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AN ORDINANCE ESTABLISHING LAND USE DEVELOPMENT REGULATIONS AND RESTRICTIONS PURSUANT TO THE MUNICIPAL LAND USE LAW (CHAPTER 291, LAWS OF N. J. 1975); ESTABLISHING A ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD PURSUANT TO SAID LAW; AND REPEALING ALL PRIOR ORDINANCES RELATING TO ZONING AND PLANNING, AND PROVIDING PENALTIES FOR THE VIOLATION OF THE TERMS AND PROVISIONS THEREOF IN THE VILLAGE OF LOCH ARBOUR, IN THE COUNTY OF MONMOUTH, AND STATE OF NEW JERSEY.

BE IT ORDAINED by the Board of Trustees of the Village of Loch Arbour, in the County of Monmouth and State of New Jersey, as follows:

ARTICLE 1

SHORT TITLE

The short-form title by which this ordinance, its supplements and amendments shall be known is "The Loch Arbour Land Development Regulations Ordinance".

ARTICLE 2

PURPOSE

The purposes of this ordinance are to establish a pattern for the use of land and buildings based on the land use element of the master plan and to effectuate the master plan and enacted in order to encourage municipal action to guide the appropriate development of land in a manner which will promote the public health, safety morals and general welfare of the people. This ordinance is intended to regulate the use of land within zoning districts; secure safety from fire, flood, panic, and other natural and man-made disasters; provide adequate light, air, and open space; limit and restrict buildings and structures to specified districts and regulate buildings and structures according to their type and the nature and extent of their use, and regulate the nature and extent of the use of land for trade, residence, open space or other purposes; regulate the bulk, height, number of stories, and size of buildings and other structures; avoid a conflict with the development and general welfare of neighboring municipalities, the county and the state; establish appropriate population densities and concentrations contributing to the well-being of persons, neighborhoods, communities and regions and the preservation of the environment; provide sufficient space for residential, recreational, and commercial uses and open space; encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging the location of such facilities and routes which result in congestion or blight; promote a desirable visual environment; promote the conservation of open space and valuable natural resources and to prevent urban sprawl and degradation of the environment through improper use of land; and encourage coordination of various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land.

ARTICLE 3

DEFINITIONS

300 Any word or term not defined shall be used with a meaning of standard usage for the context in which the word is used.

301 The following words and phrases in this ordinance are used as defined in the Municipal Land Use Law: Applicant, Application for Development, Board of Adjustment, Building, Circulation, Common Open Space, Conditional Use, Conventional, County Master Plan, County Planning Board, Days, Developer, Development,

Development Regulations, Division, Drainage, Erosion, Final Approval, Historic Site, Interested Party, Land, Lot, Maintenance Guarantee, Major Subdivision, Master Plan, Mayor, Municipal Agency, Nonconforming Lot, Nonconforming Structure, Nonconforming Use, Official County Map, Official Map, Off-site, Off-tract, Onsite, On-tract, Open-space, Party Immediately Concerned, Performance Guarantee, Planned Development, Planning Board, Plat, Preliminary Approval, Preliminary Floor Plans and Elevations, Public Areas, Public Development Proposal, Public Drainage Way, Public Open Space, Quorum, Residential Cluster, Residential Density, Resubdivision, Sedimentation, Site Plan, Standards of Performance, Street, Structure, Subdivision, Variance, Zoning Permit.

302 Certain phrases and words are herein defined as follows:

Accessory Use or Building

A subordinate use or building, the purpose of which is incidental to that of a main use or building on the same lot. These shall include, but not be limited to garage, patio and tool-shed.

Administrative Officer

The administrative officer of the Planning Board and Zoning Board of Adjustment shall be the Clerk of each respective Board.

Alteration, Structural

Any change in the supporting members of a building such as walls, columns, beams, girders, posts or piers.

Approving Authority

The Planning Board unless a difference agency is designated in the text of this ordinance when acting pursuant to the authority of the Municipal Land Use Law.

Billboard

Any structure or portion thereof on which lettered or pictorial matter is displayed for advertising purposes other than that on a building or its grounds giving the name and occupation of the user of the premises, the nature of the business conducted therein or the products primarily sold or manufactured therein.

Boarding House

A house or portion thereof where meals, or lodging and meals, are provided for compensation for persons not transient.

Building Coverage

The square footage or other area measurement by which a building or structure occupies the land as measured on a horizontal plane. The maximum building coverage requirements permitted by this ordinance shall be the total of all structures except swimming pools.

Building, Height of

The vertical distance measured from the top of the foundation or sill to the top of the roof surface for mansard and flat roofs and to the vertical mid-point between the base of the roof and its peak for peaked roofs.

Cartway

The hard or paved surface portion of a street customarily used by vehicles in their regular course of travel. Where there are curbs, the cartway includes only that portion between the curbs.

Cellar

A story partly underground and having more than one-half of its height below ground.

Density

A number expressing dwelling units per acre.

Development Committee

A committee of at least three members of the approving authority, appointed by the chairman of the approving authority with the approval of the majority of the approving authority, for the purpose of reviewing subdivision and site plan applications prior to action by the entire approving authority to determine whether such applications comply with all ordinance provisions and to make recommendations to the approving authority. In the event that no development committee has been created, the functions delegated to it shall be performed by the approving authority.

Drainage right-of-way

The lands required for the installation of storm water sewers or drainage ditches, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage in accordance with Chapter 1 of Title 58 of the Revised Statutes.

Dwelling

A building or structure occupied exclusively for home or residence purposes, either permanently or seasonally. Types of dwelling include:

1. Dwelling Unit: One or more rooms providing living facilities for one family including equipment for cooking or arrangements for the same.
2. Dwelling, One-Family Detached: A house accommodating but a single family and having no party wall or wall in common with an adjacent house or houses.

Family

One or more persons living and cooking together as a single, non-profit housekeeping unit, exclusive of household servants.

Final Approval

Final approval is the final action taken on a plat after all requirements, conditions, and engineering plans have been completed and the required improvements have been installed or a bond properly posted for their completion. A subdivision plat that receives such final approval must have been prepared by a licensed professional engineer and land surveyor in compliance with the provisions of N.J.S.A. 46:23-9.11, and the amendments and supplements thereto, and is the map which must be filed in the County Clerk's office after final approval.

Gross Floor Area

Gross floor area shall be measured by using the outside dimensions of the building, excluding the area of an attached garage, open porch or patio and further excluding the area used as a cellar. Only those floor areas which have a ceiling height of 7.5 feet or more shall be eligible for inclusion in the gross floor area.

Lot Area

The area contained within the lot lines of a lot but shall not include any portion of the street.

Lot, Corner

A lot on the junction of and abutting on two or more intersecting streets where the interior angle of intersection does not exceed 135 degrees.

(Contd.):

Lot Coverage

The area of a lot covered by buildings and paved surfaces.

Lot Depth

The horizontal distance between the front and rear lot lines measured from the midpoint of the front lot line to the midpoint of the rear lot line.

Lot Frontage

The horizontal distance between the side lot lines measured along the street lines. The minimum lot frontage shall be the same as the lot width except that on curved alignments with an outside radius of less than 500 feet, the lot frontage may be reduced to not less than 75 percent of the required minimum lot width. In the case of a corner lot, either side may be considered the lot frontage.

Lot Line

Any line forming a portion of the exterior boundary of a lot.

Lot Width

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

Major Subdivision

Any subdivision not classified as a "minor subdivision".

Minor Subdivision

A subdivision of land that does not involve (1) the creation of more than 3 lots, including the remainder of the original lot; (2) planned development as defined in the Municipal Land Use Law; (3) any new street; or (4) extension of any off-tract improvement.

Off-Site and Off-Tract Improvements

Improvements made outside the lot in question or the original tract, respectively, to accommodate conditions generated inside the original tract as the result of the proposed development which shall include, but not be limited to, installation of new improvements and extensions and modifications of existing improvements.

Owner

Any individual firm, association, syndicate, co-partnership or corporation having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this ordinance.

Parking Space

An area not less than 10 feet wide by 20 feet in length either within a structure or in the open, for the parking of motor vehicles, exclusive of driveways, access drives, fire lanes and public rights-of-way, except that nothing shall prohibit private driveways for one family dwellings from being considered off-street parking areas provided that no portion of such private driveway within the right-of-way line of the street intersected by such driveway shall be considered off-street parking space. The 10 feet by 20 feet area is intended to be sufficient area to accommodate the exterior extremities of the vehicle, whether in addition thereto wheel blocks are installed within this area to prevent the bumper from overhanging one end of the parking space.

Permitted Use

Any use of land or buildings as permitted by this ordinance.

Plat, Final

The plat of all or a portion of the development prepared and submitted to the approving authority for final approval in accordance with Article 5 of this ordinance.

Plat, Preliminary

The plat prepared and submitted to the approving authority as a part of the application for preliminary approval in accordance with Article 5 of this ordinance.

Principal Use

The main purpose for which any lot and/or building is used.

Public Purpose

The use of land by a village, county, state, or federal agency or authority.

Right-Of-Way

The total width and length of the course of a street, water-course, utility alignment, or other way and within which all improvements and rights of access are confined.

Setback Line

A line drawn parallel with a street line or lot line and drawn through the point of a building nearest to the street line or lot line. The term "required setback" means a line that is established a minimum horizontal distance from the street line or the lot line and beyond which a building or part of a building is not permitted to extend toward the street line or lot line in order to provide the required yards.

Sight Triangle

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

Sign

Any announcement, declaration, display, illustration or insignia placed in a position to be seen by the general public from any street or public way.

Site Plan, Exempt

Site plan approval by the approving authority shall not be required for single family and two family dwellings. Building alterations which do not involve a change in use, additional parking, or additional building area shall be exempt. Changes in use which do not require additional parking shall be exempt.

Site Plan, Minor

A site plan for a development or building alteration requiring less than ten parking spaces as required in this ordinance, containing less than 2,500 new or additional square feet of floor area, and not having more than 50 percent lot coverage.

Site Plan, Major

All site plans not defined as minor or exempt.

Street Line

The dividing line between a lot and a street or other public space.

Townhouse

One dwelling unit in a line of four or more attached dwelling units, with each dwelling unit extending from the ground to the roof and having individual outside access and no interior facilities, conveniences, or services shared with other dwelling units making up the overall building.

Utility

Services provided to a use including, but not limited to sewage treatment, water supply, gas, electric, telephone, and cable TV.

Yard

An open space extending between the closest point of any building and a lot line or street line. In a townhouse development where more than one building may be erected on a lot, yards shall also be the open space extending between structures. All yard dimensions shall be measured horizontally and at right angles to either a straight street line, lot line, or building facade or perpendicular to the point of tangent of curved lines and facades. The minimum distance between buildings in developments where there is more than one building on a lot shall be the sum of the two yards of the structures and in no event shall two structures be closer to one another than the sum of both yards.

Yard, Front

The area extending across the full width of a lot line between the street line and the building and, for townhouses where more than one building may be erected on a lot, the front yard shall be measured from the designated front of the building to an imaginary line a designated distance away from the front of the building.

Yard, Rear

The open space extending across the full width of the lot between the rear lot line and the building and, for townhouses where more than one building may be erected on a lot, the rear yards shall be measured from the designated rear of the building to an imaginary line a designated distance away from the rear of the building.

Yard, Side

An open space extending from the front yard to the rear yard and lying between each side lot line and the closest point of the building. The side yard for townhouses where more than one building may be erected on a lot shall be measured from the designated side of the building to an imaginary line a designated distance away from the side of the building.

ARTICLE 4

GENERAL PROVISIONS

401 ADMINISTRATION

These rules, regulations and standards shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the Village of Loch Arbour. Any action taken by the Planning Board and Board of Adjustment under the terms of this ordinance shall give primary consideration to the requirements of this ordinance and to the welfare of the entire community.

402 AMENDMENTS

All provisions of this ordinance may be amended in accordance with applicable laws in effect at the time of the amendment.

403 APPEAL

Any interested party may appeal to the governing body (1) any final decision of a Board of Adjustment approving an application for a use variance, and (2) any other final decision of the Board of Adjustment or Planning Board on any other class of applications for development. Such appeal shall be made within 10 days of the date of publication of such final decision. The appeal to the governing body shall be made by serving the municipal clerk in person or by certified mail with a notice of appeal specifying the grounds thereof and the name and address of the appellant and name and address of his attorney, if represented. Such appeal shall be decided by the governing body only upon the record established before the Planning Board or Board of Adjustment.

BOARD OF ADJUSTMENT

A. Establishment; Composition:

A zoning board of adjustment is hereby established pursuant to N.J.S.A. 40:55D-69 et seq. consisting of 7 residents of the Village of Loch Arbour appointed by the governing body to serve for terms of four 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. Thereafter the term of each member shall be for four years. Nothing in this ordinance shall, however, be construed to effect the term of any present members of the zoning board of adjustment, all of whom shall continue in office until the completion of the term for which they were appointed.

The zoning board of adjustment shall also consist of two alternate members pursuant to N.J.S.A. 40:55D-69, who shall be appointed by the governing body to serve for terms of two years from January 1 of the year of their appointment.

No member of the zoning board of adjustment may hold any elective office or position under the municipality.

A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only.

