

LAND USE

Chapter 198

City

of

BRIGANTINE

Revised 09-24-2019

Chapter 198

LAND USE

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[HISTORY: Adopted by the City Council of the City of Brigantine 8-21-2002 by Ord. No. 9-2002.J Amendments noted where applicable.]

GENERAL REFERENCES

Beach and dune protection- See Ch. 101.	Flood damage prevention- See Ch. 181.
Beaches and recreational facilities- See Ch. 105.	Mercantile businesses -See Ch. 210.
Building construction- See Ch. 119.	Noise- See Ch. 216.
Bulkheads- See Ch.127.	Parking lots -See Ch. 234.
Certificate of land use compliance -See Ch. 134.	Property maintenance -See Ch. 238.
Uniform construction codes -See Ch. 143.	Sewers -See Ch. 252.
Excavations -See Ch. 165.	Vehicles and traffic -See Ch. 284.
Fire prevention- See Ch.175.	Water- See Ch. 290.

J. Editor's Note: This ordinance also superseded former Ch. 198, Land Use, adopted 6-5-1996 by Ord. No. 13-1996.

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ARTICLE I General Provisions

§ 198-1. Title.

This chapter may be referred to as the "Municipal Land Use Ordinance of the City of Brigantine."

§ 198-2. Purpose and intent.

It is the intent and purpose of this chapter to:

- A. Guide the use and development of all the lands of the City of Brigantine in the appropriate manner that will promote the health, safety and welfare of the general public.
- B. Secure safety from fire, flood, panic and other natural and man-made disasters.
- C. Provide adequate light, air and open space.
- D. Ensure that the residential development of the City of Brigantine does not conflict with the growth, development and general welfare of the neighboring municipalities, Atlantic County and the State of New Jersey as a whole.
- E. Promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of the citizens of Brigantine, their families, neighborhoods and social communities.
- F. Encourage the appropriate and efficient expenditures of public funds by the coordination of public development with land use policies.
- G. Provide sufficient space in appropriate locations for residential, recreational and commercial uses to meet the needs of the citizens of the City of Brigantine.
- H. Encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging the location of those facilities and routes which will result in congestion and degrade the quality of existing residential, commercial and recreational development in the City.
- I. Promote a desirable and pleasing visual environment through creative development techniques and architectural consideration, ~~including establishing a nautical or coastal architectural theme in business districts.~~
- J. Promote the conservation of open space in the form of the existing dune and beach systems along the Atlantic Ocean at least in part by maintaining and enforcing the development restriction line.
- K. Preserve the water's-edge environment along the back bays while recognizing the residential, commercial and recreational opportunities within this environment.
- L. Encourage the coordination of the development review process with the capital improvements program to reduce the financial impact to both the private and public sectors while achieving more efficient land use.

- M. Encourage the development and use of innovative stormwater management techniques to control surface water runoff, prevent flooding and reduce soil erosion and sedimentation.
- N. Encourage the development of the City of Brigantine as a stable single-family residential community by adopting land use policies that maintain and preserve existing single-family neighborhoods by discouraging speculative multifamily investment and discouraging the subdivision of existing large residential properties into smaller lots, permitting duplexes as a conditional use within the City and encouraging the development of traditional hotels.
- O. Promote the conservation of open space and valuable natural resources.
- P. Prevent suburban sprawl and degradation of the coastal environment by limiting and restricting inappropriate land uses within the City of Brigantine while encouraging the concentration and expansion of retail and commercial uses in designated districts.
- Q. To continue to encourage tourism, ecotourism and economic development on the island by allowing bed-and-breakfast inns as a conditional use in certain areas and establishing the uninhabited section of the north end of the island as an environmental education area.
- R. Expand and improve recreational uses and facilities including location and establishment of a municipal youth center, bike path and support of ongoing recreational facilities and programs such as the Brigantine C.E.R., Brigantine Rowing Club, recreation fields, parks and indoor recreation facilities.

§ 198-2.1. Relation to Master Plan.

~~The City of Brigantine adopted a Master Plan² in November 2001. The intent and purpose of the 2002 amendments to the Brigantine Municipal Land Use Ordinance is to implement the goals and objectives as set forth in said Master Plan. One of the major amendments includes the elimination of duplexes as a permitted use from all zones within the City. This is a continuation of 1996 amendments to the City Land Use Ordinance³ which eliminated triplexes and quadraplexes as allowed uses. Duplexes shall now be a conditional use. This change clearly and specifically implements the goal and objective contained on page 9 of the Master Plan. This change is part of an overall development plan within the City as established by the Master Plan. This, as well as other goals of the Master Plan and corresponding amendments to this Land Use Ordinance, will foster the purposes of zoning within the City including lessening environmental impact, creating more air, light and open space, promoting public health, safety and welfare and promoting appropriate population densities. Other sections of the Master Plan recommend the continuation and improvement of programs and policies already in effect within the City including environmental measures such as the continued enforcement of no development past the development restriction line, improving recreational programs and facilities, protecting sensitive beach and back bay areas, flood protection, economic development and tourism, transportation and scenic resources.~~

The City of Brigantine has continually updated the adopted Master Plan, most recently as adopted by the Planning Board on September 28, 2016. The intent and purpose of previous amendments to the Brigantine Municipal Land Use Ordinance was to implement the goals and objectives as set forth in said Master Plan. The goals of the Master Plan and

corresponding amendments to this Land Use Ordinance will foster the purposes of zoning within the City including lessening environmental impact, creating more air, light and open space, promoting public health, safety and welfare and promoting appropriate population densities. Other sections of the Master Plan recommend the continuation and improvement of programs and policies already in effect within the City including; environmental measures such as the continued enforcement of no development past the development restriction line, improving recreational programs and facilities, protecting sensitive beach and back bay areas, flood protection, economic development and tourism, transportation and scenic resources.

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2. Editor's Note: Said plan is on file in the City offices.
 3. Editor's Note: A copy of the 1996 Land Use Ordinance, adopted 6-5-1996, and which was superseded by this chapter, is on file in the City offices.

§198-3. Approvals required prior to development.

- A. No development shall be permitted to occur within the City of Brigantine unless preceding such development there shall have been an application for development filed, reviewed and approved in accordance with the provisions of this chapter or any other applicable codes, rules, regulations and laws of the City of Brigantine, County of Atlantic or State of New Jersey. When such approval has been granted subject to conditions or required specific performance, failure to meet such conditions or perform as specified shall cause said approval to become null and void.
- B. All applications for projects shall first be submitted to the City of Brigantine Zoning Officer for a ruling as to whether or not said project is to be heard by the Planning Board or to issue a zoning permit to projects that require no action by said Board.
- C. Site plan approval. Every development which includes any principal structure other than a one- or two-family dwelling located on an individual lot shall, prior to the issuance of a building permit, first be granted approval for an application for site plan approval by the Zoning Officer or Planning Board. (NOTE: All residential use developments of three or more dwelling units and other uses of 10,000 square feet or more, whether requiring variances or not, shall be reviewed for site plan approval by the Planning Board.)
- D. Subdivision approval. Every development which includes subdivision or consolidation shall have received approval of an application for subdivision prior to issuance of any building permit or the commencement of any site improvements.
- E. Application for variance. A variance application and approval shall be required for every development which includes any feature not in conformity with this chapter or which lacks any required improvement or feature of this chapter.
- F. Simultaneous applications. Application for development approval should contain all approvals which may be required for the approval of the project under consideration. An applicant shall be required to show good cause why all applications for development are not submitted to the Board simultaneously. In the event that an applicant receives permission to apply for less than all approvals which may be required, the applicant shall be deemed to have accepted the jurisdiction of the Board to modify or impose conditions upon the construction of improvements or grant of permission to carry out the development sought by the earlier application. This subsection shall not apply to separate applications for preliminary and final approval. In submitting any application for variances, the Board shall require that each application for variance be separately stated upon the application and supporting reasons for such application shall be stated in the application documents. Applicants seeking variances for single-family and duplex dwellings shall provide, in addition to all other requirements, architectural elevations and preliminary floor plans.
- G. Zoning permits. A zoning permit is required as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or a building. All zoning permits shall be signed by the Zoning Official of the City of Brigantine. No building permit will be issued unless

a zoning permit approving use and location has first been obtained. When a variance has been granted the zoning permit shall have a copy of the approval granting said variance attached thereto and maintained on file. Such copy of the approval shall be supplied by the applicant when obtaining such zoning permit. No certificate of occupancy shall issue prior to the applicant obtaining a zoning permit.

ARTICLE II Planning Board

§ 198-4. Creation; appointments; officers; bylaws; powers and duties.

- A. Creation of the Planning Board. There is hereby established, pursuant to the Municipal Land Use Law (N.J.S.A. 40:550-1 et seq.), a Planning Board consisting of nine members and four alternate members.
- B. Appointments and terms. Appointments and terms of the members of the Board shall be in accordance with the Municipal Land Use Law (N.J.S.A. 40:550-1 et seq.).
- C. Officers of the Board. The Planning Board shall elect a Chairman and a Vice Chairman from its Class IV members and shall also select a Secretary. An alternate member shall not serve as the Chairman or Vice Chairman of the Planning Board.
- D. Adoption of bylaws. The Planning Board is authorized to adopt bylaws governing its procedural operation but said bylaws shall not be contrary to this chapter or the Municipal Land Use Law.
- E. Powers and duties. It shall also have the powers and duties enumerated in the Municipal Land Use Law and perform such other advisory duties as are assigned to it by ordinance or resolution of the City of Brigantine for the aid and assistance of the same or its officials, agencies or the general public.

§ 198-5. (Reserved)

§ 198-6. Adoption of rules and regulations; compliance with state law.

- A. Adoption of rules and regulations. The Planning Board shall adopt such rules, regulations and application materials as may be necessary to put this chapter into effect and achieve the expressed intent and purpose of the same.
- B. Compliance with the Municipal Land Use Law⁴. All provisions of the Municipal Land Use Law relating to meetings, minutes, fees, hearings, notice requirements for hearings and furnishing lists of property owners and decisions shall be complied with by the Planning Board.

4. Editor's Note: See N.J.S.A. 40:SSD-1 et seq.

§ 198-7. Experts and staff.

The Council of the City of Brigantine shall fix the compensation of the attorney for the Planning Board and all other experts, staff personnel and other services as it may deem necessary. The Planning Board will be solely responsible for choosing its own attorney. The Board shall not exceed the budgeted amount appropriated by the City of Brigantine for its use.

§ 198-8. Conflict of interest.

It is the duty, individually and collectively, of members of the Planning Board to ascertain that each member is free of financial or personal interest in matters subject to the jurisdiction of the Board. In the event that a potential conflict of interest may occur, it is the responsibility of the member to notify the Board Attorney and act according to his written directions.

ARTICLE III**Development Application Review and Approval Procedures****§ 198-9. Application procedure.**

- A. Forms. All applications for development shall be made upon forms provided and filed with the Zoning Office and any appeals of a decision of the Zoning Officer shall be filed with the Secretary of the Board to which application is being made.
- B. Time of application. All applications to the Board shall be filed not fewer than 20 days prior to the meeting at which initial consideration of the application is requested.
- C. Completeness of applications. No application shall be acted upon unless and until it is complete in every aspect, including the specified plans, maps, applications, certifications and fees. Completeness shall be determined by the review of the Secretary of the Board according to the criteria of § 198-10, Submission of application; required documents. The Planning Board shall designate a secretary, committee of Board members or Board professional staff member to review applications for completeness, according to bylaws adopted by the Board concerning completeness. In the event that an applicant does not believe it necessary to meet the established criteria for completeness, the applicant may request, in writing, or in an appearance before the full Board, that one or more of the submission requirements be waived. Upon receipt of such request, the Secretary shall schedule a hearing on the issue of completeness only, before the Board having jurisdiction. After such request and appearance before the Board, the Board shall act to grant or deny the request within 45 days after the request of the completeness hearing. Granting of a request for waiver does not prevent the respective Board from requiring the information necessary if, during the review of the application, such information is deemed to be necessary. However, the application cannot be deemed incomplete at a later time, and the Board must act within the time provided by law to render a full decision on the merits. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that the applicant is entitled to approval of the application. The Planning Board or any Committee thereof may subsequently require correction of any information found to be in error and submission of additional information not specified in this chapter or any revisions in the accompanying documents

as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application have been met.

- D. Placement on the agenda. The Secretary shall place each completed application on the Board's agenda. In the event that the Secretary shall withhold the application from the agenda, the Secretary shall notify both the Board and the applicant of any deficiency which renders the application incomplete. The applicant shall be notified within 45 days of filing of either the scheduled date of the Board hearing or the determination that the application is incomplete.
- E. Public hearings. The Planning Board shall hold public hearings on each application for development in accordance with the Municipal Land Use Law (N.J.S.A. 40:550-10). Pursuant to N.J.S.A. 40:550-10, the Board holding the hearing shall provide for the verbatim recording of the proceedings by a certified shorthand stenographer or mechanical or electronic means equivalent to those used in the municipal courts of this state. The cost of providing transcripts of the hearing shall be borne solely by the applicant or other interested person requesting a transcript of the proceedings. All transcripts shall be prepared by a certified shorthand reporter who is authorized by law to perform such functions. The Board holding such hearings shall provide, in its bylaws, for the production of transcripts by a certified shorthand reporter and may release a copy of the record of the hearing to any person, other than the official reporter designated by the applicant. Any interested party requesting a transcript shall, upon payment of the cost of preparation of the transcript, receive a copy. Nothing herein shall require the Board to release the original recording of any such hearing.
- F. Additional data required.
 - (1) If the application is determined by the Secretary or such other person or body designated by the Board to be incomplete, the applicant shall be notified within 45 days of the initial filing date of the deficiency and the data required to bring the application to completeness.
 - (2) An application deemed to be incomplete shall not be considered to be placed upon the Board's agenda, nor officially received by the municipality or Board having jurisdiction. An amended application shall be submitted in the same manner as the original application.
- G. Application number. Each application for development shall be assigned a file number by the Secretary upon submittal by the applicant. Each Board shall have a separate numbering system.
- H. Resolution of the Board; findings of fact and conclusions. The Board having jurisdiction over the application shall include findings of fact and conclusion based thereon in each decision on any application for development and shall reduce the decision to writing. The Board shall provide the findings and conclusions through a memorializing resolution adopted at a meeting held not later than 45 days after the date of the meeting at which the Board voted to grant or deny approval. Only the members of the Board who voted for the action taken may vote on memorializing the resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt a resolution. The vote on any such resolution shall be deemed

to be a memorializing of the action of the Board having jurisdiction and not to be an action of the Board; however, the date of the granting or denial of approval shall constitute the date of the decision for the purposes of mailings, filings and publications required by N.J.S.A. 40:55D-10. If the Board fails to adopt a resolution as specified, any interested party may so apply to the Superior Court in a summary manner for an order compelling the Board to reduce its findings and conclusions to writing within a stated time.

