid, may be installed underground at sufficient depth to ensure against a hazard of fire or explosion as a minimum. Underground fuel storage tanks shall be placed at least 10 feet from any structure. Tanks having a capacity of 6,000 gallons or more shall be at least 20 feet from any structure.

[2] Any tanks which are to be installed above ground must have a state-approved tank which is constructed and housed in a vault, with a double containment system, and which provides a two-hour firewall meeting the Fire Code requirements.

[3] All tanks must meet the NFPA Code requirements for location by an existing structure and property.

[4] No tanks of over 1,000 gallons shall be located above ground.

(e) Canopies. A cantilever cover or canopy may be permitted to extend into the front yard, provided that it is at least 25 feet from the front property line and 25 feet from any residence zone.

(f) Curb cuts and driveway.

[1] On a corner lot, a driveway shall be at least 25 feet from the street intersection as measured along the property line.

[2] Driveways shall be no less than 20 feet and no more than 30 feet wide. The driveway shall be flared or slated at the curbline to facilitate auto ingress and egress.

[3] Curb cuts shall be no less than 10 feet from any adjacent property line.

[4] Any two driveways giving access to a single street shall be separated by a curbed island of at least 20 feet.

[5] A raised curb of at least six inches in height shall be provided along the street property lines, except for driveway openings.

[6] There shall not be more than two curb cuts providing access to any one street.

[7] Curb cuts shall be no closer than 50 feet from a Residence A or B Zone.

[8] Lighting. All lighting shall be so designed, arranged and installed as to reflect all light down and away from adjoining properties.

[9] Pavement. All parking, access and driveway areas shall be paved with a permanent surface, such as macadam with proper drainage so as not to affect adjacent property owners.

[10] Location of air or fuel pumps and filler pipes (automotive service and gasoline stations only). All pump islands shall be a minimum of 25 feet from any adjacent property line and 20 feet from any public right-of-way.

(g) Accessory buildings. All lifts, lubrication equipment, service pits and goods for sale shall be enclosed within the service stations. Outdoor display of products or cars for sale or rental shall not be permitted from an accessory building. Accessory buildings shall not be permitted except for the temporary storage of trash or garbage.

(h) Accessory uses.

[1] The sale or rental of cars, trucks, trailers, boats or any other vehicles on the premises of an automotive service station shall be prohibited.

[2] The storage of cars, trucks, trailers, boats or any other vehicle not being serviced or repaired on the premises of an automotive gasoline station, automotive service station or automotive repair garage shall be prohibited.

[3] All other activities are prohibited, including trailer or motor vehicle rental. Storage of any vehicle requiring body work or which is inoperable because of major repairs required shall not be permitted except at an automotive repair garage, body shop or automotive sales and service.

[4] No commercial automobile repair work shall be done out of doors except for emergencies and the storage of inoperable vehicles classified junk cars shall not be permitted.

(i) Landscaping buffers and screening shall be provided as follows. In all zones where the above automotive services are permitted as a use by special exception, the following minimum requirements shall be met.

[1] A minimum landscaped area five feet wide shall be provided along all property lines abutting public streets, except where curb cuts are permitted.

[2] All buffers and landscaped areas shall be protected from adjacent parking areas by curbs or concrete, metal or wood bumpers at least six inches in height and securely anchored into the ground.

[3] Service areas and parking areas shall be screened from abutting properties. A minimum of a six-foot, architecturally solid fence shall be erected on all property lines except the front property line.

[4] All street trees and on-site deciduous shade trees shall be not less than 3 inches in caliper, measured one foot above the root crown.

[5] A satisfactory amount of evergreen plant material shall be included in the planting, this to be judged on an individual basis by the Borough. Evergreen trees shall not be less than six feet in height.

[6] Where an automotive use, as permitted above, abuts a residential zone, a ten-foot buffer must be established and maintained in an addition to the solid architectural fence. This buffer shall be attractively landscaped with evergreen and shrubs.

[7] All landscaping shall be maintained in a manner satisfactory to the Borough Engineer at all times.