B. Board of Adjustment Authority.

The Board of Adjustment shall have such powers as are granted by law to:

- (a) Hear and decide, by majority vote, appeals where it is alleged by the appellant that there is error in any other requirement, decision or refusal made by an administrative officer based on or made in the enforcement of this ordinance.
- (b) Hear and decide, by majority vote, requests for interpretation of zoning map or ordinance, or for decisions upon other special questions upon which such board is authorized by the zoning ordinance to pass.
- (c) Grant by majority vote a variance from the strict application of the zoning regulations whereby reasons of exceptional narrowness, shallowness, or shape of a specific piece of property, or by reason of exceptional topographic conditions, or by reason of other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation in the zoning ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property, except that if the applicant requires subdivision, site plan or conditional use approval by the planning board, the request for a variance under these circumstances shall be acted on by the planning board in conjunction with the subdivision, site plan or conditional use application provided not more than one lot is involved in the variance request. In no case shall a variance be granted under this paragraph to allow a structure or use in a district restricted against such structure or use.

- (d) Grant a variance to allow a structure or use in a district restricted against such structure or use in particular cases and for special reasons, but only by the affirmative vote of at least two thirds of the full authorized membership of the board.
- C. 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.
- D. 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.
- E. Time 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 an administrative officer, or not later than 120 days after the submission of a complete application for development to the board of adjustment. 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.
- F. In the granting of hardship and use variances, a time limit of one (1) year from the date of the variance approval shall be set within which time the owner shall secure a building permit, otherwise the variance granted shall be null and void.
- G. Whenever an applicant shall request a variance to allow a structure or use in a district restricted against such structure or use, the board of adjustment shall have the power to grant subdivision, site plan, or conditional use approval in conjunction with its action on the "use variance" and may impose restrictions on the subdivision, site plan or conditional use application in the same manner as the planning board. Such action on the subdivision, site plan or conditional use application as part of a "use variance" request shall be limited to the lot concerning the use variance. Any other remaining land proposed for development, but not requiring a use variance, shall be submitted to the planning board as the approving authority.
- H. See also the section entitled "Provisions Applicable to both the Board of Adjustment and Planning Board" in Article 4.

405 COMPLIANCE

All zoning requirements shall be met at the time of any erection, enlargement, moving or change in use. If a new structure is added to an existing complex of structures or if an existing structure has an addition, the site plan provisions of this ordinance shall apply to the enlargement or new structure.

All developments resulting from subdivision and site plan approvals shall comply with all the design and performance standards, including conditions imposed by the approving authority, as shown on the approved plat and/or included in the resolution adopted by the approving authority.

406 CONDITIONAL APPROVAL

Regulation of the development of land and

reasonable conditions to development applications is an exercise of valid police power delegated by the state to this municipality. The applicant has the duty of compliance with reasonable conditions laid down by the approving authority for design, dedication, improvements, and the use of land so as to conform to the physical and economical development of the municipality and to the safety and general welfare of the future residents and/or owners in the development and in the community at large. Where county planning board review or approval is required on a subdivision or site plan, the approving authority shall condition any approval it grants upon either timely receipt of a favorable report by the county planning board or approval by the county planning board due to its failure to submit a report within the required time period. If the county's report is negative or attaches conditions, the original action by the municipal approving authority shall be null and void and a new resolution shall be adopted which considers the county planning board's report.

407 CONDITIONAL USES

A. Before any permit shall be issued for a conditional use, applications shall be made to the planning board. The planning board shall grant or deny the application after public hearing, but within 95 days of submission of a complete application to the administrative officer or applicant. Where a conditional use application involves a site plan or subdivision, the planning board shall review and approve or deny the subdivision or site plan simultaneously with the conditional use application. Failure of the planning board to act within the required time period shall constitute approval of the application. In reviewing the conditional use application, the planning board shall review the number of employees or users of the property, the requirements set forth in the ordinance, and shall give due consideration to all reasonable elements which would affect the public health, welfare, safety, comfort, and convenience such as, but not limited to, the proposed use(s), the character of the area, vehicular travel patterns and access, pedestrian ways, landscaping, lighting, signs, drainage, utilities, and structural location(s) and orientation(s), and shall conduct a public hearing on the application. The use for which conditional uses are granted shall be deemed to be permitted uses in their respective districts, and each conditional use shall be considered as an individual case. In all requests for approval of conditional uses, the burden of proof shall be on the applicant. All conditional uses shall require site plan review and approval by the planning board. Prior to making its decision, the planning board shall be satisfied that the conditional use is reasonably necessary for the convenience of the public in the location proposed.

In the granting of conditional uses, a time limit of one (1) year from the date of the variance approval shall be within which time the owner shall secure a building permit, otherwise the variance granted shall be null and void.

408 EFFECTIVE DATE

This ordinance shall take effect upon its final passage and publication according to law.

409 ENFORCING OFFICERS

It shall be the duty of the zoning officer (who shall be the building inspector) to administer and enforce the zoning provisions of this ordinance. No building permit shall be issued unless the plans are accompanied by an approved zoning permit. No zoning permit shall be issued unless the proposed structure, use, temporary activity, and construction activities are in compliance with this ordinance. In cases involving the new use of an existing structure, no certificate of occupancy for the new tenant shall be issued until a zoning permit has been issued.

It shall be the duty of the Municipal Engineer to enforce the provisions of subdivision and site plan approvals.

410 EXCEPTIONS

The approving authority, when acting upon applications for preliminary or minor subdivision approval and preliminary site plan approval, shall have the power to grant such exceptions from the "Design and Performance Standards" in Article 6 of this ordinance as may be reasonable and within the general purpose and intent of the provisions for subdivision/site plan review and approval if the literal enforcement of one or more provisions of this ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

The approving authority shall have the power to review and approve or deny conditional uses or site plans simultaneously with a review for subdivision approval without the developer being required to make further application, or the approving authority being required to hold further hearings. The longest time period for action by the approving authority, whether it be for subdivision, conditional use or site plan approval, shall apply. Whenever approval of a conditional use is requested by the developer in conjunction with a site plan or subdivision, notice of the hearing on the plat shall include reference to the request for such conditional use. See Article 7.

411. EXEMPTIONS FROM SUBDIVISION REGULATIONS

Divisions of land not considered a subdivision as defined in this ordinance shall be exempt from compliance with the requirements of this ordinance. Such action shall be taken following submission of documentation to the approving authority showing the division of land by testamentary or intestate provisions; divisions of property by court order; and conveyances so as to combine existing lots by deed or other instrument, as the case may be. Until exempted from the subdivision regulations by the approving authority, no person can transfer, sell, or agree to transfer or sell, as owner or agent, any land which forms a part of a subdivision for which approval is required.

412 FEES

The developer shall, at the time of filing a submission, pay the following non-refundable fee to the Village by certified check or bank money order. Proposals involving more than one use shall pay a fee equalling the sum of the fees for the component elements of the plat. Proposals requiring a combination of approvals such as subdivision, site plan and/or a variance shall pay a fee equal to the sum of the fee for each element.

A. Subdivision

1. Preliminary Plat

\$25.00 per lot based on the total number of lots in the subdivision or \$500.00, whichever is greater.

2. Final Plat

One-half the preliminary plat fee except if no preliminary plat was submitted, the fee for final plat submission shall be the same as the preliminary plat.

3. Performance guarantees, inspection fees and maintenance guarantees shall be in addition to these filing fees and shall be as outlined in Section entitled "Guarantees and Inspections" in Article 4.

B. Site Plan

1. Preliminary and Final Site Plan

a. Residential:

\$15 per unit from 1 - 10 units; plus
\$10 per unit for 11 units or more.
Minimum Fee - \$500

b. Commercial/Industrial:

\$200 per acre or \$30 per 1,000 sq. ft. of gross
floor area; whichever is greater.
Minimum Fee - \$500

c. Free Standing or Lighted Signs not included in other
Site Plans: \$75

2. Performance guarantees, inspection fees and maintenance
guarantees shall be in addition to these filing fees
and shall be as outlined in the Section entitled
"Guarantees and Inspections" in Article 4.

C. Variances

1. Hear and decide appeals \$100

2. Conditional uses \$100

3. Interpretation of the zoning map \$100

4. Hardship variance \$100

5. Use variance.

a. Residential:

\$100 per dwelling unit

b. Other uses:

\$150 per acre

c. Minimum:

\$100

6. Building Permit in conflict with
Official Map or Building Permit
for lot not related to a street

\$ 75

413 GUARANTEES AND INSPECTIONS.

A. No final plat shall be approved by the approving authority
until all items required to be bonded (on-site, off-site
and off-tract) in the public interest have been installed,
inspected, certified, and approved by the Municipal Engineer
and accepted by the governing body and a maintenance
guarantee has been filed and accepted by the governing
body in accordance with the requirements of this Section,
or their installation shall have been provided for by a
performance guarantee accepted and approved by the governing
body in accordance with the requirements of this Section.
No maintenance bond shall be accepted nor shall any partial
facility be accepted for any item which has further stages
of work to be completed or which will need to be altered
or re-worked in any manner due to the installation or con-
nection of any other facility. Any improvements installed
prior to final plat application that do not meet the
standards of this ordinance or other regulations shall be
added to the performance guarantee.

- B. A performance guarantee cost estimate shall be submitted to the approving authority by the Municipal Engineer as part of his report on preliminary and final plat review. The approving authority may request the Municipal Engineer to review and update this estimate from time to time as required.
- C. The proposed performance guarantee required for final plat approval shall be submitted to the Municipal Engineer and Municipal Attorney for recommendations as to accuracy and form and then to the governing body for approval and acceptance by resolution. Submission for final plat approval shall not be made until the performance guarantee has been accepted and approved by the governing body.
1. The performance guarantee shall consist of the performance guarantee cost estimate and a performance bond, in which the developer shall be principal and an acceptable surety company licensed to do business in the State of New Jersey, and/or cash or certified check which shall be deposited with the Village Clerk, shall be surety. The clerk shall issue a receipt for such deposits and shall retain the deposits as security for completion of all requirements to be returned to the developer on completion of all required work or, in the event of default on the part of the developer, to be used by the Village to pay the costs of completing the requirements. If the required improvements have not been completed or corrected in accordance with the standards of the Village or within the stipulated time, the obligor and surety for any bond shall be liable thereon to the Village for the reasonable cost of the improvements not completed or corrected, and upon authorization by the governing body, the Municipal Attorney shall take the necessary steps to obtain such costs from the obligor and surety. The Village may, either prior to or after receipt of the proceeds thereof complete such improvements.
 2. The total performance guarantee shall equal one hundred twenty percent (120%) of the performance guarantee cost estimate plus an amount equal to fifteen percent (15%) of the cost of any facilities installed prior to final submission as a maintenance guarantee. Ninety percent (90%) of this total shall be in either cash, certified check or surety bond of a bonding company approved by the governing body. The remaining ten percent (10%) shall be in cash and shall be paid in like manner and under the same conditions as the security aforesaid. In the event of default, the ten percent (10%) cash fund herein mentioned shall be first applied to the completion of the requirements and the cash, certified check, or surety bond shall thereafter be resorted to, if necessary, for the completion of the requirements. The cash or surety bond may recite the foregoing provision. The Municipal Engineer's certification that the principal has satisfactorily installed or has defaulted in meeting the required standards of construction shall be the basis for governing body action which accepts or rejects the improvements, withholds approval, or may extend the time allowed for installation of the improvements.
- D. The Village Clerk shall immediately notify the approving authority and the Municipal Engineer when the performance guarantee has been approved and accepted by the governing body.

- E. Prior to beginning construction, the developer shall arrange for a pre-construction conference between the developer, contractor, and Municipal Engineer. All improvements and utility installations shall be inspected during the time of their installation under the supervision of the Municipal Engineer to insure satisfactory completion. The Municipal Engineer shall be notified by the developer five (5) days in advance of the start of construction. The cost of said inspection shall be the responsibility of the developer. The developer shall reimburse the municipality for all reasonable inspection fees by submitting a certified check or bank money order to the Village Clerk upon receipt of a bill from the municipality. This fee shall be in addition to the amount of the performance guarantee and all applications fees as outlined above and computed as follows:

The construction inspection fee is to be calculated from the following tabulation based on the estimated cost of constructing the improvements which estimate is to be prepared and submitted by the developer's engineer and approved by the Municipal Engineer, with the concurrence of the governing body: estimated construction costs \$5,000 and less, fee \$350. Over \$5,000 and less than or equal to \$10,000, \$350 plus five (5%) percent of excess over \$5,000. Over \$10,000 and less than \$50,000, \$600 plus four (4%) percent of excess over \$10,000. Over \$50,000 and less than or equal to \$75,000, \$2,200 plus three and one-half (3½%) percent of excess over \$50,000. Over \$75,000 and less than or equal to \$100,000, \$3,075 plus two and one-half (2½%) percent of excess over \$75,000. Over \$100,000, \$3,700 plus one (1%) percent of excess over \$100,000.

Improvement costs, as estimated in this Section, shall be defined to include construction and installation costs of grading, pavement, surveyor's monuments, drainage structures, storm sewers, sanitary sewers, water mains, fire protection features, streets, gutters, curbs, culverts, sidewalks, street lighting, shade trees, parking areas, landscaping, street signs, erosion control and sedimentation control devices, public improvements of open space, and other on-tract improvements.

- F. No work shall be done without permission from the Municipal Engineer. No underground installation shall be covered until inspected and approved. The Municipal Engineer's office shall be notified after each of the following phases of the work has been completed so that he may inspect the work: road subgrade; curb and gutter forms; curbs and gutters; road paving (after each coat in case of priming and sealing); drainage pipes and other drainage structures before backfilling; shade trees and planting strips; street name signs; and monuments.
- G. Electrical, gas, telephone and all other utility installations installed by utility companies shall not be subject to the inspection requirements contained herein.
- H. Occupancy permits will be issued only when the installation of curbs, utilities, functioning water supply and sewage treatment facilities, necessary storm drainage to insure proper drainage of the lot and surrounding land, rough grading of lots, soil stabilization, base course for the street and driveway, and sidewalks are installed to serve the lot and structure for which the permit is requested. Streets shall not receive surface course paving until all

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heavy construction is completed. Shade trees shall not be planted until all grading and earth moving is completed. Seeding of grass areas shall be the final operation.