- I. Additional Board hearings. The Board having jurisdiction pursuant to this chapter may adopt, according to its bylaws, rules and regulations concerning multiple hearings on applications for development. The decision of the Board to require a work session or preliminary hearing shall be binding upon the applicant. All actions of the Board shall be completed in accordance with the schedule established by the Municipal Land Use Law and this chapter.

§ 198-10. Submission of application; required documents.

The following documents shall be required for an application for development to be declared complete for review. If the application is to the Zoning Officer, three copies or sets of the application forms, plans, maps and all supplemental data which comprise the main body of the application shall accompany the initial submission. If the application is to be submitted to the Planning Board, a minimum of 15 copies or sets of the application form (Subsection A) plan(s) and map(s) (Subsection B) and supplemental data (Subsection C), which comprise the main body of the application, shall accompany the initial submission. Other documents or items required in this section shall be furnished in singular form.

- A. Application form. A completed application for development shall include the specified form or forms with each and every item on the form filled in or noted as "none" or "not applicable," when appropriate.
- B. Maps and plans. One or more plans or maps showing the full details of the existing site conditions and proposed development as required in § 198-11, Subdivision plat details, and § 198-12, Site plan details, according to the type of application being submitted, shall be submitted.
- C. Supplemental data. Data submitted in written or graphic form deemed necessary either by the applicant or the Board in order to augment the application for development to explain the full particulars and operating characteristics of the proposed development shall be submitted.
- D. Tax certificate. A certification of taxes paid shall be furnished by the applicant.
- E. Proof of public notification. If required by the form and type of application, the applicant shall prepare and furnish proof of publication, legal advertisement, public notifications (property owners within 200 feet), etc., as specified in the Municipal Land Use Law. (N.J.S.A. 40:55D-12).

5. Editor's Note: See N.J.S.A. 40:SSD-1 et seq.

- F. Applicants seeking variances for single-family and duplex dwellings shall provide architectural elevations and preliminary floor plans.
- G. Any information required on any checklist applicable to the application; said checklists are attached to this chapter as an appendix thereto.⁶
- H. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that the applicant is entitled to approval of the application. The Planning Board or any committee thereof may subsequently require correction of any information found to be in error and submission of additional information not specified in this chapter or any revisions in the accompanying documents as are reasonably necessary to make an informed decision as to whether the requirements necessary for the approval of the application have been met.

§ 198-11. Subdivision plat details.

Application and review procedures for subdivision approval shall be in accord with § 198-10, Submission of application; required documents, of this chapter. The following details shall be required with any subdivision application:

- A. Minor subdivision plat application. The minor subdivision plat shall be prepared to scale to enable the entire tract to be shown on one sheet and include the information listed below. The scale of the minor subdivision plat shall be not less than 50 feet to the inch except where otherwise directed by the Planning Board.
 - (1) A key map showing the location of the property in relation to all properties adjoining the tract and existing streets which border the tract, including street names.
 - (2) The name of the owners of the property being subdivided.
 - (3) The name of the prospective subdivider, if different than the owner.
 - (4) The Tax Map lot and block numbers of the tract and adjoining properties, including the names, addresses and locations of all buildings and structures of the property owners within 200 feet of the entire property being subdivided.
 - (5) A schedule indicating the acreage of the total tract, zoning district and minimum requirements for each lot in that district as compared to each proposed lot, setback and yard information for the district.
 - (6) The existing conditions of the property being subdivided, including a map of property prepared and certified by a New Jersey licensed professional land surveyor.
 - (7) All subdivision applications, whether major or minor: shall include a legal description and plot the development restriction line on the plot submitted. No development shall be permitted oceanward of the development restriction line.

6. Editor's Note: Said checklists are on file in the City offices.

- B. Sketch plat application, major subdivision. The sketch plat shall be prepared to scale to enable the entire tract to be shown on one sheet and include the information listed below. The scale of the sketch map shall be not less than 100 feet to the inch except where otherwise directed by the Planning Board.
- (1) A key map showing the location of the property in relation to the entire tract and in relation to all properties adjoining the tract and existing streets which intersect or border the tract, including street names.
 - (2) The names of the owners of the property being subdivided.
 - (3) The name of the prospective developer, if different than the owner.
 - (4) The Tax Map lot and block numbers of the tract and adjoining properties, including the names, addresses and locations of all buildings and structures of the property owners within 200 feet of the entire property being subdivided.
 - (5) The location of all adjoining streets, noting improvements, dedication and dimensions.
 - (6) Proposed connections to sanitary sewer and water supply systems with an estimate of increase in capacities required.
 - (7) Proposed stormwater management plan showing the collection and discharge of surface water drainage, including improvements and connections to the existing system.
 - (8) The location of environmentally sensitive areas either on or adjoining the tract being subdivided, including coastal waterways, wetlands and beach and dune systems.
 - (9) The location, configuration and dimension of the proposed lots, streets and public use areas.
 - (10) Topographic information in sufficient detail to determine the natural slope of the tract.
 - (11) Proof that streets in the subdivision are of sufficient width and suitable grade and suitably located to accommodate prospective traffic and to provide access for firefighters and emergency equipment.
- C. Preliminary subdivision plat applications, major subdivision. The preliminary plat shall be clearly and legibly drawn or reproduced at a scale of not less than one-inch equals 50 feet. The following information shall be shown on standard size sheets:
- (I) A key map showing the location of the property in relation to the entire tract and in relation to all properties adjoining the tract and existing streets which intersect or border the tract, including street names.
 - (2) The names and addresses of the owners of the property.
 - (3) The name and address of the prospective developer, if different than the owner.

- (4) The name, address, license number and signature of the professional responsible for the preparation of the plat.
- (5) The Tax Map lot and block numbers of the tract and adjoining properties.
- (6) The project name, date of preparation, graphic scale and reference meridian.
- (7) The location of environmentally sensitive areas either on or adjoining the tract being subdivided, including coastal waterways, wetlands and beach and dune systems.
- (8) The acreage of tract to be subdivided to the nearest tenth of an acre.
- (9) A zoning schedule or statement that the proposed subdivision is in compliance with the requirements of the applicable zoning district. Each lot shall be drawn to scale showing size, configuration, area, frontage, depth and setbacks.
- (10) Existing one-foot interval contours based on National Geodetic Vertical Datum (NGVD) as determined and certified by a New Jersey licensed professional land surveyor.
- (11) Existing conditions of the property being subdivided, including a map of property prepared and certified by a New Jersey licensed professional land surveyor.
- (12) Preliminary grading and drainage plan showing the locations of all existing and proposed drainage pipes, swales, channels, retention-recharge basins and other items pertinent to drainage, including the proposed grading contours at one-foot intervals. In addition, the drainage plan shall show the following:
 - (a) Drainage area plan outlining the approximate areas contributing to each inlet.
 - (b) Pipe sizes and type, invert elevations, grades and direction of flow.
 - (c) Profiles and cross sections.
 - (d) Direction and flow of all surface waters.
 - (e) Drainage calculations prepared in accordance with § 198-72, Stormwater management.
- (13) Preliminary center-line profiles showing proposed drainage flow, all existing and proposed finished roadway grades, pipe sizes, types, inverts and connections.
- (14) Preliminary utility plan showing both proposed and existing locations of sanitary sewers, water systems and natural gas, electric, telephone and cable systems in relation to the proposed lot layout and street system.
- (15) Proof that streets in the subdivision are of sufficient width and of suitable grade and suitably located to accommodate prospective traffic and provide access for firefighting and emergency equipment.
- (16) Steps to insure the protection and conservation of soil from erosion by wind or water or from excavation or grading.

D. Final subdivision plat application, major subdivision (applies to Planning Board and Zoning Board). The final plat shall be clearly and legibly drawn or reproduced at a scale of not less than one-inch equals 50 feet in compliance with the Map Filing Law of the State of New Jersey (N.J.S.A. 46:23-9.9 et seq.). The following information shall be shown on standard size sheets:

- (1) All information submitted for preliminary review as revised, corrected or modified during prior public hearings.
- (2) The following certifications shall be on the plan for execution by the Board Secretary, Municipal Engineer and Tax Assessor's office:

Approved by resolution of the Planning Board of
the City of Brigantine on _____

Planning Board Chairman Date

Planning Board Secretary Date

I hereby certify that I have carefully examined this plat and find it in
conformance with the New Jersey Map Filing Law and the ordinances and
requirements of the City of Brigantine applicable thereto.

Municipal Engineer Date
Certificate of taxes paid

Tax Assessor Date

- (3) The following certifications shall be included on the final plat for execution by the owner and surveyor of record:

I hereby certify that I am the record holder of title to the lands delineated on the
plat and consent to the filing thereof.

Owner Date

I hereby certify that this map and survey have been made under my supervision
and comply with provisions of the New Jersey Map Filing Law.

I do further certify that the monuments as designated and shown herein have
been set or will be set as shown.

Surveyor License No. Date

- E. Final subdivision documentation, major subdivision. Final approval of any subdivision shall require the following documentation to be furnished to the Board and its experts for their review and acceptance:
- (1) Proof of taxes paid as of the quarter within which final approval is given.
 - (2) An engineer's cost estimate, showing a breakdown of costs for all on-site and off-site improvements required to construct the development as well as site improvements such as lighting, landscaping, recreational facilities, streets and utilities.
 - (3) A maintenance guaranty and/or performance bond for those improvements as specified in § 198-14, Required improvements, in the form and amount, approved, in writing, by the City Engineer and City Manager. Said guaranties and/or bonds shall be placed on file in the City Manager's office.
 - (4) Inspection fees as required by the City Engineer's office and specified in the design engineer's cost estimate. Said fees shall be posted with the City Manager's office.
 - (5) In the case of a subdivision proposing a homeowners' association, documentation regarding the operating methods and procedures shall be submitted for the Board's review.
 - (6) Proof of all required applications to other agencies having jurisdiction having been made by the applicant.
 - (7) Additional documentation that is required by the Planning Board as a condition of approval.

§ 198-12. Site plan details.

Application and review procedures for site plan approval shall be in accord with § 198-10, Submission of application; required documents, of this chapter. The following details shall be required with any site plan application:

- A. Minor site plan application. The minor site plan shall be prepared to scale to enable the entire project to be shown on one sheet and shall include the information listed below. The scale of the minor site plan shall be not less than 50 feet to the inch except where otherwise directed by the Planning Board.
- (1) A key map showing the location of the property in relation to all properties adjoining the tract and existing streets which border the tract, including street names.
 - (2) The names of the owners of the property to be developed.
 - (3) The name of the prospective developer if different than the owners.

- (4) The Tax Map lot and block numbers of the tract and adjoining properties, including the names and addresses of the property owners within 200 feet of the entire property being subdivided.
 - (5) A schedule indicating the acreage of the total tract, zoning district and minimum setback, yard and coverage requirements applicable to the project.
 - (6) Existing conditions of the property being developed, including a map of property prepared and certified by a New Jersey licensed professional land surveyor.
 - (7) Plan of proposed site improvements, including parking areas, landscaping, utility connections, lighting, sign information and noise control in accordance with existing municipal ordinances.
 - (8) Architectural floor plan(s) showing building configuration and layout.
- B. Preliminary site plan application, major. The site plat shall be prepared to scale to enable the entire site to be shown on one sheet and shall include the information listed below. The scale of the site map shall be not less than 50 feet to the inch except where otherwise directed by the Planning Board.
- (1) A key map showing the location of the property in relation to the entire tract and in relation to all properties adjoining the tract and existing streets which intersect or border the tract, including street names.
 - (2) The names of the owners of the property to be developed.
 - (3) The name of the prospective developer, if different than the owner.
 - (4) The name, address and license number of the professional responsible for the preparation of the plat.
 - (5) The Tax Map lot and block numbers of the tract and adjoining properties, including the names and addresses of the property owners within 200 feet of the entire property being developed.
 - (6) The project name, date of preparation, graphic scale and reference meridian.
 - (7) The location of all adjoining streets, noting improvements, dedication and dimensions.
 - (8) Proposed connections to sanitary sewer and water supply systems, with an estimate of increase in capacities required.
 - (9) The location of environmentally sensitive areas either on or adjoining the tract being subdivided, including coastal waterways, wetlands and beach and dune systems.
 - (10) The location, configuration, use, design and height of each building or structure proposed for construction.