(j) Parking facilities shall be maintained as follows:

[1] Two square feet of space for each square foot of floor area in the principal building. No area on the lot which is required for the movement of vehicles in and about the buildings and facilities shall be used for complying with the parking requirements of this section.

(k) The walls of the principal structure shall be at least 25 feet from the side and rear property lines at least 40 feet from a street right-of-way line.

(o) Signs erected in conjunction with the use shall be limited as follows:

[1] One freestanding identification sign which does not exceed 40 square feet on any one side nor 20 feet in height. Such sign may be illuminated but illumination shall be from within and be nonflashing. Illumination signs may be any color except red or green. Such signs may be located in the front yard area but shall not be closer than 10 feet to a street line.

[2] Two signs may be mounted on the front facade of the building, provided that the total area of such signs does not exceed 20% of the area of the front facade, including window and door area.

[3] Temporary signs advertising sales, premiums and other such temporary activities may be mounted on the window or door surfaces of the structures, provided that the total of such signs at any one time does not exceed 20 square feet.

[4] The commercial use of flags or the use of windmills, banners, flashing or animated signs is prohibited, other than for a period of seven days from the date of opening of a new establishment.

(l) Motor vehicle supplies may be displayed out-of-doors on the pump island end and the building island only and shall be stored in a suitable rack or container.

(m) All repair and services other than fuel pumping shall take place within the principal structure.

(4) Churches, synagogues, places of worship; Sunday school buildings. Conditions regarding churches, synagogues or places of worship, including parish houses, parochial and Sunday school buildings shall be as follows:

(a) A written statement setting forth the full particulars of the intended use must be filed in triplicate with the Planning Board. Such statement must include the estimated seating capacity, worship schedule and a description of activities likely to occur on the premises. The statement is required in order for the Planning Board to

assess the impact, if any, of the proposed use on the surrounding area due to traffic, noise, etc.

(b) All regulations for the zoning district in which the use is to be located shall be complied with, except that the minimum lot area shall be not less than 20,000 square feet.

(c) Parking shall be provided as follows: one space for each three fixed seats at capacity plus one space for each 60 square feet of gross floor area for assembly and meeting rooms.

(d) Where parking areas are adjacent to a residential use or zone, a twenty-foot-wide buffer strip no less than six feet high shall be provided.

(e) Landscaping and screening shall be provided as follows:

[1] Property shall be screened by a buffer of not less than 10 feet in width composed of 75% evergreens planted 10 feet on center.

[2] The landscaped buffer shall include a mixture of shade trees, evergreens, ornamental trees and understory shrubs planted in a staggered fashion.

[3] At the time of installation, shade trees shall be a minimum 3 inch caliper, evergreens shall be a minimum 8 feet in height, ornamental trees shall be a minimum of 10 feet in height and understory shrubs shall be a minimum of 36 inches in height.

(5) Car washes. Conditions regarding car washes shall be as follows:

(a) All other regulations for the district in which the use is to be located shall be complied with, except that the minimum lot area for a car wash shall be not less than 20,000 square feet.

(b) Such shall provide adequate off-street automobile stacking area, which shall not be less than 20 spaces per bay. Such stacking system shall in no way hinder or impair normal traffic flow on adjoining property or public right-of-way.

(c) Approval of the Borough Engineer regarding utilities and drainage and the Department of Health regarding the performance standards shall be required.

(d) Ingress and egress shall be so designed as not to interfere with the normal traffic flow in the area.

(6) Drive-through pickup and deposit facilities. Conditions regarding drive-through pickup facilities shall be as follows:

(a) All other regulations for the district in which the use is to be located shall be complied with.

(b) Ingress and egress shall be so designed as not to interfere with normal traffic flow in the area.

(c) As a condition of approval, the applicant shall provide a traffic study by a traffic engineer which demonstrates that the proposed drive-through facility will not substantially impact off-site traffic.

(d) The applicant shall provide appropriate signage indicating direction of ingress and egress.