- I. Inspection by the Municipal Engineer of the installation of improvements and utilities shall not subject the municipality to liability for claims, suits, or liability of any kind that may arise because of defects or negligence, it being recognized that the responsibility to provide proper utilities and improvements and to maintain safe conditions at all times on all parts of the tract whether construction is waiting to start, is in progress, or is completed or any combination of conditions on all or a part of the tract is upon the developer and his contractors or subcontractors, if any.
- J. After completing the construction of the improvements covered by the performance guarantee, the developer shall prepare two (2) sets of the improvements and utility plans and the profiles amended to read "as constructed" and apply to the governing body for final inspection of the work. The Municipal Engineer shall, within sixty (60) days of completing the inspection, report in writing to the governing body indicating either approval, partial approval or rejection of the improvements with a statement of reasons for any rejection. If partial approval is indicated, the cost of the improvements rejected shall be set forth.
- K. The governing body shall either approve, partially approve or reject the improvements, on the basis of the report of the Municipal Engineer and shall notify the obligor in writing, by certified mail, of the contents of said report and the action of said approving authority with relation thereto, not later than 65 days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from all liability pursuant to its performance guarantee, except for that portion adequately sufficient to secure provision of the improvements not yet approved. 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 guarantee.
- L. 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.
- M. The approval of any plat under this ordinance by the approving authority shall in no way be construed as acceptance of any street, drainage system, or other improvement required by this ordinance, nor shall such plat approval obligate the Village in any way to maintain or exercise jurisdiction over such street, drainage system, or other improvement. Acceptance of any street, drainage system or other improvement shall be implemented only by favorable action by the governing body.
- N. Maintenance Guarantee
No improvement shall be accepted by the governing body unless and until all of the following conditions have been met:

1. The Municipal Engineer shall have certified in writing that all the improvements are complete and that they comply fully with the requirements of this ordinance and of other applicable local ordinances.
2. Provision for a maintenance guarantee to be posted with the governing body for a period not to exceed 2 years after final acceptance of the improvement, in an amount not to exceed 15 percent of the cost of the improvement. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the municipality for such utilities or improvements

414 INCONSISTENT ORDINANCES REPEALED

All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency. Upon the adoption of this ordinance according to law, Ordinances 68, 111, 117, 120, 137 and 138 are repealed.

415 INSPECTIONS

See Section entitled "Guarantees and Inspections" in Article 4.

416 INTERPRETATION

The provisions of this ordinance shall be held to be minimum requirements. Where this ordinance establishes both minimum and maximum standards, both standards shall be met even though the combination of standards may not permit development to take advantage of all standards simultaneously. Where any provision of this ordinance imposes restrictions different from those imposed by any other provision of this ordinance or any other ordinance, rule or regulation, or other provision of law, whichever provision(s) are more restrictive or impose higher standards shall control. Zoning district boundary lines are intended to follow street centerlines, streams, and lot or property lines unless otherwise indicated by dimensions on the zoning map. Any dimensions shown shall be in feet, measured horizontally and measured from the street right-of-way line even if the centerline of that street serves as a zoning district line. The location of any disputed zoning district line shall be determined by the Board of Adjustment. Zoning district lines extend vertically in both directions from ground level.

417 PERMITS

- A. No zoning permit, building permit, or certificate of occupancy shall be issued for any parcel of land or structure which was sold or on which improvements were undertaken in violation of the provisions of this ordinance or for use of a lot which was created by subdivision after the effective date of, and not in conformity with the provisions of this ordinance. No site improvements such as, but not limited to, excavation or construction of public or private improvements shall be commenced except in conformance with this ordinance in accordance with plat approvals and the issuance of required permits.
- B. A zoning permit shall be issued by the Zoning Officer before the issuance of either a certificate of occupancy to a new occupant of an existing building or portion of an existing building, or before the issuance of a building permit.

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- C. It shall be unlawful to use or permit the use of any building or part thereof hereafter created, erected, changed, converted, altered or enlarged, wholly or in part, until a certificate of occupancy shall have been issued by the Building Inspector and no certificate shall be issued unless the land, building and use thereof comply with this ordinance; all matters incorporated on the approved subdivision or site plan have been completed and certified by the Municipal Engineer; and the building and health codes are complied with.
- D. Each request for a zoning permit and a certificate of occupancy shall be accompanied by a certified check or bank money order payable to the Village of Loch Arbour in the amount of \$10 for a zoning permit and \$10 per dwelling unit for a certificate of occupancy and \$50 for each one thousand square feet of gross floor area of non-residential use for a certificate of occupancy.
- E. Building Permits and Procedure
Every application for a building permit shall be accompanied by three sets of plans drawn in ink, or blue-print, and showing the actual shape and dimensions of the lot to be built upon, the exact location, size and height of the buildings and accessory buildings existing and proposed, and the lines within which the building or structure is to be erected or altered, the existing or intended use of each building or part of a building, the number of families or dwelling units the building is designed to accommodate, the number and location of off-street parking spaces and off-street loading areas, and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Ordinance. One copy of such plans shall be returned to the owner when such plans shall have been approved by the Building Inspector together with such permit as may be granted. All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on an actual survey of the lot by a licensed land surveyor in the State of New Jersey. The lot and location of the building thereon shall be staked out on the grounds before construction is started. No building permit shall be issued for any new building located in a subdivision unless that subdivision is duly approved by the approving authority.
- F. Certificate of Occupancy
1. It shall be unlawful to use or permit the use of any building or part thereof, hereafter erected, altered, converted or enlarged wholly or in part, until a Certificate of Occupancy, applied for at the time of application for a building permit, shall have been issued by the Building Inspector. Such certificate shall show that such building, or part of a building, and the proposed use thereof conform to the requirements of this ordinance. It shall be the duty of the Building Inspector to issue a Certificate of Occupancy only when he is satisfied that the building, or part of a building, and the proposed use thereof conform to this ordinance and all other applicable codes and ordinances of the Village. Such occupancy permits shall be granted or denied in writing within ten (10) days from the date that a written application is filed with the Building Inspector unless some additional time is agreed upon by the applicant.

2. Should the Building Inspector decline to issue a Certificate of Occupancy, his reasons for doing so shall be so stated on one copy of the application and that copy returned to the applicant.
3. Revocation: On the serving of notice of any violation of any of the provisions or requirements of this Ordinance with respect to any building or use thereof or of land, the Certificate of Occupancy for such use shall thereupon, without further action be null and void and a new Certificate of Occupancy shall be required for any further use of such building or land.
4. Filing
A monthly report of the Certificates of Occupancy shall be filed with the Tax Assessor. A record of all Certificates of Occupancy shall be kept in the office of the Building Inspector and copies shall be furnished on request, to any person having a propriety or tenancy interest in the building or land affected. The charge for each copy shall be Three Dollars (\$3.00) except that there shall be no charge to a municipal agency.

G. Records

It shall be the duty of the Building Official to keep a record of all applications for permits, a record of all permits issued, and a record of all Certificates of Occupancy which he countersigns, together with a notation of all special conditions involved. He shall file and safely keep copies of all plans submitted, and the same shall form a part of the records of his office and shall be available for the use of the Officials of the Village of Loch Arbour. All records shall be kept in the Village Office.

418 PLANNING BOARD

A. Establishment.

There is hereby established pursuant to c. 291 P.L. 1975 in the Village of Loch Arbour, a Planning Board of 7 members consisting of the following four classes:

Class I - The President of the Board of Trustees.

Class II - One of the Officials of the Village of Loch Arbour, other than a member of the Board of Trustees, to be appointed by the President of the Board of Trustees.

Class III - A member of the Board of Trustees, to be appointed by it.

Class IV - Four other citizens of the Village of Loch Arbour, to be appointed by the President of the Board of Trustees.

The members of Class IV shall 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. A member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be a Class IV Planning Board member unless there be among the Class IV members of the Planning Board both a member of the Zoning Board of Adjustment and a member of the Board of Education, in which case the member of the Environmental Commission shall be deemed to be a Class II member of the Planning Board.

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B. Terms.

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

The term of a Class IV member who is also a member of the Board of Adjustment or a Board of Education, shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first.

The terms of all Class IV members first appointed pursuant to this ordinance shall be so determined that to the greatest practicable extent the expiration of such term shall be distributed evenly over the first four years after their appointment as determined by resolution of the governing body, provided, however, that no term of any member shall exceed four years and further provided that nothing herein shall affect the term of any present member of the Planning Board, all of whom shall continue in office until the completion of the terms for which they were appointed. Thereafter, all Class IV members shall be appointed for terms of four years except as otherwise herein provided. All terms shall run from January 1 of the year in which the appointment was made.

C. Vacancies.

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

D. The Planning Board shall also consist of alternate members in Class II, III, and IV who shall be appointed and serve pursuant to the terms of N.J.S.A. 40:55D-23.

E. Authority.

Except where a use variance is involved as outlined in the section entitled "Board of Adjustment" in Article 4, the Planning Board shall approve all subdivision, site plans and conditional uses. The Planning Board when reviewing these applications shall have the power to grant exceptions as noted in the section entitled "Exceptions" in Article 4 to the same extent and subject to the same restrictions as the Board of Adjustment. The Planning Board shall have the following authority:

1. Grant a variance from such strict application of the zoning regulations where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions, or by reason of other extraordinary and exceptional situation or condition of such piece of property the strict application of any regulation of this ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property in order to relieve such difficulties or hardship, provided that relief pursuant to this provision from lot area requirements shall not be granted for more than one lot.

2. Whenever relief is requested pursuant to this section, notice of the hearing on the application for development shall include reference to the request for a variance or direction for issuance of a permit, as the case may be. Whenever an application for approval of a subdivision plat, site plan or conditional use includes a request for a variance or the issuance of a permit, the Planning Board shall grant or deny approval of the application within 95 days after submission of a complete application to the Administrative Officer or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within this period shall constitute approval of the application.
3. The Planning Board shall also have the power to review and approve or deny conditional uses. The Board has the authority to review all aspects of a development plan simultaneously 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 developer pursuant to these provisions, notice of the hearing shall include reference to the request for such conditional use.
4. Hearing notices and actions taken by the Planning Board when reviewing a site plan or subdivision simultaneously with applications requiring considerations for conditional uses and variances shall be in accordance with the section entitled "Public Hearings" in Article 4.
5. In the event the Planning Board disapproves a development plan, no building permit or certificate of occupancy shall be issued. Any applicant wishing to make a change in an approved application shall follow the same procedure as the original application.
6. The Planning Board shall have the authority to permit a deviation from the final plan if caused by change of conditions beyond the control of the developer since the date of final approval, and the deviation would not substantially alter the character of the development or substantially impair the intent and purpose of the master plan and zoning ordinance.

E. See also the section entitled "Provisions Applicable to both the Board of Adjustment and Planning Board" in Article 4.

419 PROHIBITED USES

All uses not expressly permitted in this ordinance are prohibited.

420 PROVISIONS APPLICABLE TO BOTH THE BOARD OF ADJUSTMENT AND PLANNING BOARD

- A. Organization of Board. The Planning Board shall elect a Chairman and Vice Chairman from the members of Class IV. The Board of Adjustment shall elect a Chairman and Vice Chairman from its members. Both boards shall select a Secretary and Assistant Secretary who may be members of the Board or municipal employees.

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- B. Attorney. There is hereby created the office of Planning Board Attorney and the Office of Attorney to the Zoning Board of Adjustment. Each board may annually appoint, fix the compensation of or agree upon the rate of compensation of their respective Board Attorney who shall be an Attorney other than the Municipal Attorney.
- C. Experts and Staff. The Planning Board and the Zoning Board of Adjustment may employ or contract for the services of experts and other staff and services as they 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.
- D. Rules and Regulations. Each Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this ordinance. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S. 2A:67A-1 et seq.) shall apply.
- E. Conflicts of Interest. No member of the Planning Board or Zoning Board of Adjustment shall act on any matter in which he has either directly or indirectly any personal or financial interest. Whenever any such member shall disqualify himself from acting on a particular matter, he shall not continue to sit with the Board on the hearing of such matter nor participate in any discussion or decision relating thereto.
- F. Meetings. Meetings of both the Planning Board and the Zoning Board of Adjustment shall be scheduled no less often than once a month and any meeting so scheduled shall be held as scheduled unless cancelled for lack of applications for development to process.
- Special meetings may be provided for at the call of the Chairman or on the request of any two Board members, which shall be held on notice to its members and the public in accordance with all applicable legal requirements.
- No action shall be taken at any meeting without a quorum being present.
- All actions shall be taken by majority vote of a quorum except as otherwise required by any provision of C. 291 Laws of N.J. 1975 Section 5A.
- All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meetings Law, Ch. 231, Laws of N.J. 1975.
- G. 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 appearing by Attorney, the action taken by the Board, the findings, if any, made by it and reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the Village Clerk. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party may be charged a fee for reproduction of the minutes for his use as provided for in the rules of the Board.

H. Hearings.

- a. Rules. The Planning Board and Zoning Board of Adjustment may make rules governing the conduct of hearings before such bodies, which rules shall not be inconsistent with the provisions of N.J.S. 40:55D-1 et seq. or of this ordinance.
- b. Oaths. The officer presiding at the hearing or such person as he may designate shall have the power to administer oaths or issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the "County and Municipal Investigations Law" P.L. 1953, c. 1938 (c. 2A:67A-1 et seq.) shall apply.
- c. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer and the right of cross examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.
- d. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.
- e. Records. Each Board shall provide for the verbatim recording of proceedings by either stenographer, mechanical or electronic means. The Board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his expense.