- (11) Existing topographic information showing one-foot contour intervals based on National Geodetic Vertical Datum (NGVD) as determined and certified by a professional land surveyor licensed to practice in the State of New Jersey.
- (12) A schedule indicating the acreage of the total tract, zoning district and minimum setback, yard and coverage requirements applicable to the project; if residential, quantities and data for the following: the total number and type of dwelling units, site coverage, density, open space, parking and recreational area breakdown, description of nonresidential use areas proposed (area, use, building type, etc.) and ownership structure; if commercial, quantitative data for the following: gross leasable area, use area breakdown, off-street parking schedule, open space, buffering and screening areas.
- (13) The location of existing buildings and structures on adjoining properties, indicating configuration, use, height and distance from the property line of the area to be developed.
- (14) The locations and dimensions of driveways and aisles for off-street parking and loading areas, including parking space arrangement, capacity and type.
- (15) A grading and drainage plan showing the locations of all existing and proposed drainage pipes, swales, channels, retention-recharge basins and other items pertinent to drainage, including the proposed grading contours at one-foot intervals. In addition, the drainage plan shall show the following:
 - (a) Drainage area plan outlining the approximate areas contributing to each inlet.
 - (b) Pipe sizes and types, invert elevations, grades and direction of flow.
 - (c) Profiles and cross sections.
 - (d) Direction and flow of all surface waters.
 - (e) Drainage calculations prepared in accordance with § 198-72, Stormwater management.
- (16) The center-line profiles of any proposed streets, driveways or aisles, showing drainage flow; all existing and proposed finished grades of all streets, driveways, aisles, parking and loading areas; and pipe sizes, types, inverts and connections.
- (17) A utility plan showing both proposed and existing locations of sanitary sewers, water systems and natural gas, electric, telephone and cable systems in relation to the proposed buildings, structures and circulation systems in the development.
- (18) A profile of the proposed sanitary sewer system, if not shown with the street center-line profiles.
- (19) A landscaping plan showing the amount, size, and location of each species being utilized, including material list and planting specifications.
- (20) A lighting plan showing location, type and quantity of each fixture being utilized. The plan shall include either a detail of the individual fixture or manufacturer's

specification indicating pattern of illumination, footcandles generated and energy consumption.

- (21) A signing plan showing the location, type, area, and height of each sign proposed. Specialized graphics and intended sign content shall be clearly presented.
 - (22) Architectural plans showing front, side, rear elevations and floor plans in sufficient detail to allow the Board to fully evaluate the proposed buildings.
 - (23) Supplemental data submitted in written or graphic form deemed necessary either by the applicant or the Board in order to augment the site plan to explain the full particulars and operating characteristics of the proposed development.
 - (24) Proof that streets are sufficient width and suitable grade and suitably located to accommodate prospective traffic and to provide access for firefighting and emergency equipment.
- C. Final site plan application. The final site plan shall be clearly and legibly drawn or reproduced at a scale of not less than one-inch equals 50 feet. The following information shall be shown on standard size sheets:
- (1) All information submitted for preliminary review as revised, corrected or modified during prior public hearings.
 - (2) In the case of a residential or commercial site plan proposing condominium ownership or a homeowners' association, documentation regarding the operating methods and procedures shall be submitted for the Board's review.
 - (3) An engineer's cost estimate showing a breakdown of costs for all off-site improvements required to construct the development, as well as site improvements such as lighting, landscaping, recreational facilities, internal streets and utilities. The items to be included in this estimate shall be mutually determined by the Board and its experts.
 - (4) The following certifications shall be on the plan for execution by the Board Chairman, Board Secretary and Municipal Engineer:

Approved by resolution of the Planning Board of the City of Brigantine
on, _____

Planning Board Chairman

Date

Planning Board Secretary

Date

I have reviewed this site plan and find it to be in conformance with the Municipal Land Use Ordinance of the City of Brigantine as well as meeting the conditions and requirements imposed by the Planning Board.

Municipal Engineer

Date

- D. Final site plan documentation. Final approval of any site plan shall require the following documentation to be furnished to the Board and its experts for their review and acceptance:
- (1) Proof of taxes paid to the current quarter within which final approval is given.
 - (2) A maintenance guaranty and/or performance bond for those improvements as specified in § 198-14, Required improvements, in the form and amount, approved, in writing, by the City Engineer and City Manager. Said guaranties and/or bonds shall be placed on file in the City Manager's office.
 - (3) Inspection fees as required by the City Engineer's office and specified in the design engineer's cost estimate. Said fees shall be posted within the City Manager's office.
 - (4) Additional documentation that is required by the Planning Board as a condition of approval.

§ 198-13. Review procedures.

Upon an application coming before the Board, the Board shall first determine that the application is complete. If incomplete, the Board shall proceed in accord with § 198-9F, Additional data required. If complete, the Board shall consider the matter in accord with the following subsections:

- A. Application for minor subdivision approval shall be made to the Planning Board. Application for minor subdivisions as defined in this chapter shall not be subject to public hearing. Approval or denial of a minor subdivision shall occur within 45 days from the date this application is declared to be complete, or within such further time as may be consented to by the applicant. Approval of a minor subdivision shall expire 190 days from the date of Planning Board approval, unless within such period a plat in conformity with such approval and the provisions of the Map Filing Law⁷ or a deed clearly describing the approved minor subdivision is filed by the developer with the Atlantic County Clerk, the Brigantine City Tax Assessor and the Brigantine City Engineer, in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-47). Copies filed with the Tax Assessor must show proof of filing with the County Clerk.
- B. Application for minor site plan approval. Applications for minor site plans as defined in this chapter shall not be subject to a public hearing. Approval or denial of a minor site plan shall occur within 45 days from the date this application is declared to be complete, or within such further time as may be consented to by the applicant. Approval of a minor site plan shall expire one year from the date of Planning Board approval, unless a building permit has been issued within that time.
- C. Application for preliminary major subdivision approval. Preliminary applications for major subdivisions shall be subject to a public hearing after notice properly given by the

7. Editor's Note: See N.J.S.A. 46:23-9.9 et seq.

applicant as provided by N.J.S.A. 40:550-12, and preliminary approval shall be granted or denied within 95 days from the date an application is determined to be complete, or within such further time as may be consented to by the applicant. Otherwise, the Planning Board shall be deemed to have granted preliminary approval of the subdivision plat, and a certificate from the Secretary as to the failure of the Planning Board to act shall be issued on request of the applicant.

- (1) In the event that preliminary approval of a subdivision is denied because of failure to comply with municipal development regulations, a notation to that effect, together with the signature of the Planning Board, shall be placed on the plat, and reasons for the denial shall be stated in the denial resolution.
- (2) Preliminary approval of a major subdivision shall be granted by resolution which shall set forth any conditions that must be met, including required performance guaranties, and plat changes that must be made prior to final approval. A notation indicating preliminary approval shall be placed on each plat, said notation to clearly state that preliminary approval does not authorize recording.
- (3) Preliminary approval of a subdivision plat shall confer upon the developer all rights set forth in the Municipal Land Use Law (N.J.S.A. 40:550-49).

D. Application for preliminary site plan approval. Preliminary applications for major site plans shall be subject to a public hearing after notice properly given by the applicant as provided by N.J.S.A. 40:550-12, and preliminary approval shall be granted or denied within 95 days from the date an application is determined to be complete, or within such further time as may be consented to by the applicant. Otherwise, the Planning Board shall be deemed to have granted preliminary approval of the site plan, and a certificate from the Secretary as to the failure of the Planning Board to act shall be issued on request of the applicant.

- (1) In the event that preliminary approval of a site plan is denied because of failure to comply with municipal development regulations, a notation to that effect, together with the signature of the Planning Board, shall be placed on the plan, and reasons for the denial shall be stated in the denial resolution.
- (2) Preliminary approval of a major site plan shall be granted by resolution which shall set forth any conditions that must be met, including required performance guaranties, and plan changes that must be made prior to final approval. A notation indicating preliminary approval shall be placed on each plan, said notation to clearly state that preliminary approval does not authorize issuance of a building permit.
- (3) Preliminary approval of a site plan shall confer upon the developer all rights set forth in the Municipal Land Use Law (N.J.S.A. 40:550-49).

E. Final approval of site plans and major subdivisions.

- (1) Final approval of a major subdivision or site plan shall be granted only after all requirements and conditions imposed at the time of preliminary approval have been complied with.

- (2) An application for final approval shall be granted or denied within 45 days from the date it is determined to be complete or within such further time as may be consented to by the applicant. Otherwise, the Planning Board shall be deemed to have granted final approval, and a certificate of the Planning Board Secretary as to the failure of the Planning Board to act shall be issued on request of the applicant.
 - (3) Final approval of a major subdivision shall expire 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 Clerk. The Planning Board, for good cause shown, may extend the period for recording for an additional period, not to exceed 190 days from the signing of the plat.
 - (4) Final approval of a major site plan shall expire one year from the date of Planning Board approval, unless a building permit has been issued within that time.
 - (5) Final approval of a major subdivision or site plan shall confer upon the developer all rights set forth in N.J.S.A. 40:550-52.
- F. Application for variance. Whenever the Planning Board is called upon to exercise ancillary powers before the granting of a variance, the Planning Board shall grant or deny approval of the application within 95 days after submission by the developer of a complete application as provided in § 198-9 of this chapter or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute approval of the application, and a certificate of the Secretary as to the failure of the Planning Board to act shall be issued on request of the applicant.
- G. Application for informal review. A developer may request an informal review or preapplication conference of either a site plan or subdivision application from the Planning Board to be scheduled for a regular meeting. This request shall be processed in the same manner as a formal application with the following exceptions:
- (1) No determination of completeness will be made; however, the applicant should meet the minimum detail requirements for a sketch plat or plan.
 - (2) The Planning Board and its experts shall not be bound by any comment, suggestion or review of informal application.
 - (3) No formal action or decision shall be made by the Planning Board.
- H. Application for informal review; change of use. When a change of use is requested in any commercial zone and no variances are required, an informal review process shall occur by a committee comprised of Planning Board members (not to exceed 50% of the full Board membership) and Planning Board professionals, as selected by the Board. The application for informal review for change of use shall be as set forth in the appendix attached to this chapter.⁸ Whenever said proposed use is a less intense use than the current use at the property, said proposed use shall be allowed without the necessity of a formal Board hearing or notice.

8. Editor's Note: Said appendix is on file in the City offices.

§ 198-14. Required improvements.

Prior to the granting of final approval of an application for development and the issuance of signed plans for development, the developer, applicant, owner or his agent shall have installed or shall have furnished a performance guaranty in the form required by N.J.S.A. 40:55D-53, in an amount not to exceed 120% of the cost of installation of the improvements listed below. When posting a performance guaranty, written approval of the design engineer's cost estimate shall be given by the City Engineer to the Board prior to acceptance and execution of the final plans. The required improvements shall be as follows:

- A. Streets. All streets shall be improved to the standards as specified in Article X, Design of Streets, including curbs, gutters and sidewalks along both sides of the street.
- B. Public utilities. Sanitary sewers, water mains, storm drainage systems and other utilities shall be installed as approved by the City Engineer on the final plan.
- C. Off-street parking areas. Off-street parking areas, loading and unloading areas and driveways shall be constructed in accordance with the final plan as approved by the City Engineer.
- D. Street lighting. Street lighting shall be installed at locations required by The City of Brigantine and shall be of the type supplied by the local public utility company to provide proper and safe illumination of streets and public spaces.
- E. Landscaping. Landscaping elements as proposed and approved shall be installed, in the appropriate season, in accordance with Article XII, Landscaping, Buffers and Open Space Design.
- F. Street signs. Street signs of the type and design approved by the Board having jurisdiction shall be installed at all street intersections.
- G. Property monuments. Monuments of the size and shape specified in the Map Filing Law (N.J.S.A. 46:23-9.9 et seq.) shall be placed in accordance with said statute.
- H. Noise control. A noise control plan shall be prepared in accordance with the existing ordinances in the City of Brigantine.⁹
- I. Engineering inspection fees. The amount of construction inspection fees for the required site improvements listed in the performance guaranty shall be determined by the City Engineer. These fees shall be specified, in writing, posted with, either in cash or its equivalent, the City Manager.

§ 198-15. Appeals, applications and additional powers.

- A. Appeals from the decision of the Zoning Officer. Appeals to the Brigantine Planning Board may be taken by any person aggrieved, or by an officer, department, board or bureau of the City of Brigantine affected by any decision of the Zoning Officer. Each appeal shall be taken within the twenty-day period prescribed by the Municipal Land Use Law (N.J.S.A. 40:550-72) by filing a notice of appeal with the Board Secretary and a

9. Editor's Note: See Ch. 216, Noise.

copy with the officer from whom the appeal was taken, together with six copies of said notice with the Zoning Officer. Said notice of appeal shall specify the grounds for said appeal. The Zoning Officer shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. If said appeal is filed, by any person or entity other than the original applicant, notice by certified mail, return receipt requested, must be given to the original applicant within 10 days of filing of such appeal.

- B. (Reserved)
- C. Power to stay action. An appeal stays all proceedings in the furtherance of the action in respect of which the decision appealed from was made, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by an order of the Superior Court of New Jersey upon notice to the officer from whom the appeal is taken and on due cause shown.
- D. Power to reverse or modify decisions. In exercising the above-mentioned powers, the Board may, in conformity with the provisions of N.J.S.A. 40:55D-1 et seq., reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and make such other requirement, decision or determination as ought to be made, and, to that end, have all the powers of the Zoning Officer from whom the appeal was taken.
- E. (Reserved)
- F. (Reserved)
- G. Time for decision.
 - (1) The Board shall render its decision not later than 120 days after the date:
 - (a) An appeal is taken from the decision of a Zoning Officer; or
 - (b) The submission of a complete application for development to the Board pursuant to the provisions of N.J.S.A. 40:55D-72b.
 - (2) Failure of the Board to render a decision within such one-hundred-twenty-day period or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant.