(e) The applicant shall provide off-street automobile stacking area, which shall not be less than six spaces per lane. Such stacking system shall in no way hinder or impair normal traffic flow in adjoining property or public right-of-way.

(7) Antique, used furniture and used clothing stores. Conditions regarding antique, used furniture and used clothing stores shall be as follows:

(a) All other regulations for the district in which the use is to be located shall be complied with.

(b) Furniture stripping shall be prohibited on the premises unless the use is located in the industrial zone.

(c) Exterior displays shall not be permitted.

(d) A minimum of 3,000 square feet of gross floor area shall be required.

§ 77-106. Solar energy systems.

A. Purpose. Solar energy systems are to provide power for the principal and/or accessory use of the property whereon said system is to be located and shall not be for the generation of power for commercial purposes, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time from a solar energy system designed to meet the energy needs of the principal use.

B. Standards for all types of solar energy systems.

(1) The installation of a solar energy system shall conform to the National Electric Code as adopted by the New Jersey Department of Community Affairs.

(2) Solar energy systems that connect to the electric utility shall comply with the New Jersey's Net Metering and Interconnection Standards for Class 1 Renewable Energy Systems and as required by the electric utility servicing the parcel.

(3) Solar energy systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the system. In no case shall identification be visible from a property line.

(4) The design of a solar energy system shall, to the extent practicable, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment.

C. Roof-mounted solar panels.

(1) Solar panels shall be permitted as a rooftop installation in any zoning district.

(2) The solar panels shall not exceed a height of 8 inches from the rooftop.

(3) Rooftop systems shall be considered a permitted accessory use subject to approval of the Zoning Officer and Construction Official.

D. Ground-mounted solar panels. Conditions regarding ground-mounted solar panels shall be as follows:

(1) All ground-mounted solar panels shall follow the underlying zone bulk requirements for principal uses.

(2) Ground-mounted solar panels shall not exceed a height of 15 feet.

(3) All electrical wires servicing a ground-mounted solar panel, other than wires necessary to interconnect the solar panels, and the grounding wires, shall be located underground.

(4) In order to obtain a zoning permit for placement of a ground-mounted solar panel in the front yard, the applicant must demonstrate to the Zoning Board the necessity for the front yard installation by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property resulting in an exceptional difficulty and undue hardship to the applicant. The clearing of brush or wooded areas alone will not constitute an undue hardship.

§ 77-107. Wireless communication facilities.

A. Purpose. To minimize the adverse impacts associated with the potential proliferation of communication towers, the Borough of Roselle is pursuing a proactive policy of requiring collocation of wireless communication antennas on existing towers, on buildings, and on a new tower(s) at a public site(s) which may be designated by the Borough Council.

B. Communication antennas not attached to towers. Any communication antenna which is not attached to a communication tower, along with its associated equipment compound and support structure, shall be a permitted accessory use to any commercial, industrial, professional, institutional or office structure, provided that:

(1) The wireless communications facility does not exceed more than 20 feet above the highest point of the structure.

(2) Amateur radio antennas are exempt from this section.

(3) The antennas and associated equipment shall be located on the building roof and screened so as to minimize their visual impact or be located inside the building.

(4) Site plan review shall not be required for wireless communication antennas and associated equipment proposed in accordance with this subsection B.

C. Collocation of communication antennas on existing towers. Collocation of wireless communication antennas on existing towers and associated equipment compounds is permitted as a conditional use in all zoning districts and shall be treated as a minor site plan. The conditional use standards that apply to such use are those standards set forth below in this Subsection C and those standards set forth in Subsection E.

(1) Height. An existing communication tower may be modified or rebuilt to a taller height, not to exceed 12 feet over such tower's existing height, to accommodate the collocation of additional communication antennas. The wireless communication antennas shall be no higher than necessary to achieve service area requirements.