421 PUBLIC HEARINGS & NOTICES

All public hearings conducted on subdivisions, site plans, or variances before either the Board of Adjustment or Planning Board shall follow the requirements of the Municipal Land Use Law as summarized below:

- A. Any maps and documents submitted for approval shall be on file and available for public inspection at least ten days before the hearing date during normal business hours in the office of the Village Clerk.
- B. The approving authority shall provide for the verbatim recording of the proceedings by either stenographic, mechanical or electronic means.
- C. Each decision on any application shall be in writing and shall include findings of facts and conclusions based thereon.
- D. A copy of the decision shall be mailed by the approving authority within ten days of the date of the decision to the applicant, or if represented by an attorney, then to the attorney, and a copy shall also be filed in the office of the Administrative Officer. A brief notice of the decision shall be published in the official newspaper of the municipality, the publication of which shall be arranged by the Administrative Officer. The period of time in which an appeal of the decision may be made shall run from the first publication of the decision.
- E. All notices shall state the date, time and place of the hearing, the nature of the matters to be considered and an identification of the property proposed for development.

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by street addresses, if any, or by reference to lot and block numbers and the location and times at which any maps and documents are available for public inspection.

F. All notices shall be the responsibility of the applicant and shall be given at least ten days prior to the hearing date:

1. Public notice shall be given by publication in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality.
2. Notice shall be given to the owners of all real property as shown on the current tax duplicate, located within 200 feet in all directions of the property which is the subject of such hearing. This notice shall be given by either serving a copy thereof on the property owner as shown on the said current tax duplicate or his agent in charge of the property, or mailing a copy thereof by certified mail to the property owner at his address as shown on the said current tax duplicate.
3. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.
4. 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.
5. Notice shall be given by personal service or certified mail to (1) the County Planning Board where the hearing concerns a property adjacent to an existing county road or proposed road shown on the official county map or on the county master plan, adjoining other county land, or situated within 200 feet of a municipal boundary; (2) to the commissioner of transportation where the hearing concerns a property adjacent to a state highway; (3) to the director of the Division of State and Regional Planning where the hearing concerns a property which exceeds 150 acres or exceeds 500 dwelling units and the notice to the director shall include a copy of any maps or documents required to be on file with the Administrative Officer.

G. The applicant shall file an affidavit of proof of service with the municipal agency holding the hearing. Any notice made by certified mail shall be deemed complete upon mailing.

422 SAVING PROVISION

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision, site plan or zoning regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the municipality under any section or provision existing at the time of adoption of this ordinance, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the municipality except as shall be expressly provided for in this ordinance.

423 SITE PLAN APPROVAL REQUIRED

A site plan approval is required for all developments which do not meet the definition of an exempt site plan as set forth in Article 3.

424 USE VARIANCE APPLICATIONS TO THE PLANNING BOARD

Any appeal for a variance to allow a structure or use in a district restricted against such structure or use shall have three (3) copies of all supporting documents and the application filed with the Administrative Officer. (One (1) copy shall be forwarded to the Planning Board by the Administrative Officer together with a notice of the hearing date. The Planning Board shall review the material and may make recommendations to the Board of Adjustment at the public hearing on the application. The Planning Board's recommendations may contain, among other things, the Planning Board's opinion as to the compatibility of the proposal to the master plan; applications which may have been or are currently being processed by the Planning Board for similar uses elsewhere in the Village; land use, traffic and other data relevant to the application which the Planning Board has in its files; and what conditions, if any, the Planning Board would recommend be imposed on the applicant to improve compatibility with the master plan and zoning ordinance should the Board of Adjustment grant the variance.

425 VACATING A STREET OR OTHER PUBLIC WAY

Where a street or public way serves as the zoning district line and it is lawfully vacated, the former centerline shall be considered the zoning district line.

426 VALIDITY

If any section, paragraph, clause, or other provision of this ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, clause or provision so adjudged and the remainder of this ordinance shall be deemed valid and effective.

427 VIOLATIONS AND PENALTIES

- A. In case any building or structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this act or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality or an interested party, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, to prevent any illegal act, conduct, business or use in or about such premises.
- B. 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 municipal approval is required by ordinance pursuant to this act, such persons shall be subject to a penalty not to exceed \$1,000.00, and each lot disposition so made may be deemed a separate violation.

In addition to the foregoing, the municipality may institute and maintain a civil action:

1. For injunctive relief; and
2. 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 R.S. 40:55D-56, but only if the municipality (1) has a Planning Board and (2) has adopted by ordinance standards and procedures in accordance with R.S. 40:55D-38.

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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 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 expenses, if any. Any such action must be brought within 2 years after the date of the recording of the instrument of transfer, sale or conveyance of said land or within 6 years, if unrecorded.

- C. See section entitled "Permits" and "Enforcing Officers" in Article 4.

428 ZONING DISTRICTS AND ZONING MAP

The zoning districts shall be as shown on the accompanying map and enumerated in the District Regulations.

ARTICLE 5

DEVELOPMENT REVIEW PROCEDURES AND PLAT DETAILS

501 SIMULTANEOUS REVIEW

The approving authority shall have the power to review and approve or deny conditional uses or site plans simultaneously with a review for subdivision approval without the developer being required to make further application, or the approving authority being required to hold further hearings. The longest time period for action by the approving authority, whether it be for subdivision, conditional use or site plan approval, shall apply. Whenever approval of a conditional use is requested by the developer in conjunction with a site plan or subdivision, notice of the hearing on the plat shall include reference to the request for such conditional use. See Section entitled "Conditional Use" in Article 4.

502 INFORMAL DISCUSSION

- A. An informal submission is optional. Any person may appear at a regular meeting of the Planning Board for informal discussion with reference to an informally prepared plat of sufficient accuracy to be used for purpose of discussion. The purpose of such a discussion will be to review overall development concepts in order to assist the applicant in the preparation of subsequent plans. No decisions will be made and no formal action taken on an informal discussion.
- B. All plats containing proposals and/or designs for drainage, streets and subdivision layouts are for discussion and classification. The data included on an informal submission of a site plan shall include sufficient basic data to enable the Planning Board and the applicant to comment upon design concepts such as building location, ingress and egress, parking, major natural features that will have to be recognized or may influence certain design criteria, and the applicant's basic intent for water, sewerage, and storm drainage facilities. Informal submissions are sketches to scale of possible plan(s) for the development of an area. They are not binding on the municipality or upon the developer and do not necessitate accurate engineered drawings.

503 SUBMISSION OF PRELIMINARY PLATA. Filing Procedure

Any developer shall submit to the Administrative Officer at least two (2) weeks prior to the meeting of the approving authority, 8 black on white copies of the preliminary plat, 3 completed copies of the application form for preliminary approval; 2 completed copies of the preliminary plat check list; 2 completed copies of the County Planning Board application form; 3 copies of any protective covenants, deed restrictions and easements, applying to the land being developed; 2 copies of the Environmental Impact Report, and Soil Removal and Redistribution data as required in Article 6 of this ordinance; and the applicable fee.

B. Action by the Approving Authority

1. The approving authority shall review the submission for its completeness and take action on accepting or rejecting the submission as a complete application. If rejected, the applicant shall be notified within forty-five (45) days of submission. If accepted as an application, a public hearing date shall be set and notice given as required by this ordinance in Article 4.
2. Upon submission of a plat and before approval of a plat, the Administrative Officer shall submit one (1) copy of the plat and supporting data to the County Planning Board, Municipal Engineer, and any other agency or person as directed by the approving authority for their review and action. Each shall have thirty (30) days from receipt of the plat to report to the approving authority. In the event of disapproval, such report shall state the reasons therefor. If any agency, or person fails to report to the approving authority within the thirty (30) day period, said plat shall be deemed to have been approved by them. Upon mutual agreement between the County Planning Board and the approving authority, with approval of the applicant, the thirty (30) day period for a County Planning Board report may be extended for an additional thirty (30) days and any extension shall so extend the time within which the approving authority is required to act.
3. If the submission is accepted as a subdivision, the approving authority shall grant or deny preliminary approval of a subdivision of ten (10) or fewer lots within forty-five (45) days of the date of such submission or within such further time as may be consented to by the developer. Upon the submission of a complete application for a subdivision of more than ten (10) lots, the approving authority shall grant or deny preliminary approval within ninety-five (95) days of the date of such submission or within such further time as may be consented to by the developer. Otherwise, the approving authority shall be deemed to have granted preliminary approval to the subdivision.
4. If the submission is accepted as a site plan, the approving authority shall grant or deny preliminary site plan approval within the following time periods unless some further time has been consented to by the developer:
 - a. A site plan for ten (10) acres of land or less: within forty-five (45) days of the date of submission.
 - b. A site plan of more than ten (10) acres: within ninety-five (95) days of the date of submission.

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Before any action is taken on any preliminary site plan or for a site plan containing a flood hazard area, the approving authority shall conduct a public hearing as established in this ordinance. Where a public hearing is scheduled for a site plan, no action shall be taken until completion of the public hearing and the scheduling and notifications for the hearing shall be in accordance with this ordinance.

5. If the approving authority required any substantial amendment in the layout of improvements in either a site plan or subdivision as proposed by the developer and that plan had been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development. The approving authority shall, if the proposed development complies with this ordinance, grant preliminary approval.
6. The approving authority may approve, disapprove, or approve with conditions the application, including action on the "Environmental Impact Report" in Article 6. Such action shall not take place until after any required public hearing has been conducted. The decision shall be in writing and shall be sent to the applicant and the newspaper as required by the Section entitled "Public Hearings & Notices" in Article 4. If the approving authority grants preliminary approval, its chairman and secretary (or the vice-chairman or assistant secretary in their absence, respectively) and Municipal Engineer shall sign each page of the plat indicating the approval. If the plat is conditionally approved, it shall not be signed until all conditions are complied with. If all conditions are not complied with within 180 days from the date of the meeting at which a plat was conditionally approved, the conditional approval shall lapse.
7. Preliminary approval shall, except as provided in paragraph d below, confer upon the applicant the following rights for a three (3) year period from the date of the preliminary approval; otherwise the approval shall be void.
 - a. That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to: use requirements; layout and design standards for streets, curbs and sidewalks; lot size; yard dimensions and off-tract improvements; any requirements peculiar to site plan approval; except that nothing herein shall be construed to prevent the municipality from modifying by ordinance such general terms and conditions of preliminary approval as relate to public health and safety.
 - b. That the applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary plat.
 - c. That the applicant may apply for and the approving authority may grant extensions on such preliminary approval for additional periods of at least one (1) year but not to exceed a total extension of two (2) years, provided that if the design standards have been revised by ordinance, such revised standards may govern.

- d. In the case of a subdivision of or site plan for an area of 50 acres or more, the Planning Board may grant the rights referred to in subsections a., b., and c. above for such period of time, longer than three (3) years, as shall be determined by the Planning Board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under preliminary approval, (2) economic conditions, and (3) 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 (1) the number of dwelling units and nonresidential floor area permissible under preliminary approval, and (2) the potential number of dwelling units and nonresidential floor area of the section or sections awaiting final approval, (3) economic conditions and (4) the comprehensiveness of the development: provided that if the design standards have been revised, such revised standards may govern.

504 SUBMISSION OF FINAL PLAT

A. Filing Procedure

1. The developer shall file with the Administrative Officer at least two (2) weeks prior to the meeting of the approving authority one (1) Mylar, two (2) cloth and 8 black on white paper prints of the plat and 3 completed copies of the application form for final approval, 2 completed copies of the final plat check list, 2 completed copies of the County Planning Board application form, the performance guarantee including off-tract improvements, if any, any maintenance guarantees, and the applicable fee.
2. The final plat shall be accompanied by letters directed to the chairman of the approving authority and signed by a responsible officer of the water company, sewer authority, and utility which provides gas, telephone and electricity that has jurisdiction in the area. Such letters shall approve each proposed utility installation design and stating who will construct the facility.
3. The final plat shall be accompanied by a statement by the Municipal Engineer that he is in receipt of a map showing all utilities and other improvements (both in the development and off-tract improvements) in exact location and elevation, that he has examined the drainage, erosion, storm water control, and excavation plans and found that the interests of the Village and of nearby properties are fully protected, and identifying those portions of any improvements already installed and that the subdivider has either:
 - a. Installed all improvements in accordance with the requirements of this ordinance and the preliminary plat approval with a maintenance guarantee accompanying the final plat; or
 - b. Posted a performance guarantee in accordance with this ordinance and the preliminary plat approval for all partially completed improvements or improvements not yet initiated.