§ 198-16. (Reserved)

§ 198-17. Fees; reimbursement of experts; general requirements.

- A. The fees as set forth in Chapter 210, Mercantile Businesses, Article II, Fees Schedule, shall be paid by the applicant and shall accompany each application for development and/or request for certificate or permit.

B. Reimbursement of Board experts.

- (1) The costs of the professional services of the Planning Board's experts, including but not limited to the Municipal Engineer, City Planner and Board Solicitor, required to review the application for development are included in the fee schedule found in Chapter 210, Mercantile Businesses, Article II, Fees Schedule. The applicant shall be billed by the Secretary of the Board or the City Clerk for the services of the Board Solicitor, according to the invoice submitted by the expert, and according to the following fee schedule:

- (a) City Engineer.

- [1] The fees for the professional services of the City Engineer to review the applicant's plans and submitted materials in connection with an application for development before the Planning Board are as set forth in Chapter 210, Mercantile Businesses, Article II, Fees Schedule.
- [2] When a subdivision is submitted, a lot shall be considered as a unit. When a combination of site plan and subdivision is submitted, the fee shall be based on the greater number of units, either lots or units. Commercial site plans shall require a review fee as set forth in Chapter 210, Mercantile Businesses, Article II, Fees Schedule.

- (b) City Planner.

- [1] Fees for services provided by the City Planner are as set forth in Chapter 210, Mercantile Businesses, Article II, Fees Schedule.
- [2] When a subdivision is submitted, a lot shall be considered as a unit. When a combination site plan and subdivision is submitted, the fee shall be based on the greater number of units, either lots or units. Commercial site plans shall require a review fee as set forth in Chapter 210, Mercantile Businesses, Article II, Fees Schedule.

- (2) No payment shall be made directly to the Board experts. All payments shall be made payable to the escrow account established by the respective Board. Payment shall be released upon the written authorization of both the Chairman and Secretary of the Board having jurisdiction.
- (3) The City Engineer's inspection fees for all improvements that must conform to municipal requirements shall be based on 5% of the construction cost used for the performance bond. This inspection fee shall be paid as described in Subsection B(2).

C. General requirements.

- (1) The applicant shall be deemed by the submission of the application for development to have agreed to pay all reasonable costs incurred for the professional review of the application.

- (2) All fees and review costs shall be paid in full to the City of Brigantine at the time the application is filed. No application for development shall be deemed complete, scheduled for hearing or heard by the Board until the established fees are submitted.
- (3) The applicant will be responsible for the preparation, composition and publication of all legal notices and advertisements required by this chapter, except for the notice of final decisions which will be prepared for publication by the Board Secretary. The applicant shall be assessed a fee as set forth in Chapter 210, Mercantile Businesses, Article II, Fees Schedule, for the notice of final decision.
- (4) In the event that the applicant requires a record of the proceedings transcribed by a certified shorthand reporter, in addition to the normal electronic recording procedures furnished by the Board, then he shall be directly responsible for those costs incurred. Payments shall be made directly to the reporting service.
- (5) Inspection fees must be paid in full prior to the issuance of the notice of final decision.

§ 198-18. Zone districts enumerated.

For the purpose of this chapter, the City of Brigantine is divided into the following zoning districts:

A. Residential Zone Districts:

R-1	Residential, One-Family
R-2	Residential, One-Family
R-2A	Residential, One-Family
R-3	Residential, One-Family
R-3B	Residential, One-Family
R-4	Residential, One-Family, Hotel/Motel
R-5	Residential, Townhouse
R-6	Residential, One-Family, Townhouse
R-7	Residential, One-Family, Hotel/Motel, Townhouse
R-8	Residential, One-Family, Marina

B. Business Zone Districts:

B-1	General Business
B-1A	Central Business
B-2	Marine Residential
B-3	Shopping Center
B-6	North End Business

C. Conservation Zone Districts:

- C-1 Conservation - Beach, Dunes and Wetlands
- C-2 Conservation - Golf Course/Country Club

§ 198-19. Zoning Map.

The boundaries of all zone districts shall be on a certified map attached to and made a part of this chapter and known as the "Zoning Map of the City of Brigantine," as may be amended. Said map and all notations and references thereon are hereby incorporated into and declared to be a part of this chapter.¹⁰

§ 198-20. Determination of boundary lines.

Where uncertainty exists as to any of the zone district boundaries as shown on the Zoning Map, the following rules shall apply:

- A. Street center lines. Zone district boundary lines are intended to follow the center lines of streets or lot lines as they exist on the Tax Map or plats of record at the time of passage of this chapter, unless such zone district boundary lines are fixed by dimensions as shown on the Zoning Map.
- B. Property lines. Where such boundaries are not fixed by dimensions and where they approximately follow lot lines and where they do not scale more than 20 feet distant there from, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.
- C. Scaled dimensions. In unsubdivided land and where a zone boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the scale appearing thereon.
- D. Water's edge location.
 - (1) With regard to the zone district boundary lines of the zones bordering the Atlantic Ocean, the southern or waterward boundary of the district shall be coincident with the mean high-water line of the Atlantic Ocean as determined at the time of the adoption of this chapter.
 - (2) With regard to the zone district boundary lines of the zones bordering St. George's Thorofare, Bonita Tideway, Bonita Cove, Obe's Thorofare, Steelman's Bay, Wading Thorofare or any other body of water within the City limits, the northern or waterward boundary of the district shall be coincident with either mean high-water line of the specific waterway or the exterior pierhead or bulkhead lines

10. Editor's Note: Said map is on me in the City offices.

as established by the State of New Jersey or exterior line of a tidelands grant, lease or license as issued by the Tidelands Resource Council or its predecessor.

- E. Developments within the development restriction line. The development restriction line as shown on the Zoning Map of the City of Brigantine and defined herein shall be adhered to whenever and wherever an application for development is made to the Planning Board.

§ 198-21. Extension of districts upon vacation of public ways.

Whenever any street, alley or other public way is vacated by official action of the governing body, the zoning district shall be automatically extended to the center line of the vacated public way, and all areas in question shall be subject to all appropriate regulations of the extended district.

§ 198-22. Undersized lots of record.

A. Criteria of use.

- (1) Any unimproved noncontiguous undersized lots located in a residential zone district may be utilized for single-family development only. To be so used, the minimum area requirements for such a lot shall be 3,600 square feet and 40 feet of lot frontage. The use of lots having less than 40 feet of frontage is subject to the review and approval of the Planning Board. Any unimproved, undersized lot of record shall merge with a contiguous lot owned by the same person or entity and shall not be allowed to be developed as an independent separate lot.
- (2) Unimproved, noncontiguous undersized lots may be utilized as stated herein provided that all other regulations prescribed for the zone by this chapter are complied with, and subject to the provisions of Subsection B.

- B. Overall exception of existing noncontiguous undersized unimproved lots. Any noncontiguous, undersized unimproved lots which are not of the required minimum area or width may be used in the zone in which they are located, as set forth in the filed map, if such lots were included in a subdivision plat which was either duly approved under the Municipal Planning Act of 1953 prior to the effective date of this chapter but subsequent to January 1, 1954, or which subdivision was granted tentative approval under said Act prior to the effective date of this chapter and granted final approval after the effective date of this chapter but within three years from the date of such tentative approval, and provided further that the final subdivision plat, in either instance, shall have been duly recorded in the Atlantic County Clerk's office within the time required by law.

§ 198-23. Height restrictions; exceptions.

- A. Structures excepted from height restrictions.

- (1) The height limitations of this chapter shall not apply to spires, belfries, cupolas and domes for church construction, not used for human occupancy and not a residential structure.
 - (2) Further exceptions include chimneys, ventilators, skylights, water tanks, similar features and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve, and not to exceed four feet above the allowed height.
 - (3) The provisions of this chapter shall not apply to prevent the erection above the building height limit of a parapet wall or cornice for ornament (and without windows) extending above such height limit not more than thirty (30) inches, **for flat roofs on two story buildings.**
- B. Required increases in yard setbacks. Public and quasi-public buildings, schools, churches and other similar permitted uses shall increase the front, rear and side yards by one foot for each foot by which such buildings exceed the height limit herein established for such zone in which it is located.
- C. Maximum height restriction. In no case shall any building have a height greater than 35 feet unless explicitly permitted in the schedules of this chapter.

§ 198-24. Continuance of nonconforming uses and structures.

Except as otherwise provided in this section, the lawful use of the land or buildings existing at the date of the adoption of this chapter may be continued, although such use or building does not conform to the regulations specified by this chapter for the zone in which such land and buildings is located; provided, however, that:

- A. No nonconforming lot shall be further reduced in size.
- B. A nonconforming use or building shall not be expanded enlarged, extended or increased in any fashion which would increase or extend such nonconformity without receiving a variance from the Board.
- C. There shall be an exception to the above limitation on expansion of nonconforming uses for duplexes in zones that, prior to this subsection, permitted said duplex. An expansion of 20% of the square footage of the duplex, up to 300 square feet per unit, shall be permitted. This square footage is noncumulative and is designed to allow a modernization of many of the older duplex units within the City. This section does not permit the expansion of nonconforming townhouse units or other multifamily dwelling units. No additional bedrooms are permitted to be added as part of the structure's expansion and the 300 square feet or 20% will be considered a maximum expansion for the life of the structure. [Added 7-16-2008 by Ord. No. 16-2008]

§ 198-25. Abandonment of nonconforming uses.

- A. Criteria for abandonment. A nonconforming use shall be adjudged abandoned pursuant to the Municipal Land Use Law (N.J.S.A. 40:55-1 et seq.), as amended.

- B. Conformity required. A nonconforming use that has been abandoned shall not thereafter be reinstated, and the structure shall not be reoccupied, except in conformance with this chapter and the Municipal Land Use Law.

§ 198-26. Restoration of nonconforming uses.

- A. Any nonconforming use or structure existing at the time of the passage of this chapter may be continued upon the lot or in the structure so occupied and any such structure may be restored or repaired in the event of partial destruction thereof.
- B. Upon total destruction of any such nonconforming use or structure on a parcel, such nonconforming use or structures shall cease and all applicable regulations as set forth in this chapter shall apply concerning any new proposed use or structure on such parcel. (See N.J.S.A. 40:55D-1 et seq.)
- C. The initial determination as to whether a preexisting nonconforming use or structure is partially or totally destroyed shall be made by the Zoning Officer. The landowner shall have the right to appeal any such determination to the Planning Board within the City of Brigantine. **A structure which has a foundation and 2 standing walls still existing after any calamity shall be considered partially destroyed. For housing supported by pilings, the pilings shall be considered the foundation.**
- D. Nothing contained in this chapter shall prevent the strengthening or restoring to a safe condition of any wall, floor or roof declared unsafe by the Building Inspector.
- E. **As defined in (C) above, Total Destruction would include the loss of all base foundations and the entire habitable portion of the structure.**

§ 198-27. Reversion of nonconforming uses.

No nonconforming use shall, if once changed into a conforming use, be changed back into a nonconforming use.

§ 198-28. District boundary line changes.

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the provisions of this section shall also apply to any nonconforming uses existing therein or created thereby.

§ 198-29. Extension of use area.

An approved use on a property located in a B-1 Zone may be extended into a R-4, R-3 or R-2 Zone, provided that the following criteria shall be met:

- A. Maximum depth of extension. An extended use area shall not extend into the other zone by a depth of more than 50 feet as measured from the zone boundary.
- B. Encroachment by a building. No principal building shall be permitted to extend into the extension of the use area. Accessory buildings shall be permitted to extend no more than 50% of the depth of property within the adjoining zone area.

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- C. Restriction of use. That remaining portion of the extended use area of the property in the adjoining zone shall be used only for parking, open-air recreation, landscaping and other open-air uses related to the principal use.
- D. Contiguous lands. The extended area shall be contiguous to the property of the principal use.
- E. Buffer strips. Extended use areas shall be screened and separated from the properties in the less restrictive zone in accordance with Article XII, Landscaping Buffers and Open Space Design.
- F. Public nuisance. The Planning Board shall determine if there is adequate control, shielding or buffering of light, noise and glare emanating from the extended use area.

§ 198-30. Development on lands delineated by development restriction line.

- A. No application for development shall be accepted by the Planning Board where any portion of the proposed development, or any of the proposed improvements are designed to lie within, on or over, or encroach in any manner upon the lands delineated by the development restriction line, unless prior permission for such application has been given, in the form of a resolution, by the City Council of the City of Brigantine. Any such application will be subject to a public hearing. Development on the ocean side of the dune restriction line is strictly prohibited and should be permitted only in extraordinary circumstances.
- B. Nothing in this section shall prevent the Planning Board from imposing as a condition to any approval sought the requirement that beach access structures be developed in conformity with § 198-58 of this chapter. If, in the judgment of the Board, such structures should originate from dedicated City street ends or lie upon publicly owned property, then approval of the application may be conditioned upon the grant of approval for the beach access structures by the Brigantine City Council.

§ 198-31. Construction on oceanfront and bayfront property.

- ~~A.~~ Foundation piling shall be required in the oceanfront area as defined in Brigantine City ordinances. ~~All accessory structures in the oceanfront area shall be constructed on pile foundations.~~
- B. All bayfront lots and parcels (waterfront and wetlands) shall be bulkheaded in compliance with Brigantine ordinances.¹¹
- C. No zoning permit shall issue, and no construction shall occur on a lot with an existing bulkhead, unless said bulkhead meets the standards set forth in the ordinance requiring maintenance of bulkheads within the City of Brigantine.
- D. All bayfront lots and parcels (waterfront and wetlands) shall be bulkheaded prior to construction of any building or structure on said lots or parcels.

§ 198-32. Approved projects of record.

Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been issued and the construction of which shall have been diligently pursued within 12 months of the date of such permit.