(2) Need analysis. The applicant shall submit as part of its application a statement as to the purpose of the proposed wireless communication facility (e.g., to address a coverage or capacity issue, or a combination of both) and the type/mode (e.g., in vehicle or in building) and geographic area(s) where this is an issue (e.g., what streets, facilities or neighborhoods). The applicant shall provide propagation studies showing both current (without the proposed site) and projected (with the proposed site) coverage and service in the area of the application, including all surrounding sites (built and approved). The report shall include the design parameters used for the propagation studies, including antenna types, location, orientation and elevation, operating frequencies, ERP, and signal strength thresholds or "cut-offs." The analysis shall show the entire area where there is insufficient service or coverage and which the application is intended, at least in part, to address. Additional supporting data can be submitted, including (but not limited

to) traffic data, drive tests, etc. No wireless communications facility shall be approved unless the applicant demonstrates a need for the facility at the location proposed.

(3) Visual impact. The proposed facility shall be designed so as to have the least visual impact reasonably possible.

(4) Alternatives analysis. The applicant shall undertake an alternatives analysis describing other approaches, solutions or sites it evaluated to address the need as stated in Subsection C(2) above and shall submit a report with respect thereto. This analysis shall include the location of all of its existing wireless communications facilities within the Borough and outside the Borough but providing service within the boundaries of the Borough; the location and type of other sites considered; the availability of those sites; the extent to which other sites do not meet the applicant's service, engineering, or other needs; and the reason why the subject site was chosen over the alternatives. The analysis shall also address any alternative technologies that may be available and why such technologies are not being used. The analysis of alternatives shall include a comprehensive approach to address the need in the area where the need analysis shows insufficient service or coverage, demonstrating how the applicant intends to address the entirety of the need, including any areas or issues that would not be addressed by the proposed facility. The plan shall provide for the fewest feasible number of sites for wireless communications facilities. The applicant shall indicate any future sites it anticipates at the time of the application, to the extent currently known or forecast. Future applications by the applicant or its successor will be evaluated for consistency with this plan, and any deviation from it shall be justified to the satisfaction of the board of jurisdiction. No wireless communication facility shall be approved unless the applicant demonstrates that there are no suitable alternatives that are less visually intrusive than the proposed application.

(5) Additional submission requirements. In addition to the applicable documentation required for site plan approval, the following documentation shall be submitted as part of the minor site plan submission:

(a) Documentation by a qualified expert that any proposed wireless communications facility will have sufficient structural integrity to support the proposed antennas and anticipated future collocated antennas and that the structural standards developed for antennas by the Electronic Industries Association (EIA) and/or the Telecommunications Industry Association (TIA) have been met;

(b) A letter of intent by the applicant, in a form to be reviewed and approved by the board attorney, indicating that the applicant, to the extent it has the authority to do so, will share the use of the tower, including extensions, and compounds to the extent feasible, with other approved providers of wireless communications services; and

(c) A visual impact study, graphically simulating, through models, computer-enhanced graphics, or similar techniques, the appearance of any proposed wireless communications facility and indicating its view from at least five locations around and within one mile of the proposed wireless communications facility where such facility will be most visible. Aerial photographs of the impact area shall also be submitted.

D. Collocation of communication antennas on towers on public property.

(1) Collocation policy. The Borough of Roselle shall plan for and accommodate the growing demand for communication antennas by collocating such new antennas on towers sited on publicly owned sites controlled or designated by the Borough and which are appropriate locations for facilitating wireless communications and for minimizing visual and other impacts on the public associated with communication antennas.

(2) Public/Private partnership to implement collocation policy.

(a) Any collocation communication towers will be installed, maintained and operated by a private business and/or regulated public utility on public property under lease agreement with the Borough of Roselle pursuant to the Local Land and Buildings Law *Editor's Note: See N.J.S.A. 40A:12-1 et seq.* and/or the Local Public Contracts Law *Editor's Note: See N.J.S.A. 40A:11-1 et seq.* of the State of New Jersey and in compliance with the ordinance requirements of the Borough.

(b) In order to assure that any tower at the above-referenced location will accomplish the intent of this section, any lease agreement with the private operator or regulated public utility shall include, but not be limited to, the following requirements:

[1] The tower will be constructed to be capable of supporting at least 200 antennas which meet radiofrequency requirements.