B. Action by the Approving Authority

1. The approving authority shall grant final approval if the detailed drawings, specifications and estimates of the application for final approval conform to the standards established by ordinance for final approval, the conditions of preliminary approval and, in the case of a major subdivision, the standards prescribed by the "Map Filing Law", 46:23-9.9 et seq.
2. Final approval shall be granted or denied within forth-five (45) days after submission of a complete application to the Administrative Officer, or within such further time as may be consented to by the applicant. An approved final plat shall be signed by the chairman and secretary of the approving authority (or the vice chairman or assistant secretary in their absence, respectively). Failure of the approving authority to act within the period prescribed shall constitute final approval and a certificate of the Administrative Officer as to the failure of the approving authority to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the County Recording Officer for purposes of filing subdivision plats.
3. Whenever review or approval of the application by the County Planning Board is required by 40:27-6.3 or 40:27-6.6, the municipal approving authority shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.
4. The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer pursuant to the Municipal Land Use Law, whether conditionally or otherwise, shall not be changed for a period of two (2) years after the date of final approval. If the developer has followed the standards prescribed for final approval, the approving authority may extend such period of protection for extensions of one (1) year, but not to exceed three (3) extensions. Upon granting the final approval, the rights conferred upon the applicant by granting of preliminary approval shall be terminated upon final approval.
5. The developer shall supply sufficient copies of the approved final plat so the Administrative Officer can distribute one copy to each of the following: Village Clerk, Municipal Engineer, Tax Assessor and Planning Board and any other agency or person directed by the approving authority.
6. Final approval of a major subdivision shall expire ninety-five (95) days from the date of signing of the plat unless within such period the plat shall have been duly filed by the developer with the County Recording Officer. The approving authority may for good cause shown extend the period for recording for an additional period not to exceed one hundred ninety (190) days from the date of signing of the plat. No subdivision plat shall be accepted for filing by the County Recording Officer until it has been approved by the approving authority as indicated on the instrument by the signature of the Chairman and Secretary of the Planning Board or a certificate has been issued as to the failure of the approving authority to act within the required time. The signatures of the Chairman and Secretary shall be affixed until the plat is filed.

guarantees. If the County Recording Officer records any plat without such approval, such recording shall be deemed null and void, and upon request of the municipality, the Plat shall be expunged from the official records. It shall be the duty of the County Recording Officer to notify the approving authority in writing within seven (7) days of the filing of any plat, identifying such instrument by its title, date of filing, and official number.

505 PLAT DESIGN STANDARDS FOR SUBDIVISIONS

A. Plat Conformity

No development application shall be accepted unless submitted in plat form and no plat shall be accepted for consideration unless it conforms to the following requirements as to form, content and accompanying information, and complies with the provisions of N.J.S.A. 46-23.1 et seq. (Map Filing Law), as amended. All plats shall be drawn by a land surveyor as required by law, licensed to practice in the State of New Jersey, and shall bear the signature, seal, license number and address of the land surveyor except that plats submitted under the "Informal Discussion" provisions of Article 5 are exempt from this requirement. All drawings of improvements shall be signed and sealed by a licensed Professional Engineer of the State of New Jersey.

B. Preliminary Subdivision Plat

1. Clearly and legibly drawn and designed in compliance with Article 6.
2. Graphic scale not less than 1" = 100'.
3. Based on certified boundary survey and drawn by a land surveyor licensed in New Jersey with design and improvements drawn by a Professional Engineer licensed in New Jersey.
4. Sheet sizes of 30" x 42"; 24" x 36"; 15" x 21"; or 8½" x 13". If more than one sheet is required to show the entire subdivision, a separate composite map at a reduced size shall be drawn on one sheet showing the entire subdivision and the sheets on which the various sections are shown.
5. Key map with north arrow showing the entire subdivision in relation to surrounding areas including the names of principal roads and at a scale of not less than 1" = 2,000'.
6. Title Block with the name of the subdivision; any development names previously associated with the application; the name of the municipality; tax map sheet, block and lot number; date of preparation and most recent revision; meridian; north arrow; graphic scale; the names, addresses, phone numbers, and signatures of the owner, subdivider and person(s) who prepared the plat(s) including the seal of the latter; and space for the subdivision application number.
7. The names of all property owners within two hundred (200) feet of the extreme limits of the subdivision as disclosed on the most recent municipal tax records.
8. Tract acreage to nearest tenth of an acre; the number of new lots; each lot line dimension, and each lot area to the nearest square foot.

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9. Existing and proposed contours at 1-foot intervals. All elevations shall be related to a bench mark noted on the plan and wherever possible be based on U.S. Geological Survey mean sea level datum.
10. The location of existing and proposed property lines, streets, buildings, water courses, railroads, culverts, bridges, drain pipes, and any natural features.
11. Plans of proposed utility layouts (sewers, storm drains, water, gas, electricity) showing feasible connections to existing utility systems.
12. A copy of any protective covenants or deed restrictions applying to the land being subdivided.
13. Certification by Land Surveyor, or by Professional Engineer and Land Surveyors, as to accuracy of plat.
14. An itemization of all improvements to be made to the site as required in Article 6 and such other improvements onsite, offsite and off-tract as the public interest may require, together with a listing of the work and materials to be used in installing such improvements including estimated quantities of necessary materials, sufficient to enable the Municipal Engineer to formulate a performance guarantee estimate.
15. Each application shall have attached to it a written certification from the Tax Collector of the Village of Loch Arbour that no taxes or assessments for local improvements are due or delinquent on the property for which any such application is made. Said certification shall be dated no earlier than seven (7) days prior to filing of the aforescribed application.

C. Final Subdivision Plat

1. Clearly and legibly drawn.
2. Graphic scale not less than 1" = 100'.
3. Drawn in compliance with Map Filing Law.
4. Sheet sizes of 30" x 42"; 24" x 36"; 15" x 21"; or 8½" x 13". If more than one sheet is required to show the entire subdivision, a separate composite map at a reduced size shall be drawn on one sheet showing the entire subdivision and the sheets on which the various sections are shown.
5. The final plat shall show the same information required for preliminary approval in addition to the following:
 - a. Signature blocks for the approving authority, Municipal Engineer, and other endorsements required by law.
 - b. Tract Boundary lines; municipal boundary line if within 200 feet of the tract being subdivided; street names; all lot lines and other site lines with accurate dimensions, bearing or deflection angles and radii, arcs and chord bearings and distances of all curves based on an actual survey by a Land Surveyor licensed to practice in the State of New Jersey with minimum building setback lines and the area of each lot shown to the nearest square foot. All dimensions, both linear and angular, of the exterior tract boundaries shall be based on and calculated from surveyed traversing

which shall have an apparent error of field closure of 1:10,000 or better and shall be corrected by accepted balancing methods to final errorless closure; all final exterior and lot boundaries shall be similarly balanced to final errorless closure. All dimensions, angles, and bearings, given on the map must be referred to at least two (2) permanent monuments which shall be indicated on the map.

- c. Block and lot numbers in accordance with established standards and in conformity with the Village tax map as approved by the Village Tax Assessor and all street numbers where appropriate shall be designated as specified by the approving authority.
- d. Plans, cross-section, profiles and established grades of all streets, and easements as approved by the Municipal Engineer..
- e. Plans and centerline profiles of all storm and sanitary sewers and water mains as approved by the Municipal Engineer.
- f. Location and description of all monuments as required by this ordinance and the Map Filing Law.
- g. By separate exhibits, information regarding required improvements and detailing the stage of completion of installing the improvements including the following certifications:
 - (1) By a New Jersey licensed professional land surveyor as to the accuracy of the plat and of the surveyed dimensions.
 - (2) That the applicant is agent or owner of the land, or that the owner has given consent under an option agreement or contract of sale.
 - (3) Approvals of Municipal Engineer.
 - (4) Appropriate local, county and state approvals.
 - (5) By the Village Tax Collector that all taxes are paid to date and dated no earlier than 7 days prior to filing the application.
 - (6) Other certifications that may be required by law.

506 PLAT DESIGN STANDARDS FOR SITE PLANS

A. Plat Conformity

No development application shall be accepted unless submitted in plat form and no plat shall be accepted for consideration unless it conforms to the following requirements as to form, content and accompanying information. All plats shall be drawn by a land surveyor as required by law, licensed to practice in the State of New Jersey, and shall bear the signature, seal, license number and address of the land surveyor except that plats submitted under the "Informal Discussion" provisions of Article 5 are exempt from this requirement. All drawings of improvements shall be signed and sealed by a licensed Professional Engineer of the State of New Jersey.

B. Preliminary Site Plan Plat

1. Every preliminary site plan shall be at a minimum graphic scale of 1" = 10', 20', 30', 40' or 50'; certified by a New Jersey licensed architect or

engineer, including accurate lot lines certified by a New Jersey licensed land surveyor, submitted on one of four of the following standard sheet sizes (8½" x 13"; 15" x 21"; 24" x 36"; or 30" x 42"). The following data shall be shown on the site plan or accompanying it. (If one sheet is not sufficient to contain the entire territory, a separate composite map at a reduced size shall be drawn on one sheet showing the entire development and the sheets on which the various sections are shown.) All lot lines and the exterior boundaries of the tract; north arrow; zone district(s) in which the lot(s) is (are) located; date of original drawing and each subsequent amendment; existing and proposed street(s) and street name(s); existing and proposed contours at 1-foot intervals throughout the tract and within one hundred (100) feet of any building or paved area under review; title of the plan; streams; total area to one square foot; total number of parking spaces; all dimensions, areas, and distances needed to confirm conformity with the ordinance, such as but not limited to building lengths, building coverage, lot lines, parking spaces, loading spaces, setbacks and yards; a small key map giving the general location of the parcel within the Village; and a separate map showing the site in relation to all remaining lands in the present owner's ownership.

2. Site Plan Information for Preliminary and Final Approval

Each site plan shall have the following information shown thereon or be annexed thereto and shall be designed to comply with the applicable Design Standards (Article 5), Design and Performance Standards (Article 6), and Zoning Regulations (Article 7) of this ordinance:

a. Building and Use Plan

Size, height, location, arrangement and use of all proposed buildings, structures, and signs, including an architect's scaled elevations of the front, side and rear of any structure and sign to be erected or modified to the extent necessary to apprise the approving authority of the scope of the proposed work, shall be shown. Any existing structures shall be identified either to remain or to be removed. A written description of the proposed use(s) and operation(s) of non-residential building(s) including the number of employees or members; the proposed number of shifts to be worked and the maximum number of employees on each shift; safety hazards; and anticipated expansion plans incorporated in the building design. Floor plans shall be submitted.

b. Circulation Plan

This plan shall show access streets and street names, acceleration/deceleration lanes, curbs, aisles and lanes, access points to public streets, sight triangles, traffic channelization, easements, fire lanes, driveways, number and location of parking and loading spaces/loading berths and/or docks, pedestrian walks, bikeways and all related facilities for the movement and storage of goods, vehicles and persons on the site and including lights, lighting standards, signs and driveways within the tract and within 100 feet of the tract. Sidewalks shall be shown from each entrance/exit along expected paths of pedestrian travel such as, but not limited to, access to parking lots, driveways,

other buildings on the site, and across common yard areas between buildings. Plans shall be accompanied by cross-sections of new streets, aisles, lanes, driveways, sidewalks, and bikeways. Any expansion plans for the proposed use shall show feasible parking and loading expansion plans to accompany building expansion.

c. Natural Resources Plan

This plan shall show existing and proposed buffer areas including the intended screening devices and buffers, grading at 1-foot contour intervals inside the tract and within 10 feet of its boundaries, seeded and/or sodded areas, ground cover, retaining walls, fencing, signs, recreation areas, shrubbery, trees, and other landscaping features. These plans shall show the location and type of man-made improvements and the location, species, and caliper of plant material and trees to be located on the tract. All portions of the property not utilized by buildings or paved surfaces shall be landscaped utilizing combinations such as landscaped fencing, shrubbery, lawn area, ground cover, existing foliage, and the planting of coniferous and/or deciduous trees native to the area in order to maintain or re-establish the tone of the vegetation in the area and lessen the visual impact of the structures and paved areas. The established grades and landscaping on any site shall be planned for aesthetic, drainage, and erosion control purposes. The grading plan, drainage facilities, and landscaping shall be coordinated to prevent erosion and siltation as outlined under the Soil Removal and Redistribution, Flood Hazard Zones, and the Grading provisions of this ordinance in Article 6 as well as assuring that the capacity of any natural or man-made drainage system is sufficient to handle the water from the site and contributing upstream areas.

d. Facilities Plan

This plan shall show the existing and proposed locations of all drainage and storm water run-off; open space; common property; fire hydrant, gas, electric, telephone, sewerage and water line locations; and solid waste collection and disposal methods including proposed grades, sizes, capacities, and materials to be used for facilities installed by the developer. Installation by utility companies need only show their locations on the plat. All easements acquired or required on the tract and across adjacent properties shall be shown and copies of legal documentation that support the granting of an easement by an adjoining property owner shall be included. All proposed lighting shall be shown including the direction, angle, height, and reflection of each source of light. All utilities shall be installed underground. All required state and federal approvals for environmental considerations shall be submitted prior to preliminary approval or be a condition of approval. Drainage facilities shall include facilities to comply with the provisions in Article 6. The method of sewage treatment and solid waste disposal shall be shown. All public services shall be connected to an approved public utilities system where one exists.

C. Final Site Plan Plat

The final plat shall include all data required on the preliminary site plan plat drawn to incorporate all changes required as a condition of preliminary approval and drawn by persons and specifications as required for a preliminary plat.

ARTICLE 6

DESIGN AND PERFORMANCE STANDARDS

601 GENERAL

An application for development shall demonstrate conformance to design standards that will encourage sound development patterns within the Village. Where either an Official Map or Master Plan have been adopted, the development shall conform to the proposals and conditions shown thereon. The streets shown on the officially adopted Master Plan or Official Map shall be considered in the approval of the plats. In accordance with good design practices, extreme deviations from rectangular lot shapes and straight lot lines shall not be allowed. All improvements shall be installed and connected with existing facilities, or installed in required locations to enable future connections with approved systems or contemplated systems, and shall be adequate to handle all present and probable future development.