11. Editor's Note: See Ch. 127, Bulkheads.

ARTICLE IV

Word Usage and Definitions

§ 198-33. Word usage.

For the purpose of this chapter, all words used in the present tense include the future tense. All words used in the plural number include the singular number, and all words in the singular number include the plural number, unless the natural construction of the word indicates otherwise. The word "shall" is mandatory. The word "used" includes "designed, intended or arranged to be used." A "person" includes a corporation, a partnership and an incorporated association of persons such as a club, or any other type of business entity. A "building" includes a "structure"; a "building" or "structure" includes any part thereof.

§ 198-34. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY BUILDING OR STRUCTURE — A building or structure, the use which is incidental to that of the principal building or structure and is located on the same lot. Any container or portion thereof which was or could have been used for transportation of goods or merchandise shall be prohibited and not allowed as an accessory building or structure. The maximum floor area for an accessory building or structure shall not exceed 432 square feet (18 feet by 24 feet). Building height for accessory structures shall be measured from the average center line grade in front of the subject property. Accessory structures smaller than 120 square feet shall be set back a minimum of three feet from all side and rear property lines and shall be no higher than 12 feet. Accessory structures from 120 square feet to 432 square feet shall be set back a minimum of five feet from all side and rear property lines and shall be limited to 15 feet in height. Accessory structures on corner lots shall be set back a minimum of 25 feet from the front lot line ~~and. All Accessory Structures~~ shall have a minimum distance of five feet to the principle structure on the property. No Accessory Structures shall be used for Residential or Living purposes.~~[Amended 12-19-2007 by Ord. No. 25-2007]~~

ACCESSORY USE — A use of land or of a building or portion thereof customarily incidental to and subordinate to the principal use of the land or building and located on the same lot with the principal use.

ACCRETION-

- A. **NATURAL ACCRETION** — The buildup of land, solely by action of the forces of nature on a beach by deposition of waterborne or airborne material.
- B. **ARTIFICIAL ACCRETION-** A similar buildup of land by reason of an act of man, such as the accretion formed by a groin, breakwater or beachfill, deposited by mechanical means.

ADDITION- An extension or increase in floor area or height of a building or structure.

ADJOINING LOT OR LAND — A lot or parcel of land which shares all or part of a common lot line with another lot or parcel of land.

AIR CONDITIONER- A mechanical unit used for cooling of a residential or commercial structure. Air conditioners shall be allowed within all zones and may be placed at any location on a lot except for front yards as long as same are in conformity with all other regulations as set forth in this chapter, including but not limited to setback requirements, and also must comply with the Uniform Commercial Code, BOCA Code and Mechanical Codes.

AISLE — The traveled way by which cars enter and depart parking spaces.

ALLEY — A service way providing a secondary means of access to the abutting property and not intended for general circulation.

ALTERATION OF A BUILDING OR STRUCTURE A change in the supporting members of a building or structure, an addition, diminution or conversion of a building or a part thereof, or removal of a building from one location to another.

AMUSEMENT CENTER — Any business that provides as its primary business the use of coin-operated amusement machines and devices operated by the means of the insertion of a coin, token or similar object for the purpose of amusement or skill. ~~Added 12-19-2007 by Ord. No. 25-2007~~

AMUSEMENT FACILITY — An outdoor area or structure, open to the public, which contains amusement game devices and other entertainment devices.

AMUSEMENT GAME DEVICE — A coin-operated machine or device which, whether mechanical, electrical or electronic, shall be ready for play by the insertion of a coin or token and may be operated by the public for use as a game, entertainment or amusement. It shall include devices such as pinball machines and any device which utilizes a video tube to reproduce symbolic figures and lines intended to be representative of real games or activities.

APARTMENT UNIT- One or more rooms with private bath, sleeping facilities and kitchen facilities comprising an independent self-contained dwelling unit in a building containing more than one dwelling unit.

APPLICANT - A person submitting an application for development.

APPLICATION FOR DEVELOPMENT — The application form and all accompanying documents required by this chapter for the approval of a subdivision plat, site plan, planned residential development, conditional use, zoning variance or direction of the issuance of a permit pursuant to § 198-10, Submission of application; required documents.

APPROVED PLAN — A plan which has been granted final approval by the appropriate approving authority.

APPROVING AUTHORITY — The Brigantine Planning Board, or Zoning Officer, as charged with the review and approval of plans and applications under the terms of this chapter, or other County or state department or agency when applicable.

ATTIC — The space between the ceiling beams of the top story and the roof rafters.

AUTOMOBILE BODY AND REPAIR SHOPS — Any building, premises and land in which or upon which a business, service or industry involving the maintenance, servicing, repair or painting of vehicles is conducted or rendered.

AUTOMOBILE SALES FACILITY- The use of any building, land area or other premises for the display and sale of new or used motor vehicles and including any warranty repair work and other repair service conducted as an accessory use.

AUTOMOBILE SERVICE STATION — Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sale of vehicular fuels, and including as an accessory use the sale and installation of lubricants, tires, batteries and similar accessories.

BACKSHORE- That zone of the beach lying between the foreshore and dune area and normally acted upon by waves only during severe storms, especially when combined with exceptionally high waters.

BAR — An establishment used primarily for the sale or dispensing of liquor by the drink to the general public and where food or packaged liquors may be served or sold as an accessory use.

BARRIER-FREE DESIGN — The design of facilities to eliminate physical obstacles and barriers that inhibit the mobility of the physically impaired.

BARRIER ISLAND — A land form consisting of single or multiple elongated sand ridges, dunes, vegetated zones and marsh terraces rising above mean sea level, running generally parallel to the coast, but separated from it by lagoons or inlets.

BASE FLOOD — A flood having one-percent chance of being equaled or exceeded in any given year.

BASEMENT -Refer to BOCA Construction Code.

BEACH — The zone of unconsolidated material that extends landward from the low-water line to the place where there is a marked change in the material of physiographical form, i.e., dune or bulkhead. The beach includes both the foreshore and backshore.

BEACH ACCESS PLAN — An augmented version of the Dune and Shore Management Plan delineating existing vehicular and pedestrian accessways to be either maintained or closed or restored. This plan also delineates dune fields to be restored or reconstructed due to elevation, location, vegetative condition or absence of dune formation.

BEDROOM — A private room planned and intended for sleeping, which has a minimum area of 70 square feet, separated from other rooms and accessible to a bathroom without crossing another bedroom.

BERM — A nearly horizontal part of the beach, or backshore formed by the accretion of material from wave action.

BREAKAWAY WALLS — Any wall, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building materials which are not part of the structural support of the building and so designed to breakaway, under abnormally high tides or wave action, without damage to the structural integrity of the building on which the walls are used or any buildings to which they might be carried by floodwaters. (See Construction Code for better guidelines).

BUFFER STRIP- Landscaped area used to visually separate one use from another or to shield or block noise, lights or other nuisances, being free from heating, air-conditioning and ventilating equipment.

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

BUILDING, ACCESSORY — A subordinate structure on the same lot as the principal building or use occupied or devoted to a use incidental to the principal use.

BUILDING, AREA- The total of the areas of outside dimensions on a horizontal plane at the main grade level of the principal building and all accessory buildings; exclusive of unroofed porches and decks, patios and steps attached or connected to the building.

BUILDING COVERAGE- The total building area expressed as a percentage of the total lot area.

BUILDING HEIGHT- The vertical distance from the base federal flood elevation (FIRM Maps) as adopted by the City of Brigantine for various flood zones (A8=10.0 etc.) as measured from two feet above the federal flood elevation to the top of the highest part of the roof, regardless of the roof structural configuration. All roof structures on the third story of any building shall have a minimum 6/12 roof pitch or slope. This means that for every six inches of vertical rise a minimum of 12 inches of horizontal run shall be provided. ~~[Amended 12-19-2007 by Ord. No. 25-2007]~~

BUILDING PRINCIPAL- A building in which is conducted the principal use of the lot on which it is located.

BUILDING SETBACK- Refer to "setback."

BULKHEAD — A retaining wall, or other structure which has received all prior permits and approvals constructed along a body of water for the purpose of stabilizing the existing water's edge or state approved wetlands line and behind which fill is placed. ~~[Amended 12-19-2007 by Ord. No. 25-2007]~~

CABLE TELEVISION COMPANY- A cable television company as defined in N.J.S.A. 48:5A-3.

CAPITAL IMPROVEMENT - A government acquisition of real property or major construction project.

CAPITAL IMPROVEMENTS PROGRAM — A proposed timetable or schedule of all future capital improvements to be carried out during a specific period and listed in order of priority, together with cost estimates and the anticipated means of financing each project.

CARRY-OUT RESTAURANT — An establishment which by the design of physical facilities or by service or packaging procedures permits or encourages the purchase of prepared ready-to-eat foods intended primarily to be consumed off the premises, and where the consumption of food in automobiles is not permitted or not encouraged.

CERTIFICATE OF OCCUPANCY — A document issued by the Construction Official allowing the occupancy or use of a building and certifying that the owner of the structure or

use has certified that the structure has been constructed in compliance with all the applicable municipal codes and ordinances.

CHANGE OF USE — Any use which substantially differs from the previous use of building or land; refers to zoning uses only.

CHURCH — A building or structure which, by design and construction, is primarily intended for the conducting of organized religious services and accessory uses associated therewith.

CIRCULATION — Systems, structures and physical improvements for the movement of people, goods, water, air, sewage or power by such means as streets, highways, railways, waterways, towers, airways, pipes and conduits and the handling of people and goods by such means as terminals, stations, warehouses and other storage building or transshipment points.

COASTAL HIGH-HAZARD AREA — The area of Brigantine Island subject to high-velocity waters and hurricane wave wash designated on the Flood Insurance Rate Map (FIRM) as Zones V1-V30.

CONDITIONAL USE — A use permitted in a particular zoning district only upon showing that such use, in a specified location, will comply with all the conditions and standards for the location or operation of such use as specified in this chapter and authorized by the Planning Board.

CONDOMINIUM — A form of ownership whereby a building, or group of buildings, containing units which are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis. NOTE: If change of ownership of a building or structure to condominium ownership effectively changes the use of said building or structure, all necessary approvals must be obtained from the Board prior to such change of ownership/use.

CONDOMINIUM ASSOCIATION- The community association which administers and maintains the common property and common elements of the condominium.

CONSERVATION AREA — Zone districts designated by the City of Brigantine which, by their physical nature, are of basic and vital importance to the preservation and protection of the environment of Brigantine Island and require special review and consideration for the development thereof.

CONTIGUOUS LOT- Refer to "adjoining lot or land."

COUNTRY CLUB- A land area and buildings containing recreational facilities, clubhouse, golf course and usual accessory uses open only to members and their guests for a membership fee.

COUNTY MASTER PLAN — The Official Master Plan for the physical development of Atlantic County.

DAYS — Calendar days.

DECK — A roofless, permeable structure, that is not a porch, projecting from the front, side or rear wall of a building. No decks which in any way extend from or attach to a peaked roof shall be permitted in any zone. ~~{Amended 12-19-2007 by Ord. No. 25-2007}~~

DENSITY — The total number of permitted dwelling units or housing structures per gross area of land to be developed.

DEVELOPABLE LAND — Lands situate in the residential, commercial and conservation zoning districts, excluding lands designated as either tidelands or wetlands by the State of New Jersey and/or the United States Army Corps of Engineers.

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

DEVELOPMENT — The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure; any mining, excavation, landfill or any use or change in the use of any building or other structure, or land or extension of use of land.

DEVELOPMENT, MAJOR- Any development not a minor development.

DEVELOPMENT, MINOR- Any development involving three or fewer lots or involving a land area of less than 10,000 square feet and not requiring the extension of any new streets or infrastructure or other municipal services.

DEVELOPMENT REGULATION- Means a zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land or amendment thereto adopted and filed pursuant to this Act.

DEVELOPMENT RESTRICTION LINE- An artificial boundary delineating the various districts and area contained within the Dune Management Districts and the developed community. This line shows the extreme limit of allowable development fronting the Atlantic Ocean prior to intrusion into existing dune areas and beaches.

DISCHARGE — The volume of water flowing past a given point per unit of time and measured in cubic feet per second.

DRAINAGE — Surface water runoff or the removal of surface water or of groundwater from land by drains, grading or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development and includes inducing water recharge into the ground where practical to lessen nonpoint pollution and the means necessary for water supply preservation or prevention or alleviation of flooding.

DRAINAGE SYSTEM — Pipes, swales, natural features and man-made improvements designed to carry drainage.

DREDGING — An excavation method for deepening coastal waters by removing solids from the bottom.

DRIVE-IN RESTAURANT — A building or portion thereof where food and/or beverages are sold in a form ready for consumption and where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the building, often in an automobile on the site.

DRIVEWAY — A private roadway providing access for vehicles to a parking space, garage, dwelling or other structure.

DRUGSTORE — A retail trade establishment where the primary business is the filling of medical prescriptions and the sale of drugs, medical devices and supplies and nonprescription medicines but where nonmedical products are sold as well.

DUNE-

- A. Systems or formations of drifting windblown material, usually sand, which are upland of the beach and oriented roughly parallel to the shoreline. These formations may be natural or of human origin and are usually stabilized with natural vegetation. The term "dune" includes all areas between the inland limits of the beach and the dune development restriction line.
- B. Dunes include the following subcategories:
 - (I) FORE DUNE or PRIMARY DUNES- The front dunes immediately behind the backshore of the beach.

- (2) PRIMARY BACK DUNES, SECONDARY AND TERTIARY DUNES – The backslope of the fore dune, extending from the dune ridges immediately landward of the fore dune to the dune development restriction line.
- (3) MIGRATING DUNES- Dunes which have changed location through the course of time.
- (4) ARTIFICIAL DUNES -Accumulations of sediment in dune form which have been built by any non-natural process such as bulldozing or sand fencing.
- (5) STABILIZED DUNES — Dunes maintained in a fixed location by artificial means.