[2] The tower shall not exceed 225 feet from grade.

[3] Antenna space shall be rented to all interested carriers at a rate reflecting the fair market price for such services.

[4] The tower shall comply with the standards set forth in Subsections E and F.

(c) The private entity or regulated public utility which will install, maintain and operate the collocation tower will be selected through an open public bidding process under specifications and a lease agreement to be prepared for the Mayor and Council under applicable New Jersey law governing public-private agreements. Specifications will include, but not be limited to, a demonstration of suitable past

site management experience and compliance with prescribed construction standards with a cost and revenue analysis for the first five years of operation.

(d) Installation of wireless communication facilities on or at towers on public property shall not require site plan review.

E. Conditional use standards. The following design and performance standards shall apply as additional conditional use standards to communication antennas collocated on existing towers, support structures, and associated equipment compounds proposed pursuant to Subsection C hereof and shall be the standards applicable to towers, antennas, and support structures, and associated equipment compounds on public property proposed pursuant to Subsection D.

(1) Telecommunications equipment compound design. No buildings shall be permitted in the equipment compound. Communication equipment may be stored in cabinets.

(2) Fencing. A chain-link fence or wall not less than seven feet in height from finished grade shall be provided around each communication tower and equipment compound. Access to the tower shall be through a locked gate. The fence and supporting structures shall have a black matte finish.

(3) Landscaping. The visual impact of a communication tower and equipment compound shall be mitigated for nearby viewers through landscaping or other screening materials at the equipment compound. The following landscaping and buffering shall be required around the perimeter of the tower and equipment compound, except that the standards may be waived by the Planning Board for those sides of the proposed tower that are located adjacent to undevelopable lands and lands not in public view. Landscaping shall be installed on the outside of fences. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or in supplement towards meeting landscaping requirements.

(a) A continuous evergreen hedge at least seven feet high at planting.

(b) All landscaping shall be of the evergreen variety. If the landscaping set forth above cannot be installed because it is prohibited, either by the owner of the site, by law, or otherwise, the applicant shall propose alternative landscaping designed to mitigate the visual impact of the communication tower and equipment compound.

(4) Method of determining communication tower height. For purposes of measurement, communication tower height shall include antenna, base pad and other appurtenances and shall be measured from the finished grade of the parcel.

(5) Illumination. Communication towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA), in which case the least intrusive type of

lighting permitted by the FAA shall be used, and except as necessary for inspection of and repairs within the equipment compound, in which case the lighting may only be located within the compound and may only be turned on manually, with a mechanism to shut it off after a reasonable time to be set by the Planning Board after testimony by the applicant's representative. Lighting within the equipment compound shall not produce glare and shall be designed so as to minimize its spillover outside the compound.

(6) Finished color. Wireless communication improvements to existing communication towers not requiring FAA painting/marking shall have a finish that matches the existing tower.

(7) Structural design. Communication towers shall be constructed to the EIA/TIA 222-F standards, or such subsequent revision as is in place at the time of the Planning Board decision, as published by the Electronic Industries Association, which may be amended from time to time, and all Borough construction/building codes. Further, any improvements and/or additions (e.g., antennas, satellite dishes, etc.) to existing communication towers shall require submission of site plans sealed and verified by a professional engineer which demonstrate compliance with the EIA/TIA 222-E standards. The applicant shall include in its design the opportunity for collocation by others or explain why collocation is not feasible.

(8) Underground utilities. All utilities serving any wireless communications facility shall be underground.

F. Standards applicable to all wireless communications facilities. The following standards, which are not conditional use standards, shall apply to all wireless communications facilities:

(1) Maintenance. Wireless communications facilities shall be maintained to ensure their continued structural integrity. The owner of a wireless communications facility shall also perform such other maintenance of the structure and of the site as to ensure that it does not create a visual nuisance.

(2) Inspection.

(a) An applicant may be required to inspect its wireless facility upon notice from the Borough.