602 Accessory Buildings, in Residence Districts

- A. Accessory Buildings As Part of Principal Buildings: Any accessory building attached to a principal building shall be considered part of the principal building and the total structure shall adhere to the yard requirements for the principal building regardless of the technique of connecting the principal and accessory buildings.
- B. Accessory Buildings Not To Be Constructed Prior to Principal Buildings: No building permit shall be issued for the construction of an accessory building prior to the issuance of a building permit for the construction of the main building upon the same premises. If construction of the main building does not precede or coincide with the construction of the accessory building, the Building Inspector shall revoke the building permit for the accessory building until construction of the main building has proceeded substantially toward completion.
- C. Distance Between Adjacent Buildings: The minimum distance between buildings on the same lot shall be 10 feet.
- D. Height and Area of Accessory Building: Accessory buildings shall not exceed one story or fifteen feet in height and may not occupy more than 15 percent of the yard in which it is located.
- E. Location: An accessory building or use may be erected on the rear of the lot. If erected on a corner lot, it shall be set back from the side street to comply with the setback line applying to the principal building for that side street and if erected in the front yard, it shall comply with the front yard requirements for a principal building.

603 BLOCKS.

- A. Block length and width or acreage within bounding roads shall be such as to accommodate the size of lot required in the area by the zoning ordinance and to provide for convenient access, circulation control and safety of street traffic.

- B. For commercial use, block size shall be sufficient to meet all areas and yard requirements for such use.

604 BUILDING PERMITS, SITE PLAN APPROVALS AND ZONING VARIANCES
OUTSTANDING

Nothing in this ordinance shall require any change in a building permit, site plan, or zoning variance which was approved before the enactment of this ordinance, but is in violation of this ordinance, provided that construction based on such a building permit shall have been started within the effective period of the permit but not to exceed one year from the effective date of this ordinance and, in the case of a site plan or variance, a building permit shall have been issued within ninety (90) days following the effective date of this ordinance. In all instances the project shall be continuously pursued to completion, otherwise said approvals and permits shall be void.

605 CORNER LOTS

Structures located on a corner shall be set back from both streets the required front yard distance, but in no case less than required in Section 504.

606 CURBS AND GUTTER

Concrete curb with gutter, or concrete curb, or Belgian Block curb shall be installed along every street within the development and at intersections with Village roads, county roads and state highways. The standard curb section to be used shall be not more than ten (10) feet in length, shall be set in accordance with approved lines and grades, and radial curbs shall be formed in an arc segment, in a smooth curve. Chord segments are prohibited. Concrete curbs shall be Class "B" concrete 18" x 6" conforming to requirements of New Jersey State Highway Department Standard Specifications for Road and Bridge Construction 1961 as revised or amended will be required.

607 CULVERTS, STORM SEWERS AND SANITARY SEWERS

All such installations shall be properly connected with an existing system and shall be adequate to handle all present and probable future development.

608 ENVIRONMENTAL IMPACT REPORT

Such report shall accompany all preliminary plats, shall provide the information needed to evaluate the effects of a proposed development upon the environment and shall include data, be distributed, reviewed and passed upon as follows and in accordance with the Design and Performance Standards (Article 6) of this ordinance.

- A. Description of the development which shall specify what is to be done and how it is to be done, during construction and operation, as well as a recital of alternative plans deemed practicable to achieve the objective.
- B. An inventory of existing environmental conditions at the project site and in the immediate surrounding region which shall describe water supply; sewerage systems; topography; noise characteristics and levels; land use; aesthetics and history. Air and water quality shall be described with reference to standards promulgated by the Department of Environmental Protection of the State of New Jersey.
- C. An assessment of the probable impact of the development upon all items set forth above.

As a direct result of the investigations made under the environmental impact report, a listing shall be provided which shall be all inclusive stipulating the licenses, permits and approvals needed to be furnished by federal, state or county law. The status of these permits and approvals shall also be included. During the preparation of the impact report, the applicant shall contact all concerned federal, state or county agencies. The report shall include as a result thereof the conclusions and comments of these governmental agencies. All apropos correspondence between the applicant and these agencies shall be included in the report.

- D. A listing and evaluation shall be included regarding those adverse environmental impacts which cannot be avoided with particular emphasis upon air or water pollution, increase in noise, increase in sedimentation and siltation, increase in Village services and consequences to Village tax structure. Offsite and off-tract impact shall be set forth and evaluated. Alternatives shall be set forth which might avoid some or all of the adverse environmental effects.
- E. A description of steps to be taken to minimize adverse environmental impacts during construction and operation, both at the development site and in the surrounding region, such description to be accompanied by necessary maps, schedules and other explanatory data as may be needed to clarify and explain the steps to be taken.
- F. Upon completion of all reviews and public hearing(s), the approving authority shall either approve or disapprove the Environmental Impact Report as a part of its underlying function with respect to its review of the development. In reaching a decision the approving authority shall take into consideration the effect of applicant's proposed development upon all aspects of the environment as outlined above as well as the sufficiency of applicant's proposals for dealing with any immediate or projected adverse environmental effects.
- G. Notwithstanding the foregoing, the approving authority may, at the request of an applicant, waive the requirement for an Environmental Impact Report if sufficient evidence is submitted to support a conclusion that the proposed development will have a slight or negligible environmental impact. Portions of such requirement may likewise be waived upon a finding that the complete report need not be prepared in order to evaluate adequately the environmental impact of a particular project.

609 FENCES AND WALLS

In any district on a corner lot, nothing shall be constructed, planted, and maintained higher than 2 feet on a horizontal plane above the horizontal plane of the top of the curb line of the intersecting roads in the triangular area bounded by the following three lines: the front lot line; the side lot line; and a line connecting these two lines at a point 10 feet from the intersection of the front and side lot lines. No fences or hedges on any interior lot line shall be higher than 6 feet.

610 FIRE PROTECTION

Provision shall be made for fire hydrants along streets and/or on the walls of non-residential structures as approved by the Municipal Engineer and in accordance with Fire Insurance Rating Organization Standards.

611. FLOOD HAZARD ZONES

The subdivision plat shall indicate the Flood Hazard Zone or areas of the site as established by Ordinance No. 116 of the Village of Loch Arbour. Further, on all sites: (a) drainage facilities shall be designed and located so as to minimize flood damage, (b) new utilities shall be located and designed and constructed so as to minimize or eliminate infiltration of flood waters into sewage and water systems.

612. GRADING

All lots being filled shall be filled with clean fill and/or top soil to allow complete surface draining of the lot into local storm sewer systems or natural drainage rights-of-ways. No construction shall be permitted which creates or aggravates water stagnations or a drainage problem on adjacent properties.

613. HEIGHT LIMITS

Any portion of the roof structure above that which is used in measuring the height of a building as well as ventilating fans, air conditioning units or similar equipment required to operate and maintain the building and fire walls, spires, cupulas, flagpoles, chimneys, watertanks.

614. LIGHTING

All area lighting shall provide translucent fixtures with shields around the light source. The light intensity provided at ground level shall average a maximum of five-tenths foot candle over the entire area. For each fixture and lighted sign, the total quantity of light radiated above a horizontal plane passing through the light source shall not exceed seven and one-half percent of the total quantity of light emitted from the light source. Any other outdoor lighting shall be shown on the site plan in sufficient detail to allow determination of the effects at the property line and on nearby streets, driveways, residences, and overhead sky glow. No lighting shall shine directly or reflect into windows, or onto streets and driveways in such a manner as to interfere with driver vision. No lighting shall be of a yellow, red, green or blue beam nor be of a rotating, pulsating, beam, or other intermittent frequency. The intensity of such light sources, light shielding, the direction and reflection of the lighting, and similar characteristics shall be subject to site plan approval by the approving authority. The objective of these specifications is to minimize undesirable offsite effects.

615. LOTS

- A. Lot dimensions and area shall not be less than the requirements of the Zoning Provisions.
- B. Insofar as is practical, side lot lines shall be either at right angles or radial to street lines.
- C. Each lot must front upon an approved, paved street with a right-of-way of at least fifty (50) feet.
- D. Through lots with frontage on two streets will be permitted only under the following conditions: 1) where the length of the lot between both streets is such that future division of the lot into two lots is improbable; and 2) access shall be to the street with the lower traffic function and the portion of the lot abutting the other street shall be clearly labeled on the plat, and in any deed, that street access is prohibited.

- E. Where extra width has either been dedicated or anticipated for widening of existing streets, zoning considerations shall begin at such new street line and all setbacks shall be measured from such line.
- F. Two or more contiguous lots under the same ownership, regardless of whether or not each may have been approved as portions of a subdivision, acquired by separate conveyance, or by other operation of law, and one or more of said lots should not conform with the minimum area and/or dimension requirements for the zone in which it is located, the contiguous lots shall be considered as a single lot and the provisions of this ordinance shall hold.
- G. Any nonconforming lot not meeting the definition of the previous paragraph may have a building permit issued for a permitted use without an appeal for a variance provided the building coverage is not exceeded, parking requirements are met, and provided further that the nonconforming lot abuts lots on either side that are developed and the nonconforming lot is the largest possible assemblage of contiguous land under the preceding paragraph. Where the nonconforming lot abuts either a vacant lot or an oversized developed lot, the issuance of a building permit may be delayed until the approving authority determines the reasonableness of requiring the applicant to acquire additional land to reduce or eliminate the nonconformity. Where the resulting lot is still nonconforming, the yard and height provisions may be reduced to the same percentage the area of the undersized lot bears to the zone district requirements except that no side yard shall be less than half that required by the ordinance, or five feet, whichever is greater, and no building shall be required to have a height less than 12 feet.

616 MONUMENTS

To be of the size and shape required by Section 3(g) of Chapter 141, P.L. 1960, and shall be placed in accordance with said statute.

617 NONCONFORMING USES, STRUCTURES, OR LOTS

- A. Existence and Continuance: If, as of the date of final adoption of this ordinance, any lot, building or structure has been, for a period of at least two years prior to said date, and is still being used for a purpose which does not conform to the requirements of the particular zone where said lot, building or structure is situated, and which use is lawful and properly licensed, if required, and is not prohibited by any other existing ordinances of the Village of Loch Arbour or any other statute of the State of New Jersey or the United States of America, said use may be continued, subject to other provisions contained in this section, and any change of title or possession shall not affect the continuance of such existing use. The said existing use may be continued as aforesaid, provided, further, however, that:
 - 1. No nonconforming lot shall be further reduced in size.
 - 2. No nonconforming building shall be enlarged, extended or increased, unless such enlargement would tend to reduce the degree of nonconformance.
 - 3. No nonconforming use may be expanded.
 - 4. No structural alterations or substantial major changes shall be made in any building or structure containing a nonconforming use.

5. No structural alterations shall be made in any building or structure containing a nonconforming use, to change such a building or structure to another or an additional nonconforming use.
- B. Abandonment: A non-conforming use as defined in the preceding section shall be considered abandoned if such non-conforming use is terminated by the owner or tenant or if the owner or tenant shall fail to use the property for a period of two years, this shall be presumptive evidence of such abandonment and thereafter such building, structure and/or land shall not be used in a non-conforming manner.
- C. Conversion to Permitted Uses: Any non-conforming building or use which has been changed to a conforming building or use shall not be changed back again into a nonconforming building or use.
- D. Restoration: Any non-conforming building or use which has been destroyed by fire, explosion, flood, windstorm, or other act of God shall be examined by the following three people to determine whether the building is more than 60 percent destroyed: 1) Village Building Inspector; 2) the owner or an architect or engineer selected by the owner; and, 3) a third person agreed to by the Village Building Inspector and the owner. If in the opinion of the above three people the damage is greater than 60 percent, the building or use shall be considered completely destroyed.
- E. Repairs and Maintenance: Such repairs and maintenance work as required to keep a building in sound condition may be made to a non-conforming building or structure.
- F. Unsafe Buildings: Nothing in the within section shall be construed so as to prevent the strengthening or restoration to a safe and lawful condition of any part of a building or structure declared to be unsafe or unlawful by the building or zoning officers, the chief of the fire department servicing the Village, or any other duly authorized Village official.
- G. Change of Location: No non-conforming use of any portion of a lot, building or structure may be moved to any other part or parcel of said lot, building or structure upon which the same was conducted at the time of the adoption of the within ordinance.

618 OFFSITE AND OFF-TRACT IMPROVEMENTS

Before final approval of a subdivision or site plan the approving authority may require, in accordance with the standards of this ordinance and an adopted Circulation Plan and Utility Service Plan, the installation, or the furnishing of a performance guarantee in lieu thereof, of any or all of the following offsite and off-tract improvements which are necessary or appropriate for the protection of the public interest by reason of the development's effect on land other than the developer's property: street improvements, water system, sewerage, drainage facilities and easements therefore.

Where such improvements are required, the approving authority shall refer the requirements to the governing body for concurrence and for approval of a performance guarantee, if any. If the governing body does not take action on the improvements and the applicable performance guarantees within the time the approving authority must act, the approving authority may grant conditional approval of the plan.

Ordinance #156 (Contd.):

The governing body shall determine as to each required improvement whether they are to be paid for (a) entirely by the Village; (b) entirely by the developer, or (c) cooperatively by the developer and the Village in accordance with fair and reasonable standards to determine the proportionate or pro-rata amount of the cost of such facilities that shall be borne by each developer or owner within a related or common area.

The financing and construction of the improvements shall be arranged in one of the following manners:

- A. If constructed by the Village and all or a portion of the improvements are the financial responsibility of the developer, the developer's share shall be paid to the Village in cash prior to final approval of the plan.
- B. If constructed by the developer and all or a portion of the improvements are the financial responsibility of the Village, the developer shall be paid the Village share in accordance with the terms of the construction contract and the completion of the work shall be guaranteed in an amount and under the terms set forth in the section entitled "Guarantees and Inspections" in Article 4.