DUNE AREA- The area actually or normally occupied by dunes; for purposes of this chapter, it shall be construed to include the beach and dune area between the ocean and the development restriction line.

DUNE CREST – The point or line where the dunes highest elevation is located.

DUNE LINE — A row of dunes, which may blend in with a berm or berms, which blend in with each other, run roughly parallel to the ocean and serve as a protective barrier against coastal storms. Refer to "development restriction line."

DUNE MAINTENANCE DISTRICT- An artificial area delineating dune fields containing two or more dune ridges and having a greater width than 400 feet. The dune surface is stabilized by natural vegetation.

DUNE, NATURAL — A dune created by natural forces or one that has developed the contours, vegetation, root systems, etc., characteristics of dunes so created.

DUNE, RECONSTRUCTION DISTRICT – An artificial area delineating a discontinuous dune field or beach area without dunes, poorly developed, unstable and less than 75 feet in width.

DUNE, RESTORATION DISTRICT- An artificial area delineating a dune field containing one or more dune ridges which may be discontinuous between the beach and upland structures and having a width of less than 300 feet.

DUPLEX——Refer to "dwelling, two-family."

DWELLING A structure or portion thereof which is used exclusively for human habitation.

DWELLING, ATTACHED- A one-family dwelling attached to one or more one-family dwellings by common vertical walls.

DWELLING, DETACHED- A one-family dwelling which is not attached to any other dwelling by any means.

DWELLING, GARDEN APARTMENT - A multifamily dwelling containing five or more one-family apartment units in a single building of two to three stories.

DWELLING, MULTIFAMILY — A dwelling containing more than two one-family dwelling units, including all dwellings which are attached or detached, or defined as garden apartments, quadraplexes, townhouses, triplexes or two-family dwellings.

DWELLING, QUADRAPLEX — Four attached one-family dwellings in one structure in which each unit has two open-space exposures and shares one or two walls or floors with adjoining unit or units.

DWELLING, SINGLE-FAMILY DETACHED- A dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and which is not attached to any other building by any means.

DWELLING, TOWNHOUSE — A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit and each unit is separated from any other unit by one or more common fire-resistant walls.

DWELLING, TRIPLEX — A dwelling containing three dwelling units, each of which has direct access to the outside or to a common hall.

DWELLING, TWO-FAMILY — A structure on a single lot containing two independent dwelling units. If the Zoning Officer or Construction Official makes a determination that a dwelling is a two-family dwelling (duplex), the burden is on the applicant, occupant or owner to prove otherwise and obtain all necessary variances, permits, and other approvals.

DWELLING UNIT — A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

DWELLING UNIT, EFFICIENCY — A dwelling unit consisting of not more than one habitable room equipped for sleeping, together with kitchen or kitchenette and sanitary facilities.

EROSION — The wearing a way of land by the action of natural forces. On a beach, the carrying away of beach materials by wave action, tidal currents, littoral currents or by deflation.

ESSENTIAL SERVICES — The erection, construction, alteration or maintenance of underground, surface or overhead electrical, gas, water and sewerage transmission and collection systems and the equipment and appurtenances necessary for such systems to furnish an adequate level of public service.

EXISTING USE- The use of a lot or structure at the time of the enactment of this chapter.

FAMILY — One or more individuals occupying a dwelling unit as a single nonprofit housekeeping unit whose relationship is of a permanent and distinctly domestic nature.

FAST-FOOD RESTAURANT- An establishment whose principal business is the sale of prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant or off the premises.

FENCE — An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land, not including retaining walls or bulkheads. **A privacy fence or wall is defined as any fence or wall that obscures visibility through the fence by 50% as viewed by at right angles.**

FINAL APPROVAL — The last official action of the Brigantine Planning Board taken on a development plan which has been given preliminary approval, after all conditions and requirements have been met and the required improvements have been installed or guaranties properly posted for their installation, or approval conditioned upon the posting of such guaranties.

FLOATING HOME - Refer to "houseboat."

FLOOD HAZARD AREA — Lands located in the floodplain as established by the Federal Insurance Administration subject to one-percent or greater chance of flooding in any given year.

FLOOD HAZARD DESIGN ELEVATION - The highest elevation, expressed in feet above mean sea level, of the level of floodwaters which delineates the flood hazard area.

FLOOD INSURANCE RATE MAP (FIRM) — The official map on which the Federal Insurance Administration has delineated both the areas of special hazards and the risk-premium zones applicable to the City of Brigantine.

FLOOD INSURANCE STUDY — The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Hazard Boundary Floodway Map, or the water surface of the base flood.

FORESHORE- The part of the shore lying between the crest of the seaward berm and ordinary low-water mark and that is typically traversed by the uprush and backrush of the waves.

FRATERNAL ORGANIZATION- A group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings and formal written membership requirements.

FRONTAGE — That side of a lot abutting on a street.

FRONT LOT LINE — Refer to "lot line, front."

FRONT YARD- Refer to "yard, front."

FUNERAL HOME — A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

GARAGE — Deck, building or structure, or part thereof, used or intended to be used for the parking and storage of vehicles. All garages shall have a flat, shed, or peaked roof. No detached garage shall be used for residential purposes or living quarters.

GARAGE, COMMUNITY- A garage used exclusively for the parking and storage of vehicles owned and operated by the residents of nearby or attached dwelling units and their guests, which is not operated as a commercial enterprise and is not available to the general public, and which is owned, leased or cooperatively operated by such residents.

GARAGE, PRIVATE CUSTOMER AND EMPLOYEE — A structure which is a nonretail commercial establishment, building or use and is primarily for the parking and storage of vehicles operated by the customers, visitors and employees of such building and which is not available to the general public.

GARAGE, PRIVATE RESIDENTIAL — A structure which is accessory to a residential building and which is used for the parking and storage of vehicles owned and operated by the residents thereof, and which is not a separate commercial enterprise available to the general public. No detached garage shall be used for residential purposes or living purposes.

GARAGE, PUBLIC — A building, or portion thereof, other than a private customer and employee garage or private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

GARDEN APARTMENT- Refer to "dwelling, garden apartment."

GENERAL PUBLIC - Any and all individuals without any prior qualifications.

GLARE — The effect produced by brightness sufficient to cause annoyance, discomfort or loss in visual performance and visibility.

GOLF COURSE — A tract of land for playing golf, improved with trees, greens, fairways and hazards and which may include clubhouses and shelters.

GRADE — The degree of rise or descent of a sloping surface.

GRADE, FINISHED — The final elevation of the ground surface after development.

GRADE, NATURAL — The elevation of the ground surface in its natural state, before man-made alterations.

GRADING — Any stripping, cutting, filling or stockpiling of earth or land, including the land in its cut or filled condition.

GROIN — A shore protection device built (usually perpendicular to the shoreline) to trap littoral drift or reduce erosion of the shore. A "groin field or system" is a series of groins acting together to protect a section of beach.

GROSS LEASABLE AREA — The total floor area for which the tenant pays rent, and which is designed for the tenant's occupancy and exclusive use.

HABITABLE ROOM- Any room in a dwelling unit other than a kitchen, bathroom, closet, pantry, hallway, storage space or garage recreation room.

HOME OCCUPATION — An activity carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit and subject to the same limitations as designated in § 198-122.

HOMEOWNERS' ASSOCIATION — A community association, other than a condominium association, which is organized in a development in which individual owners share common interests in open space or facilities.

HOME PROFESSIONAL SERVICE — The home office of a recognized traditional profession, such as medical doctor, minister, architect, professional engineer, planner or attorney and subject to the same limitations as designated in § 198-122. A home professional service shall be an activity carried out by a resident conducted as an accessory use in the resident's dwelling.

HOTEL — A facility offering transient guest lodging accommodations to the general public and providing additional services such as restaurants, meeting rooms and recreational facilities. A hotel does not provide for direct access to the guest rooms except through the main lobby and through a common system of halls, stairs and accesses. A hotel must also have a main desk and central area for pickup and drop-off of luggage and patrons.

HOTEL EFFICIENCY ROOM — Refer to "motel efficiency room."

HOTEL ROOM — Refer to "motel room."

HOTEL SUITE UNIT — Refer to "motel suite unit."

HOUSEBOAT — A boat designed and utilized primarily as a dwelling unit as opposed to traditional marine uses such as commercial and sport fishing, water sports and navigational activities.

IMPERVIOUS SURFACE — ~~Any material which reduces and prevents absorption of stormwater into previously undeveloped land. Any surface or material that is used on the ground that does not allow for the infiltration or absorption of stormwater and is the cause of runoff.~~ Block or brick pavers shall be considered impervious under this chapter. ~~[Amended 12-19-2007 by Ord. No. 25-2007]~~

INTERTIDAL AREA- The land area between high and low tide, also called a "beach."

ISOLATED LOT — An undeveloped substandard lot in separated ownership from surrounding property.

JETTY — A structure extending into a body of water and designed to prevent shoaling of a channel by littoral materials and to direct and confine a stream or tidal flow.

LANDSCAPING- The addition of trees, plant and other natural and decorative features to land.

LAUNDROMAT — An establishment providing washing and drying machines on the premises for rental use to the general public for family laundering purposes.

LOADING SPACE — An off-street space or berth used for the loading or unloading of commercial vehicles.

LODGE — The place where members of a local chapter of an association hold their meetings and the local chapter itself.

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

LOT AREA — The total horizontal area within the limit of the lot lines of a lot, excluding any street rights-of-way or lands beyond the bulkhead.

LOT, CORNER — A lot or parcel of land abutting upon two or more streets at their intersection.

LOT COVERAGE- Refer to "site coverage."

LOT DEPTH — The mean distance measured from the front lot line to the rear lot line.

LOT FRONTAGE — The length of the front lot line measured at the street right-of-way line.

LOT FRONTAGE, CORNER LOT — On corner lots with a curve or an arc separating the two frontages, the lot frontage shall be measured along each street line to an extension of intersecting street lines. (Point of intersection) ~~{Amended 12-19-2007 by Ord. No. 25-2007}~~

LOT FRONTAGE, PRIMARY — The primary lot frontage on a corner lot shall be the smaller of the two frontages or in the case of equal frontages, that frontage that exists along the more heavily traveled street. ~~{Added 12-19-2007 by Ord. No. 25-2007}~~

LOT LINE- A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

LOT LINE, FRONT- The lot line separating a lot from a street right-of-way.

LOT LINE, REAR — The lot line opposite and most distant from the front lot line or, in the case of triangular or otherwise irregularly shaped lot, a line 10 feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. On bayfront lots, the bulkhead will be considered the rear lot line.

LOT LINE, SIDE — Any lot line other than the front and rear lot line.

LOT, MINIMUM AREA- The smallest lot area established by this chapter on which a use or structure may be located in a particular district.

LOT WIDTH — The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot at the minimum required building setback line.

MAINTENANCE GUARANTY — Any security which may be required by the City of Brigantine to assure that necessary improvements will function as required for specific period of time.

MARINA, COMMERCIAL — A facility for storing, servicing, fueling, berthing and securing of pleasure boats and which may include eating and retail facilities for owners, crews and guests. ~~{Amended 12-19-2007 by Ord. No. 25-2007}~~

MARINA, PRIVATE CLUB/YACHT CLUB — A private facility for storing, launching, rental and berthing of boats and which may include a clubhouse, bar and recreational facilities.

MARINE, PRIVATE RESIDENTIAL — A facility for the storing and berthing of pleasure boats restricted to the use of the owner or lessor of the dwelling adjoining the facility as the principal use.

MASTER PLAN — A composite of one or more written or graphic proposals for the development of the municipality as set forth in and adopted pursuant to N.J.S.A. 40:550-28.

MEAN HIGH-WATER LINE- The line formed by the intersection of the tidal plain of mean high tide with the shore.

MEAN SEA LEVEL- Includes the term "sea level" and refers to the 1929 sea level datum as established by the United States Coast and Geodetic Survey.

MIXED USE DEVELOPMENT (MUD) – The development of a tract of land or building or structure with two or more different uses such as, but not limited to, residential, office, retail, public or entertainment, in a compact urban form.

MOTEL- An establishment providing transient guest accommodations containing five (5) or more rooms with at least 25% of all rooms having direct access to the outside without the necessity of passing through the main lobby of the principal building and having a main desk and lobby.

MOTEL EFFICIENCY ROOM OR UNIT — A habitable living facility made available for transient guest accommodations consisting of not more than one complete sleeping room with attached bath and with a kitchen or eating facility installed.

MOTEL ROOM — A habitable living facility made available for transient guest accommodations consisting of not more than one sleeping room with attached bath and without kitchen facilities.

MOTEL SUITE UNIT — A habitable living facility available for transient guests' accommodations with facilities or amenities in addition to a sleeping room and bath facilities such additional facilities consisting of living room or lounge area, kitchen and eating facilities. The access to said unit shall be through one access door only; if other rooms of the suite have direct access to hallways, they will be counted as separate motel units.

MUNICIPALITY – The City of Brigantine as governed by the City government and its duly appointed representatives.

NATURAL VEGETATION — Indigenous or native vegetation, including such plants as beach grass (*Ammophila brevigulata*), dusty miller (*Artemisia stelleriana*), hudsonia (*Hudsonia tomentosa*), sea rocket (*Cakile endentula*), seaside goldenrod (*Solidago sempervirens*), bayberry (*Myrica pennsylvania*) or beach plum (*Prunus maritima*), which normally grow or may be planted on the slopes of dunes or behind them.

NONCONFORMING LOT — A lot, the area and/or dimensions of or location which fails to conform to the present requirements of the zoning district in which it is located.