(b) Inspections shall be conducted by an engineer licensed to practice in the State of New Jersey. The results of such inspections shall be provided to the Borough Engineer. Based upon the results of an inspection, the Borough may require repair or removal of a communication tower. Upon removal of the wireless

communications facility, if such facility is a tower, the site shall be restored in the manner acceptable to the Borough Landscape Architect.

(3) Abandonment. Any wireless communications facility that is not operated for a continuous period of 12 months shall be considered abandoned. The owner of such facility shall remove it within 90 days of notice from the Zoning Officer that the facility is abandoned. If such facility is not removed within 90 days, the Borough may remove such facility at the owner's expense. If the facility is to be retained, the provider shall establish that the facility will be reused within one year after such abandonment. If the facility is not reused within one year, the facility shall be removed. At the discretion of the Zoning Officer, upon good cause shown, the one-year reuse period may be extended for a period not to exceed one additional year.

(4) The wireless communications facility shall comply with all applicable FCC and FAA regulations.

(5) The wireless communications facility shall comply with all applicable building codes.

(6) Signs. Signs displaying owner contact information, warnings, and equipment information and safety instructions shall be provided. No other signage shall be permitted.

(7) Noise. No equipment shall be operated so as to produce a noise level on adjoining properties that exceeds the noise level permitted by Borough Code.

(8) Activity and access. All equipment shall be designed and automated to the greatest extent possible in order to reduce the need for on-site maintenance and thereby to minimize the need for vehicular trips to and from the site. Access shall be from established site access points whenever possible. No more off-street parking than is necessary shall be permitted.

(9) Each application for any wireless communications facilities shall include either a preliminary or a certified statement that the operation of the facility, including reception and transmission functions, will operate within the parameters established by the applicable FCC licenses and regulation, so as to minimize the possibility of interfering with the usual and customary transmission or reception of radio, television, etc., and other licensed services enjoyed by adjacent residential and nonresidential properties. In the event that only a preliminary statement is submitted with the application, a final, certified statement of noninterference will be provided and approved by the Borough prior to the issuance of a building permit. The statement shall be prepared by an engineer licensed to practice in the State of New Jersey or other professional accepted by the Borough.

(10) Approval required from other governmental agencies. Each application shall include written approval or a statement of no objection from other federal, state or county agencies that regulate communication tower sighting, design and construction.

(11) The applicant shall submit a report certifying that its facilities will operate in accordance with all legal requirements regarding RF exposure (FCC Report and Order 96-326 regarding Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation and FCC OET Bulletin-65, Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields, and others). This report shall include the class of service, frequencies, maximum effective radiation power (ERP) of the antennas, anticipated operating ERP(s), antenna types, heights and orientation of all antennas and indicate predicted RF exposure levels under normal operations at the nearest occupied structure. A copy of the FCC license applicable to the use of the wireless communications facility shall also be submitted. The statement shall be prepared by an engineer licensed to practice in the State of New Jersey or other professional accepted by the Borough.

§ 77-108. Enforcement; violations and penalties.

A. This Article shall be enforced by the Building Inspector or any other enforcing officer of the Borough of Roselle.

B. For any and every violation of the provisions of this Article, the owner, general agent or contractor of a building or premises in which part such violation has been committed or shall exist, and the general agent, architect, builder, contractor or any other person who commits, takes part or assists in such violation or who maintains any building or premises in which any such violation shall exist, shall, for each and every violation and for each and every day that such violation continues, be subject to a fine of not more than $1,000 or be subject to imprisonment in the county jail for a period of 90 days or by a period of community service not exceeding 90 days. The Court may impose all, some or any combination of these sanctions.

§ 77-109. Repealer; when effective.

A. All sections of any ordinance of the Borough of Roselle containing provisions contrary to the provisions of this Article, except Ordinance No. 1620, adopted March 27, 1985, shall be and are hereby, to the extent of such inconsistency, repealed.

B. This Article shall be effective after final hearing publication and filing with the Union County Planning Board.