619 OFF-STREET PARKING AND LOADING

- A. Access: Entrance and exit drives crossing the street line shall be limited to two (2) along the frontage of any single street and their center lines shall be spaced at least seventy-five (75) feet apart; be at least 150 feet from the street line of any intersecting street; and at least forty (40) feet from any property line. Continuous open driveways in excess of 16 feet resulting in the elimination of curbing along streets shall be prohibited.

- B. Access to Parking and Loading Spaces

Individual parking and loading spaces shall be served by on-site aisles designed to permit each motor vehicle to proceed to and from each parking and loading space without requiring the moving of any other motor vehicle. Where the angle of parking is different on both sides of the aisle, the larger aisle width shall prevail.

- C. Dimensions

Off-street parking spaces shall be 10 feet wide and a minimum of 20 feet in length in accordance with the following schedule. In any event, in parking lots containing more than ten (10) spaces a minimum of one space shall be a minimum of 12 feet wide and for parking lots with more than 20 spaces, five percent of all spaces but not more than ten (10) spaces shall be 12 feet wide. These wider spaces shall be located in one area and designated as parking for the handicapped. They shall be located so that access does not require wheeling or walking behind parked cars.

Angle
of Parking Space

90°

60°

45°

30°

parallel

For Parking Spaces

Ten (10) Feet Wide

One-Way Two-Way

Aisle Aisle

22'

22'

18'

20'

15'

18'

12'

18'

12'

18'

Off-street loading spaces shall have 15 feet of vertical clearance and be designed in accordance with the following schedule:

Loading Space	
Length	Width
60'	10'
60'	12'
60'	14'

Apron/Aisle Length	
90°	60°
72'	66'
63'	57'
60'	54'

- D. Landscaping: Planting of a dense evergreen material not less than 4 feet nor more than 6 feet in height shall be provided around the outside boundary of off-street parking areas for more than 6 vehicles which shall provide a year-round, maintained screen. In lieu of screen planting, a fence of woven lattice, chainlink, masonry wall, wooden louver type, or split cedar fence with a maximum of 3/4 inch spacing may be provided not less than 4 feet or more than 6 feet in height, maintained in good condition and without advertising.
- E. Lighting: Any lighting used to illuminate any off-street parking area shall be so arranged as to reflect the light away from residential premises and streets.
- F. Location of Parking: No parking of vehicles shall be permitted in fire lanes, driveways, aisles, or turning areas. Nothing shall prohibit driveways for one family dwellings from being considered one off-street parking space.
- G. Time for Provision: All minimum requirements for off-street parking shall be met at the time of erection or enlargements for any main building or structure, and shall include separate provisions for adequate ingress and egress.
- H. Surfacing and Curbing
- Any parking lot for more than 10 vehicles shall be blacktopped.
 - All off-street parking lots shall be provided with curbing or the equivalent so that vehicles cannot be driven onto required landscaped areas, buffer zones, and street rights-of-way and that each parking lot has controlled entrances and exits. Curbing or wheel stops shall be located to prevent any part of the vehicle from overhanging the street right-of-way, property lines, or internal sidewalks. Parking spaces shall not be an extension of any street right-of-way.

620 PRINCIPAL USE

No lot shall have erected upon it more than one principal permitted use. No more than one principal building shall be permitted on one lot except that townhouse projects receiving site plan approval, may be permitted to have more than one building on a lot in accordance with standards of the zoning district in which it is located.

621 PUBLIC UTILITIES

All public services shall be connected to an approved public utilities system where one exists.

- A. The developer shall arrange with the servicing utility for the underground installation of the utilities distribution supply lines and service connections in accordance with the provisions of the applicable Standard Terms and Conditions incorporated as a part of its tariff as the same are then on file with the State of New Jersey Board of Public Utility Commissioners.

- B. The developer shall submit to the approving authority, prior to the granting of final approval, a written instrument from each serving utility which shall evidence full compliance or intended full compliance with the provisions of this section; provided, however, lots which abut existing streets where overhead electric or telephone distribution supply lines and service connections have heretofore been installed may be supplied with electric and telephone service from those overhead lines, but the service connections from the utilities' overhead lines shall be installed underground. In the case of existing overhead utilities, should a road widening, or an extension of service, or other such condition occur as a result of the development and necessitate the replacement, relocation or extension of such utilities, such replacement, relocation or extension shall be underground.

622 PUBLIC USE AND SERVICE AREAS

- A. Easements along rear property lines or elsewhere for utility installation may be required. Each easement shall be at least fifteen (15) feet wide and located in consultation with the companies or municipal departments concerned.
- B. Where a subdivision is traversed by a water course, drainage way, channel or street, there shall be provided a drainage right-of-way conforming substantially with the lines of such watercourse, and such further width or construction, or both as will be adequate for the purpose. All easements or drainage rights-of-way shall be formally deeded to the Village of Loch Arbour.
- C. Natural features such as trees, brooks, hilltops and views shall be preserved whenever possible in designing any subdivision containing such features.

623 SHADE TREES

Shall be required along all proposed streets at 50-foot intervals, between sidewalk and property line. Trees shall be nursery grown stock not less than three and one-half (3½) inches in circumference, planted with support to three (3) stakes by rubber covered wires and shall be one of the types approved by the Village Engineer. All trees not surviving shall be replaced by the developer within three (3) years of acceptance. The Board may require the developer, at his sole expense, to retain a qualified Forester to report to the Board as what can be done to save existing trees, prior to preliminary approval.

624 SIDEWALKS

Sidewalks shall be required along all streets. Concrete sidewalks shall be 4'0" by 4" thick except across driveway openings, where the sidewalk shall be 6" thick and reinforced with steel wire mesh, constructed of Class "C" concrete upon a firm sub-base, rolled smooth, in accordance with requirements of New Jersey State Highway Department Standard Specifications for Road and Bridge Construction 1961 as revised.

625 SIGHT TRIANGLES

Sight triangles shall be required at each quadrant of an intersection of streets, and streets and driveways. The area within sight triangles shall be either dedicated as part of the street right-of-way or maintained as part of the lot adjoining the street and set aside on any subdivision or site plan as a sight triangle easement. Within a sight triangle, no grading, planting or structure shall be erected or maintained more than 30 inches above the centerline grade of either intersecting street

or driveway or lower than 8 feet above their centerlines including utility poles but excluding street name signs and official traffic regulation signs. Where any street or driveway intersection involves earth banks or vegetation, including trees, the developer shall trim such vegetation and trees as well as establish proper excavation and grading to provide the sight triangle. The sight triangle is that area bounded by the intersecting street lines and a straight line which connects "sight points" located on each of the two intersecting street lines: following distances away from the intersecting street lines: arterial streets at 130 feet; collector streets at 60 feet; and primary and secondary local streets at 35 feet. Where the intersecting streets are both arterial, both collectors, or one arterial and one collector, two overlapping sight triangles shall be required formed by connecting the sight points noted above with a sight point 35 feet on the intersecting street. Any proposed development requiring site plan approval shall provide sight triangle easements at each driveway with the driveway classified as a local street for purposes of establishing distances. The classification of existing and proposed streets shall be those shown on the adopted master plan or as designated by the Planning Board at the time of the application for approval for a new street not included on the master plan. A sight triangle easement dedication shall be expressed on the plat as follows: "Sight triangle easement subject to grading, planting and construction restrictions as provided for in the Development Regulations Ordinance". Portions of a lot set aside for the sight triangle may be calculated in determining the lot area and may be included in establishing the minimum setbacks required by the zoning provisions.

626. SIGNS

No billboards shall be erected. No sign of any type shall be permitted to obstruct driving vision, traffic signals, traffic direction and identification signs, and places of business.

- A. Animated, Flashing, and Illusionary Signs: Signs using mechanical and/or electrical devices to display flashing, movement, or the illusion of movement are prohibited.
- B. Height: No free standing or attached sign shall exceed the maximum height permitted in the district or the height of the building to which it is associated, whichever is less.
- C. Illuminated Signs: Where permitted, shall be so arranged as to reflect the light and glare away from adjoining premises and streets. Illuminated signs shall comply with the National Electric Code.
- D. Maintenance: Signs must be constructed of durable materials, maintained in good condition and not allowed to become dilapidated.
- E. Real Estate Signs: Advertising the sale, rental or lease of the premises or portion thereof shall be, if not attached to the building, set back at least 10 horizontal feet from all street lines. Such signs shall not exceed four (4) square feet on each side and shall be removed at the expense of the advertiser within 30 days after the termination or completion of the matter of business being advertised. All such signs do not need a building permit. There shall be only one "for sale" or "for rent" or "for lease" sign, as the case may be, for each property.
- F. Sign Area: Shall be measured around the edges of a framed or enclosed sign or by the area utilized by isolated words and/or symbols including the background, whether open or enclosed, but said area shall not include any supporting framework and bracing incidental to the display itself.

- G. Signs and Sign Structures: of all types shall be located to allow a clear, unobstructed line of sight for 300 feet from the stop line of any intersection of streets and/or driveways.
- H. Signs with Two Exposures: Shall be measured for area by using the surface area of one side of the sign only. Both sides may be used.
- I. Street Signs: shall conform to existing Village street signs.

627 SOIL REMOVAL AND REDISTRIBUTION

The excavation and grading for completion of a development shall be done in accordance with the approved plat which contains soil erosion and sediment control provisions. Excavation of soil, other than required for construction of approved structures and supporting facilities such as but not limited to streets, driveways and parking areas, shall be prohibited. Regrading of property so as to redistribute top soil throughout the site from areas excavated for such approved structures and supporting facilities shall be permitted, but shall be done in the following manner to minimize or eliminate the erosion of soil. Any application proposing the disturbance of more than 5,000 square feet of surface area of land as defined in the Soil Erosion and Sediment Control Act (Ch. 251, P.L. 1975) shall include on its plan the following: the means to control or prevent erosion, provide for sedimentation basin(s) for soil that does erode due to water, and control drainage, dust, and mud on the premises as well as abutting lands; the preservation of soil fertility and the resulting ability of the area affected to support plant and tree growth by maintenance of adequate top soil consisting of at least six inches of the original layer; maintenance of necessary lateral support and grades of abutting lands, structures and other improvements; prevention of pits and declivities which are hazardous or which provide insect breeding locations; the physical limitations and characteristics of the soil shall not be altered to prevent the use to which the land may lawfully be put; and such other factors as may reasonably bear upon or relate to the public health, safety and general welfare.

628 STREET LIGHTING

Street lighting standards of a type and number approved by the approving authority and Municipal Engineer shall be installed at street intersections and elsewhere as deemed necessary by the approving authority. The developer shall provide for the installation of underground service for street lighting.

629 STREETS

- A. All development shall be served by paved streets with an all weather base and pavement with an adequate crown.
- B. The arrangement of streets not shown on the Master Plan or Official Map shall be such as to provide for the appropriate extension of existing streets.
- C. Developments abutting arterial streets may be required to provide a marginal service road or reverse frontage with a buffer strip for planting or some other means of separation of through and local traffic as the approving authority may determine appropriate.

- DDJ181
- D. The right-of-way width shall be measured from lot line to lot line and shall not be less than the following: (a) Arterial streets--eighty-eight (88) feet; (b) Collector streets--sixty (60) feet; (c) Minor streets--fifty (50) feet; (d) Marginal access streets--fifty (50) feet; and (e) The right-of-way width for internal roads and alleys in multi-family, commercial and industrial development shall be determined on an individual basis, and shall in all cases be of sufficient width and design to safely accommodate the maximum traffic, parking and loading needs and maximum access for fire fighting and emergency equipment.
 - E. No development showing reserve strips controlling access to streets shall be approved.
 - F. Developments that adjoin or include existing streets that do not conform to widths as shown on the Master Plan or Official Map or the street width requirements of this ordinance shall dedicate additional width along either one or both sides of said road.
 - G. Grades of arterial and collector streets shall in general not exceed four (4%) percent. Grades on other streets shall in general not exceed ten (10%) percent. No street shall in general have a minimum grade of less than one-half of one ($\frac{1}{2}$ of 1%) percent.
 - H. Street intersections shall be as nearly at right angles as is possible and in no case shall be less than seventy-five (75) degrees. The block corners at intersections shall be rounded at radius of not less than twenty (20) feet.
 - I. Street jogs with center line off-sets of less than one hundred twenty-five (125) feet in length shall be prohibited.
 - J. All changes in grade shall be connected by vertical curves of sufficient radius to provide a smooth transition and proper sight distance.
 - K. Dead-end streets (cul-de-sac) shall not be longer than three hundred (300) feet and shall provide a turn-around at the end with a radius of not less than fifty (50) feet and tangent whenever possible to the right side of the street. If a dead-end is of a temporary nature, a similar turn-around shall be provided and provisions made for future extension of the street and reversion of the excess right-of-way to the adjoining properties.
 - L. No street shall have a name which will duplicate or so nearly duplicate as to be confused with the names of existing streets. The continuation of an existing street shall have the same name. All proposed street names shall be submitted to the approving authority for approval.
 - M. A tangent at least one hundred (100) feet shall be introduced between reversed curves on arterial and collector streets, where the centerline is less than five hundred (500) feet radius.
 - N. Streets (minimum requirements) -- Pavement shall consist of 2" bituminous concrete course upon a 4" bituminous stabilized base course, total thickness 6", over a suitable sub-base free of voids, or soft spots, all constructed in accordance with requirements of New Jersey State Highway Department Standard Specifications for Road and Bridge Construction 1961 as revised and amended.