NONCONFORMING SIGN — Any sign which is nonconforming because it does not conform to all standards of this chapter.

NONCONFORMING STRUCTURE OR BUILDING — A structure or building which fails to conform to the present requirements of the zoning district.

NONCONFORMING USE — A use or activity which fails to conform to the present requirements of the zoning district.

OFFICE BUILDING- A building used primarily for conducting the affairs of a business, profession, service or government. A factory or other such industrial use is not an office building.

OFF-SITE TRADESMAN — Members of the building trades or lawn maintenance professions who operate a business which includes bookkeeping and the receipt of mail from the residential home of said off-site tradesman.

OPEN SPACE — Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. **Land designated as Open Space shall be limited to passive recreation. No structures other than those required for such passive use are permitted, such as uninhabitable gazebos, viewing platforms or erosion control devices.**

OPEN SPACE, COMMON — Land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development and may include such complementary structures and improvements as are necessary and appropriate. **Land designated as Common Open Space shall be limited to passive recreation. No structures other than those required for such passive use are permitted, such as uninhabitable gazebos, viewing platforms or erosion control devices.**

OPEN SPACE RATIO — Total area of open space divided by the total site area in which the open space is located.

OWNER — An individual, firm, association, syndicate, partnership or corporation having sufficient proprietary interest to seek development of land.

PARKING AREA- Any public or private land area designed and used for parking motor vehicles, including parking lots, garages, private driveways and legally designated areas of public streets.

PARKING LOT — An off-street, ground level area, usually surfaced and improved, for temporary storage of motor vehicles.

PARKING SPACE — A space for the parking of a motor vehicle within a public or private parking area.

PARKING SPACE, OFF-STREET — A temporary storage area for a motor vehicle that is directly accessible to an access aisle and which is not located on a dedicated street right-of-way.

PARTY WALL- A common shared wall between two separate structures, buildings or dwelling units.

PATIOS — Patios or decks 12 inches above grade shall be considered part of the principle building and shall meet all setback requirements thereof. Up to six-foot wide landing as part of the steps less than 12 inches above grade is permitted within setback. ~~{Added 12-19-2007 by Ord. No. 25-2007}~~

PERFORMANCE GUARANTY — Security, submitted to the City of Brigantine pursuant to

N.J.A.S. 40:55D-53, in favor of the City of Brigantine, alone, in an amount not to exceed 120% of the cost of installation of the improvements as are deemed necessary by an application for development. The performance guaranty must be in the form acceptable to the Municipal Attorney and/or Engineer and should consist of either a performance bond issued

by a bonding entity or agency or an approved letter of credit, which is not limited as to scope or time of execution thereon.

PERMITTED USE — Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

PERVIOUS SURFACE- ~~Any material that permits full or partial absorption of stormwater into previously unimproved land.~~ Any material that facilitates the direct infiltration and absorption of stormwater at the location where the water falls. In order to be considered Pervious, the surface must be 40% permeable and capable of accommodating 90% of the rainwater falling on a given area.

PIERHEAD LINE — A line established by the State of New Jersey beyond which no structure may extend into tidal waters.

PLANNED COMMERCIAL DEVELOPMENT — An area of a minimum contiguous size, as specified by ordinance, to be planned, developed, operated and maintained as a single entity containing one or more structures to accommodate commercial or office uses, or both, and appurtenant common areas and other uses incidental to the predominant use as may be permitted by ordinance.

PLANNED UNIT DEVELOPMENT — An area of a minimum contiguous size, as specified by ordinance, to be planned and developed as a single entity containing one or more residential clusters or planned unit residential developments and one or more public, quasi-public, commercial or industrial areas in such ranges of ratios of nonresidential uses to residential uses as shall be specified.

PLANNING BOARD- The duly designated body appointed pursuant to N.J.S.A. 40:55D-1 et seq.

PLAT FINAL — The final map of all or a portion of a subdivision or site plan which is presented to the proper review authority for final approval.

PLAT, PRELIMINARY — A preliminary map indicating the proposed layout of the subdivision or site plan which is submitted to the proper review authority for consideration and preliminary approval.

PORCH — An open area usually roofed which may be screened, which is attached to, and has direct access to and from a building.

PRELIMINARY APPROVAL — The conferral of certain rights pursuant to N.J.S.A. 40:55D-1 et seq. prior to final approval after specific elements of a development plan have been agreed upon by the Planning Board and the applicant.

PRINCIPAL USE- The primary or predominant use of any lot.

PROFESSIONAL OFFICE — The office of a member of a recognized profession such as a medical doctor, minister, architect, professional engineer, planner or attorney.

PUBLIC AREAS — Parks, playgrounds, recreational facilities and open space, including the beach and dune system, schools and other institutional buildings and structures, all of which are available to the general public.

RECREATION FACILITY — A place designed and equipped for the conduct of sports, leisure-time activities and other customary and usual recreational activities.

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

RESTAURANT — An establishment where food and drink is prepared for and offered and sold to the general public which food and drink is consumed primarily within the principal building **and/or on the premises. Outdoor cafes or establishments with outdoor seating shall be considered restaurants under this definition.**
~~[Amended 12-19-2007 by Ord. No. 25-2007]~~

RETAIL FOOD ESTABLISHMENT- Any facility at which, or in which, food or drink is offered or prepared for retail sale or for service with or without charge on or off the premises or elsewhere.

RETAIL SERVICE ESTABLISHMENT- Establishments providing services, as opposed to products, to the general public.

RETAIL TRADE ESTABLISHMENT - Establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

RETAINING WALL — A structure constructed at or along a substantial change in grade to maintain the difference of elevation on either side.

RIGHT-OF-WAY LINE — The lines forming the boundaries of any strip of land dedicated and intended to be occupied by a street, electric transmission line, water main, sanitary or stormwater sewers or other similar uses.

RIPARIAN LANDS — Lands now or formerly flowed by tidal waters either owned, controlled or under the jurisdiction of the State of New Jersey as mapped by the New Jersey Department of Environmental Protection.

ROOF, FLAT — A roof that is not pitched. A roof shall be considered to be flat unless it has a minimum pitch or slope of 3/12, that is for every three inches of vertical increase, there is 12 inches of horizontal change. A roof with less pitch or slope than that will be considered a flat roof. ~~[Added 12-19-2007 by Ord. No. 25-2007]~~

SAND FENCE — A form of barricade established in a line or pattern along the backshore or within the dune field for the express purpose of accumulating sand to aid the formation of dunes. The sand fence shall be a picket-type, i.e. a commercial type of lightweight wooden fencing, four feet in height, held together by wire and secured by posts. Alternate forms of barricades may be utilized only with the approval of the City Engineer.

SEASONAL DWELLING — A dwelling unit that lacks one or more of the basic amenities or utilities required for all-year or all-weather occupancy.

SEASONAL STRUCTURE- A temporary covering erected over a recreational amenity such as swimming pool or tennis court, for the purpose of extending its use to cold-weather months or inclement conditions.

SENIOR CITIZEN HOUSING- Multifamily housing specifically designed for the elderly.

SERVICES — Establishments primarily engaged in providing services for individuals,

business or government establishments and other organizations, including hotels and other lodging places, establishments providing personal, business, repair and amusement services,

health, legal, engineering, and other professional services, educational institutions, membership organizations and other miscellaneous services.

SERVICE STATION - See "automobile service station."

SETBACK — The distance between the street right-of-way line or property line and a principal wall of the structure. Steps, porches, chimneys, bay windows, etc., are not permitted in the setback area unless permitted by other sections of this chapter.

SETBACK LINE — The line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be erected or placed.

SHOPPING CENTER- A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

SIDE YARD — See "yard, side."

SIGHT TRIANGLE — A triangular shaped portion of land established at street intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

SIGN — Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

SIGN, ADDRESS — A sign identifying the house number and/or name of the occupant of a dwelling unit.

SIGN, ANIMATED OR MOVING — Any sign or part of a sign which changes physical position by any movement or rotation or which gives the visual impression of such movement or rotation.

SIGN, AREA — The entire face of a sign, including the advertising surface and any framing, trim or molding, but not including the supporting structure.

SIGN, AWNING, CANOPY OR MARQUEE — A sign that is mounted or painted on, or attached to, an awning, canopy or marquee that is otherwise permitted by ordinance.

SIGN, BILLBOARD- A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

SIGN, BULLETIN BOARD- A sign which identifies an institution or organization on the premises of which it is located, and which contains the name of the institution or organization, the names of individuals connected with it and general announcements of events or activities occurring at the institution or similar messages.

SIGN, BUSINESS — A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured or to an entertainment offered on the premises where the sign is located.

SIGN, CONSTRUCTION — A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, general contractor or similar artisans, and the owners, financial supporters, sponsors and similar individuals or firms having a role or interest with respect to the structure or project.

SIGN, DIRECTIONAL- Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as "one-way", "entrance" and "exit."

SIGN, FLASHING — Any directly or indirectly illuminated sign which exhibits changing natural or artificial light or color effects by any means whatsoever.

SIGN, FREESTANDING- Any nonmovable sign not affixed to a building.

SIGN, GOVERNMENTAL - A sign erected and maintained pursuant to and in discharge of any governmental functions or required by law, ordinance or other government regulation.

SIGN, GROUND — Any sign, other than a pole sign, placed upon or supported by the ground independent of any other structure.

SIGN, IDENTIFICATION – A sign giving the nature, logo, trademark or other identifying symbol; address; or any combination of the name, symbol and address of a building, business, development or establishment on the premises where it is located.

SIGN, ILLUMINATED — A sign lighted by or exposed to artificial lighting either by lights in the sign or directed towards the sign.

SIGN, OFFICE- A sign identifying any office building or funeral home.

SIGN, ON-SITE INFORMATIONAL- A sign commonly associated with, and not limited to, information and directions necessary or convenient for visitors coming on the property, including signs marking entrances and exits, parking areas, circulation direction, rest rooms and pickup and delivery areas.

SIGN, PLACE- A sign identifying a community, residential development, institutional or historic facility.

SIGN, POLITICAL- A temporary sign announcing or supporting political candidates or issues in connection with any national, state or local election.

SIGN, PORTABLE — A sign that is not permanent, affixed to a building, structure or the ground.

SIGN, PROJECTING — A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.

SIGN, REAL ESTATE- A sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located.

SIGN, ROOF — A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable or hip roof or the deck line of a building with a mansard roof.

SIGN, TEMPORARY - A sign or advertising display constructed of cloth, canvas, fabric, plywood or other light material and designed or intended to be displayed for a short period of time.

SIGN, WALL — A sign fastened to or painted on the wall of a building or structure in such manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and which does not project more than 12 inches from such building or structure.

SIGN, WARNING - Signs limited to messages of warning, danger or caution.

SITE COVERAGE — The portion of the site or lot that is covered by buildings, structures or impervious surfaces, including, but not limited to, driveways, parking areas, sidewalks and patios. Decks above the grade, permitting the passage of stormwater runoff, building overhangs, eaves or projections, shall not be included in the determination of site coverage.

SITE, PLAN, MAJOR- Any site plan not classified as a minor site plan or any site plan requiring variances.

SITE, PLAN, MINOR - The development plan for three or fewer dwelling units or for one or more lots with an area of 10,000 square feet or less on which is shown the existing and proposed conditions of the development as specified in § 198-12, Site plan details, ~~and with no variances being sought.~~

SLOPE, LEEWARD — The face or surface of the dune or berm going from its crest or plateau away from the ocean.

SOIL EROSION AND SEDIMENTATION CONTROL PLAN- A plan that indicates the necessary land treatment measures which will effectively minimize soil erosion and sedimentation prepared in accordance with regulations of the Cape-Atlantic Soil Conservation District.

SOLID WASTE — Unwanted or discarded material, including garbage, with insufficient liquid content to be free flowing.

SOLID WASTE MANAGEMENT PLAN — A program providing for the collection, storage and disposal of solid waste, including recycling and recovery.

SPECIAL AREA — An artificial area either overlaying or adjoining Dune Management Districts delineating properties, either in public or private ownership, warranting special consideration in either future development or assessment. No development application shall be made for development of privately-owned property designated as, or claimed to be a special area, without an application being first made to the City Council for a permit to develop the same area.

SPECIALTY FOOD STORE- A retail trade establishment specializing in a special type or class of foods such as an appetizer store, bakery, butcher, delicatessen, fish, gourmet and similar foods.

STORAGE SHED- Accessory building used for items associated with normal household use but not for storage of unusually dangerous or flammable materials.

STORY- That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. **Uninhabitable space below the City's base flood elevation may be considered a story if the ceiling height of that space is 7.0 feet or greater, unless greater than 7 feet is required to meet base flood elevation for the structure. This would include storage areas and garages.**

STREET — Any vehicular way which is:

- A. An existing state, county or municipal roadway;
- B. Shown upon a plat approved pursuant to law;
- C. Approved by other official action; or
- D. Shown on a plat duly filed and recorded with the Atlantic County Clerk prior to the appointment of the Brigantine Planning Board and grant to such Board of the power to review such plats; and includes the land between the street lines, whether improved or unimproved, and may include shoulders, gutters, curbs, parking areas and other areas within such street line.

STREET, COLLECTOR — A street which collects traffic from local streets and connects minor and major arterial streets.

STREET, CUL-DE-SAC- A street with a single common ingress and egress and with a turnaround at the end.

STREET, DEAD-END- A street with a single common ingress and egress.

STREET, IMPROVED — A street constructed to the specifications of this chapter and dedicated and accepted for public use by the City of Brigantine. Streets existing and in public use prior to the enactment of this chapter shall be considered improved subject to the review of the City Engineer.

STREET, INTERNAL ACCESS- A local street designed to provide access to limited areas of a multifamily project.

STREET LINE- Refer to "right-of-way lines."