630 SWIMMING POOLS

- A. Private permanent residential swimming pools shall adhere to the following standards:
- B. Swimming pools may be located in any yard. No pool or wading pool shall be constructed or installed on any lot unless said lot shall contain a residence building. All pools shall meet the yard requirements for the principal building in the district in which it is located.
- C. Pools shall occupy no more than the equivalent of 75 percent of the yard area in which it is located.
- D. The pool may be lighted by underwater or exterior lights, or both, provided all exterior lights are located so that the light is neither directed nor reflected upon adjacent properties in such a manner as to be a nuisance or an annoyance to neighboring properties. Underwater lighting shall be in compliance with the applicable National Electric Code.
- E. Any pool shall be completely surrounded by fencing between four and six feet in height.
- F. All pools shall have all the areas surrounding the pool made and kept neat and attractive and no rubbish, debris or litter shall be permitted to remain or accumulate in or about the pool.
- G. As far as possible, all private swimming pool applications shall conform to the requirements of Ordinance No. 59 of the Village of Loch Arbour, and the amendments and supplements thereto, and the building inspector shall be governed by the provisions thereof in granting or denying a building permit for such pool.
- H. Section 1 through 16, inclusive, of the "Swimming Pool Code of New Jersey (1955)" are hereby established and adopted as a code for the construction, maintenance and operation of all general public, club, camp and commercial pools in the Village of Loch Arbour, regulating and controlling the location and construction, alteration and operation of swimming pools, the issuance of licenses or permits to locate and construct, alter or operate swimming pools and declaring and defining certain swimming pools as nuisances and fixing penalties for violations pursuant to Chapter 188, Laws of 1950, of the State of New Jersey. Three copies of said Code have been placed on file in the office of the Village Clerk and will remain on file in such office for the use and examination of the public.

631 YARDS

No open space provided around any principal building for the purpose of complying with front, side, or rear yard provisions shall be considered as providing the yard provisions of another principal building. On a lot which extends through a block in a manner resulting in frontage on two or more streets, including corner lots, the building setback from each street shall not be less than the required front yard.

ARTICLE 7

ZONING DISTRICTS AND ZONING MAP

701 ZONING DISTRICTS

For the purpose of this ordinance, the Village of Loch Arbour is hereby divided into use districts as follows:

Symbols

Name

R
C
B

Residential
Commercial
Beach

702 ZONING MAP

The boundaries of these districts are hereby established as shown on the map entitled "Zoning Map of the Village of Loch Arbour" dated January 21, 1972, which accompanies and is hereby made a part of this Ordinance.

703 GENERAL INTENT

No building shall hereafter be erected, altered, converted, enlarged, or reduced wholly or in part, except in conformity with this Ordinance. Where a lot is formed from part of a lot already occupied by a building, such subdivision shall be effected in such a manner as not to impair any of the requirements of this Ordinance with respect to the existing building and all yards and other open space in connection therewith and so that all resulting lots have adequate dimensions consistent with the requirements of the zone wherein it is located and so that all lots have frontage on a street.

704 "R" RESIDENTIAL

A. Purpose

The purpose of this district is to permit and protect the continuance of the low density, quiet residential character existing in the Village in conformance with the findings and conclusions of the Master Plan.

B. Principal Permitted Use On The Land And In Buildings

1. Single-family detached dwelling.
2. Municipal buildings, facilities, parks and playgrounds.

C. Accessory Uses Permitted

- a) Off-street parking spaces and garages per Article 6.
- b) Swimming Pools per Article 6.
- c) Fences, walls, plantings per Article 6.
- d) The parking of camper trailers and boat trailers on a residential lot by the residents of the lot. Said parking shall be off the street at all times and habitation in said trailers in a permanent or temporary manner is prohibited.

D. Building Height: For all permissible uses--No building shall exceed 35 feet in height nor contain more than two stories above grade.

E. Area and Bulk Requirements For Single-Family Dwelling Detached

1. Lot width--50 feet
2. Lot Depth--100 feet
3. Lot Area--5000 square feet
4. Side Yards (each)--5 feet

Ordinance #156 (Contd.):

5. Rear Yards--25 feet
6. Front Yard Set-Back -- shall not increase or decrease the pronounced uniformity of the street front alignment of the existing buildings and in the depths of existing front yards. Said front yard required shall conform substantially with those provided for adjacent buildings.
7. Maximum Building Coverage -- Thirty (30%) percent of lot.
8. Off-Street Parking -- two (2) spaces per dwelling unit. No cars or vehicles of any type shall be parked on lawns or on required areas for front, side or rear yards.
9. No commercial vehicle shall be parked out-of-doors overnight.

F. Signs

There is only permitted a one (1) foot square maximum sign giving street number and family name. No advertising or business signs, or signs stating "rooming house", "boarding house", "guest house" or similar appellations are permitted.

705 "C" COMMERCIAL

A. Purpose

The purpose of this district is to incorporate into commercial districts those existing areas serving a commercial use at the time of adoption of this ordinance. Said zoning districts are also limited in location to those areas where the commercial character is a continuation of the external commercial influence from Asbury Park along the Atlantic Ocean and along Main Street.

B. Principal Permitted Uses On Land And In The Buildings

1. Office buildings and banks; car wash; tavern; restaurant for sit-down dinners only and with no drive-in facilities; and retail businesses.
2. Beach house and snack bar facilities as one structure and adjacent to the beach.

C. Accessory Uses Permitted

1. Off-street parking as in Article 6.
2. Fences, walls, and plantings as in Article 6.

D. Building Height: For all permissible uses--no buildings shall exceed 35 feet in height or contain more than two stories above grade.

E. Area and Bulk Requirements

<u>Office Buildings, Banks and Beach House and Snack Bar</u>		<u>All Other Permitted Uses</u>
1. Lot Width (feet)	200	50
2. Lot Depth (feet)	175	100
3. Lot Area (Sq. feet)	40,000	5,000
4. Each Side Yard (feet)	20	10
5. Rear Yard (feet)	50	20
6. Building Coverage	30%	40%

F. Off-Street Parking

1. One space per each 600 sq. ft. of gross floor area for offices, banks, and retail businesses.
2. One space for each three seats in a tavern, restaurant or snack bar.
3. No commercial vehicle shall be parked out-of-doors overnight.

G. Off-Street Loading

At least one space for each use shall be provided. Each space shall have minimum dimensions sufficient to accommodate the largest vehicle customarily making deliveries to the building and located so that vehicles either parked or maneuvering into a space do not obstruct other parking spaces, driveways, aisles, fire lanes, streets, or sidewalks.

H. Signs

1. Each use may have one lighted sign no larger than 30 square feet or the equivalent of 10% of the area of the front of the building whichever is smaller.
2. All signs shall conform to Article 6.

706 "B" BEACH

A. Purpose

The purpose of this district is to preserve the existing natural beach area and dunes which are present in the Village for their unique beauty and recreational assets.

B. Principal Permitted Uses on the Land and in Buildings

Refreshment stand, open beach area, and off-street parking in conjunction with beach facilities.

C. Building Height: For all permissible uses--no building shall exceed 15 feet in height. No garage or buildings shall be built for off-street parking.

D. Area and Yard Requirements

No building shall exceed 1,500 square feet in area and shall be set back from any street, property or municipal boundary at least 50 feet.

E. Signs

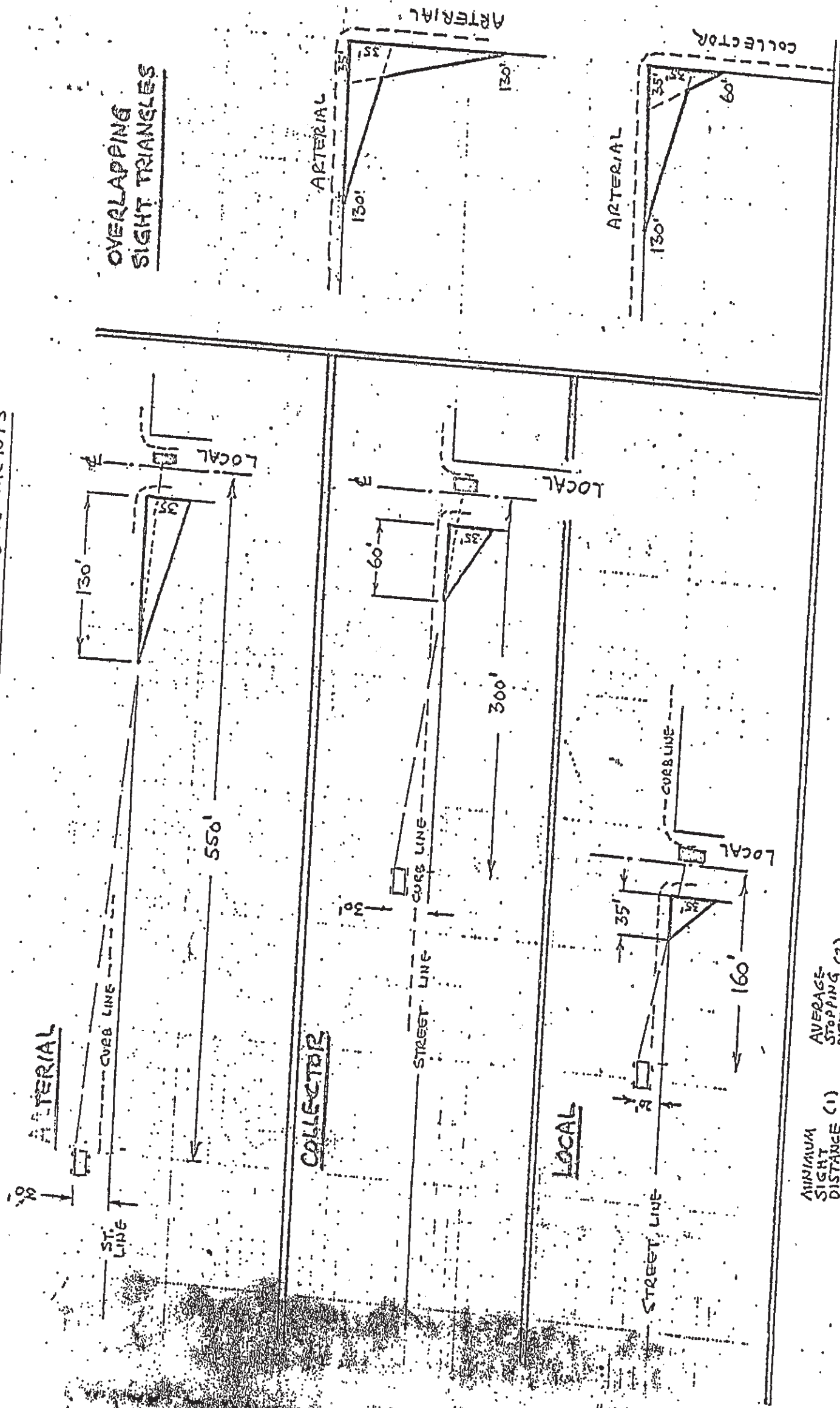
1. Signs stating beach rules and regulations and other applicable laws pertaining to traffic, parking, swimming, eating locations, anti-litter and similar items are permitted at locations designated by the Board of Trustees.
2. No signs shall be lighted, except municipal purposes aforesaid.

F. No commercial vehicle shall be parked out-of-doors overnight.

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SIGHT TRIANGLE REQUIREMENTS

OVERLAPPING
SIGHT TRIANGLES



	MINIMUM SIGHT DISTANCE (1)	AVERAGE STOPPING DISTANCE (2)
ARTERIAL	550 FT.	60' REACTION + 167' BRAKING = 227' @ 55 MPH
COLLECTOR	300 FT.	44' + 11'

- (1) TWICE THE AVERAGE STOPPING DISTANCE
- (2) EMERGENCY STOPPING DISTANCE
AMERICAN SAFETY COUNCIL

ARTICLE 8

VIOLATIONS AND PENALTIES

For any and every violation of the provisions of this ordinance, the owner, contractor or other persons interested as lessee, tenant or otherwise, in any building or premises where such violation has been committed or shall exist, and who refuses to abate said violation within five (5) days after written notice has been served upon him, either by mail or by personal service, shall be subject to a fine not exceeding five hundred (\$500) dollars, imprisonment in the Monmouth County Jail for a term not exceeding ninety (90) days, or both, at the discretion of the Magistrate having jurisdiction in the matter. Each and every day such violation continues after such notice has been served shall be considered a separate and specific violation of this ordinance.

ARTICLE 9

VALIDITY AND SEPARABILITY

If any article, section, paragraph, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the article, section, paragraph, clause or provision so adjudged, and the remainder of the ordinance shall be deemed valid and effective.

ARTICLE 10

CONFLICT WITH OTHER ORDINANCES

In the event of a conflict between this ordinance and any other ordinance such as a building code, housing code, or licensing ordinance, the ordinance requiring the more restrictive ordinance or the one requiring the higher set of standards shall apply.

ARTICLE 11

REPEALER

Ordinance Nos. 111, 117, 120, 137, 142, 144 and 145 of the Village of Loch Arbour are hereby repealed. All other ordinances or parts of ordinances which are inconsistent herewith are repealed, but only to the extent of such inconsistency.

ARTICLE 12

PENDING APPLICATIONS

Nothing in this ordinance shall require any change in the plans, construction, size or designated use of any building, structure, or part thereof, for which any building permit has been granted before the enactment of this ordinance, provided that construction from such plans shall have been started within sixty (60) days of enactment of this ordinance and shall be diligently pursued to completion.

ARTICLE 13

EFFECTIVE DATE

The within ordinance shall take effect immediately upon final passage and publication as required by law.

Introduced - January 5, 1979
Adopted - January 19, 1979

Claire Weintraub
CLAIRE WEINTRAUB
Village Clerk

MYRTLE P. ROBERTSON, Pres. - No
ROBERT J. O'DWYER - Yes
LOUIS J. PARISI - Yes
PHILIP H. REARDON - Yes
TIMOTHY M. SULLIVAN - No.