STREET, LOCAL- A street designed to provide vehicular access to abutting properties and to discourage through traffic.

STREET, MAJOR ARTERIAL- A street with access control, channelized intersections and restricted parking, and which collects and distributes traffic to and from minor arterials.

STREET, MARGINAL ACCESS — A street running parallel to a major arterial street limited to serving abutting properties.

STREET, MINOR ARTERIAL- A street with signals at important intersections and stop signs on the side streets, and which collects and distributes traffic to and from collector streets.

STRUCTURAL ALTERATION — Any change in either the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimensions or configurations of the roof or exterior walls.

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

SUBDIVISION- The division of a lot, tract or parcel of land into two or more lots, tracts or parcels of land for sale, development or lease. The following shall not be considered subdivisions within the meaning of this chapter if no new streets are created:

- A. Divisions of property by testamentary or intestate provisions.
- B. Divisions of property upon court order, including but not limited to judgments of foreclosure.
- C. Conveyances so as to combine existing lots by deed or other instrument.

SUBDIVISION, MAJOR - Any subdivision not classified as a minor subdivision.

SUBDIVISION, MINOR —

- A. Contains not more than three lots fronting on an improved street with adequate drainage.
- B. Includes no lands which were part of a minor subdivision approved and filed within three years immediately preceding the subdivision application.
- C. Does not require the construction or improvement of any street.
- D. Does not require the extension of any municipal facilities or off-tract improvements.
- E. Does not adversely affect the development of the remainder of the parcel or of adjoining property.
- F. Does not conflict with any provision of the Master Plan, Official Map or this chapter.¹²
- G. Does not involve a planned unit development.

SUBSTANTIAL IMPROVEMENT — Any extension, repair, reconstruction or other improvement of a property, the cost of which exceeds or is equal to 50% of the market value of the property before the improvement is started, or if the property has been damaged and is being restored, before the damage occurred.

SUPERMARKET — A retail trade establishment primarily selling food as well as other convenience and household goods.

12. Editor's Note: Said plan and map are on file in the City offices.

SWIMMING POOL — A water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above-surface pool having a depth of more than 30 inches, designed, used and maintained for swimming.

THEATER — A building or portion thereof devoted to showing motion pictures or for dramatic, musical or live performances.

TOWNHOUSE- Refer to "dwelling unit, townhouse."

UNIT, DWELLING- Refer to "dwelling unit."

USE — The purpose or activity for which land or buildings are designed, arranged or intended, or for which land or buildings are occupied or maintained.

USE, SPECIFIC DEFINITIONS — The following specific definitions of "use" are contained elsewhere in this section: "accessory use," "conditional use," "existing use," "institutional use," "permitted use" and "principal use."

VARIANCE — A departure from the strict interpretation and literal requirements of this chapter, as granted by the Planning Board in accordance with the Municipal Land Use Law (40:55D-1 et seq).

WETLANDS — Areas where the substrate is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal duration sufficient to support, and that under normal circumstances, do support, a prevalence of vegetation typically adapted for life in saturated soil conditions which are under the jurisdiction of the New Jersey Department of Environmental Protection pursuant to the Coastal Wetlands Act (N.J.S.A. 13:9A-1 through 9A-10).

WIND ENERGY CONVERSION- A machine that converts the kinetic energy in the wind into a usable form. The wind energy conversion systems (WECS) shall consist of the following elements:

- A. A structural surface area for capturing the wind.
- B. A shaft, gear, belt or coupling assembly for the conversion or the rotational power of the attached surface area to an electrically or mechanically usable form.
- C. A generator or alternator to convert the rotational energy into electrical energy (for systems designed for producing electrical power).
- D. A type of tower or other structure upon which the above elements of the WECS are mounted.

YARD — An open space that lies between the principal or accessory building(s) and the nearest lot line designated to be unobstructed and unoccupied from the ground upward except as may be specifically provided in this chapter.

YARD, FRONT — A space extending the full width of the lot between any building and the front lot line and measured perpendicular to the building at the closest point to the rear lot line.

YARD, SECONDARY FRONT- Applicable only to comer lots, a yard abutting a street on said comer lot and does not meet the definition of a primary front yard. The secondary front yard shall be that yard that is along the longest of the two front lot lines or, in the case of lot lines having the same length, the street that is considered to have less traffic intensity.

~~[Added 12-19-2007 by Ord. No. 25-2007]~~

YARD, SIDE — A space extending from the front yard to the rear yard between the principal building and the side lot line measured perpendicular from the side lot line to the closest point of the principal building.

YARD, REAR — A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line.

ZONING ENFORCEMENT OFFICER- The person or entity designated by the City of Brigantine and empowered to act pursuant to § 198-128, Zoning Officer, of this chapter.

ZONING MAP — The map adopted by the City of Brigantine and included as part of this chapter, delineating the boundaries of each zone district.¹³

ZONING PERMIT — Document which is required by ordinance as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installment of a structure or building; and acknowledges that such use, structure or building complies with the provisions of the Municipal Land Use Ordinance or a variance therefrom duly authorized by the Board.

ARTICLE V

Residential Zone Regulations

§ 198-35. Intent.

It is the intent of this article governing residential use to implement the recommendations of the November 2001 Master Plan as set forth therein and in §§ 198-2 and 198-2.1.

§ 198-36. Residential use matrix.

The following matrix and schedule provide a summary of the permitted uses, accessory uses and conditional uses in residential districts throughout the City of Brigantine. Uses not specifically set forth in this section are considered prohibited and shall not be permitted in any residential district unless otherwise set forth in this chapter, with the exception of municipal uses, municipal facilities, and municipal recreational facilities which are permitted to be placed by the Brigantine City Council in any zone.

Residential Use Matrix**Zone District**

	R-1	R-2	R-2A	R-3	R-3B	R-4	R-5	R-6	R-7	R-8
Permitted Uses										
One-family dwelling	P	P	P	P	P	P	N/A	P	P	P
Three-family dwelling	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Four-family dwelling	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Garden apartment	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Townhouses	N/A	N/A	N/A	N/A	N/A	N/A	P	P	P	N/A
Hotel/motel	N/A	N/A	N/A	N/A	N/A	P	N/A	N/A	P	N/A
Marinas	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	P
Accessory Uses										
Garages, private residential	P	P	P	P	P	P	P	P	P	P
Storage sheds	P	P	P	P	P	P	P	P	P	P
Fences	P	P	P	P	P	P	P	P	P	P
Signs	P	P	P	P	P	P	P	P	P	P
Public utility	P	P	P	P	P	P	P	P	P	P
Conditional Uses										
Churches	P	P	P	P	P	P	P	P	P	P
Recreational facilities	P	P	P	P	P	P	P	P	P	P
Hospital	P	P	P	P	P	P	P	P	P	P
Public utility installation	P	P	P	P	P	P	P	P	P	P
Parking lots	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Retail service Establishments	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Restaurant/bar	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Lodges	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Two-family dwelling	N/A	N/A	N/A	C	C	C	N/A	C	N/A	C

NOTES:

P=Permitted

N/A = Not permitted

13. Editor's Note: See map is on file in the City offices.

C = Conditional

All uses not listed above are prohibited uses in the respective zones. The prohibitions contained in this section are not all inclusive. Each use must comply with any and all requirements as set forth in other sections of this Municipal Land Use Ordinance and in the Municipal Land Use Law of the State of New Jersey. ¹⁴

§ 198-37. Two-family dwellings as conditional uses.

- A. Two-family dwellings shall be permitted as conditional uses in the following zones and must be granted conditional use approval from the Planning Board of the City of Brigantine.
- (1) R-3.
 - (2) R-3B.
 - (3) R-4.
 - (4) R-6.
 - (5) R-8.
 - (6) B-2.
- B. The following conditions shall be applicable to all two-family dwellings except as modified by § 198-37C below:
- (1) Minimum lot frontage: 60 feet.
 - (2) Minimum lot depth: 90 feet.
 - (3) Minimum front yard depth: 20 feet.
 - (4) Minimum rear yard setback: 20 feet.
 - (5) One side yard setback: 10 feet.
 - (6) Second side yard setback: 5 feet.
 - (7) Minimum lot area: 5,400 feet.
 - (8) Maximum building height: 35 feet.
 - (9) Maximum building coverage: 40%.
 - (10) Maximum site coverage: 60%.

14. Editor's Note: See N.J.S.A. 40:550-1 et seq.

- (11) All side yard and rear yard setbacks for accessory buildings: ~~3~~ 5 feet.
 - (12) Maximum height of accessory buildings: 15 feet.
 - (13) Conformity with all other applicable requirements of this chapter and the Municipal Land Use Law of the State of New Jersey¹⁵ including but not limited to all parking requirements.
 - (14) In its evaluation and review, The Planning Board shall consider the impact of the use and structure upon the established character of the surrounding neighborhood.
- C. Notwithstanding anything to the contrary, the conditions set forth above shall apply to two-family dwellings in the R-6 Zone with the following modifications:
- (1) Minimum lot area: 6,000 feet.
 - (2) Minimum lot depth: 100 feet.

§ 198-38. Schedule of Bulk Requirements.

- A. The Schedule of Bulk Requirements for the R-1 Residential District is as follows:
~~{Amended 12-19-2007 by Ord. No. 25-2007}~~

R-1 Residential Zone Regulations Schedule of Bulk Requirements

Use	Requirement
One-Family Dwellings	
Minimum lot area (square feet)	6,000
Minimum lot frontage (feet)	60
Minimum lot depth (feet)	100
Principal Building Yard Requirements	
Minimum front yard setback (feet)	20
Minimum rear yard setback (feet)	20
One side yard setback (feet)	10
Second side setback (feet)	5
Maximum height (feet)	35
Maximum building coverage	40%
Minimum <u>Maximum</u> site coverage	60%
Accessory Building Yard Requirements	
Accessory structures with floor area smaller than 120 square feet	
Side and rear <u>rear</u> yard setbacks (feet)	3
Maximum height (feet)	12

15. Editor's Note: See N.J.S.A. 40:550-1 et seq.

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R-1 Residential Zone Regulations Schedule of Bulk Requirements

Use	Requirement
-----	-------------

Accessory structures with floor area of 120 square feet to 432 square feet	
--	--

Side and year rear yard setbacks (feet)	5
---	---

Maximum height (feet)	15
-----------------------	----

~~Accessory structures on corner lots shall be set back a minimum of 25 feet from the front line and shall have a minimum distance of 5 feet to the principal structure on the property~~

NOTES:

~~(1) There shall be a minimum of 15 feet between buildings on adjoining lots. Any applicant for a building permit shall submit a survey or other documentation showing the home/building on contiguous lots are at least 15 feet away from the proposed home/building on the applicant's lot.~~

~~(2) All dwellings in the R-1 District shall comply with all additional requirements contained in this chapter and the Municipal Land Use Law of the State of New Jersey,~~

~~¹⁶ including any and all parking requirements.~~

(3) With the exception of duplexes and bed-and-breakfast establishments, conditional uses permitted in the R-1 Zone or any residential zone will have the same bulk requirements as those set forth for conditional uses in the B-1 Zone.

~~(4) For any single family or duplex use in this zone there shall be no more than three floors of dwelling space and the combined height of all such dwelling space or portions thereof shall not exceed 35 feet. The thirty-five foot height is to allow more architecturally pleasing houses to be constructed in the City of Brigantine. The increase in height over 30 feet is not designed to allow a fourth floor to be added to a dwelling. All dwellings with flat roofs shall be limited to 28 feet in height. Partial flat roofs shall also be limited to 28 feet in height.~~

~~(5) On bayfront lots the rear yard setback for first floor decks may be reduced to zero feet at the bulkhead. Any first floor deck which extends to a bulkhead on bayfront lots must be attached to the residential home which exists on said lot. No such deck shall be built higher than elevation 11.6. Second or third floor rear yard decks may extend to within 10 feet of a bulkhead. All rear yard decks must comply with the side yard setbacks established in the zone. This footnote shall be applicable to all bayfront decks within Brigantine.~~

16. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

§ 198-39. R-2 and R-2A Schedule of Bulk Requirements ~~[Amended 12-19-2007 by Ord. No. 25-2007]~~

A. The Schedule of Bulk Requirements for the R-2 Residential District is as follows:

R-2 Schedule of Bulk Requirements	
Use	Requirement
One-Family Dwellings	
Minimum lot area (square feet)	4,500
Minimum lot frontage (feet)	50
Minimum lot depth (feet)	90
Principal Building Yard Requirements	
Minimum front yard setback (feet)	20
Minimum rear yard setback (feet)	20
One side setback (feet)	7
Second side setback (feet)	3
Maximum height (feet)	35
Maximum building coverage	40%
Maximum site coverage	60%
Accessory Building Yard Requirements	
Accessory structures with floor area smaller than 120 square feet	
Side and year rear yard setbacks (feet)	3
Maximum height (feet)	12
Accessory structures with floor area of 120 square feet to 432 square feet	
Side and year rear yard setbacks (feet)	5
Maximum height (feet)	15
Accessory structures on corner lots shall be set back a minimum of 25 feet from the front line and shall have a minimum distance of 5 feet to the principal structure on the property	

NOTES:

~~(1) On bayfront lots, the rear yard setback for first floor decks may be reduced to zero feet at the bulkhead. The rear yard setback to the building will remain 20 feet. Any first floor deck which extends to a bulkhead on bayfront lots must be attached to the residential home which exists on said lot. No such deck may be built higher than elevation 11.6. Second and third floor rear yard decks may extend to within 10 feet of a bulkhead.~~ On lots with rear yards that abut the golf course, the rear yard setback for first floor decks may be reduced to 10 feet, but may not be higher than elevation 10.3 based on N.A.V.D. 1988 Datum and for second and third floor decks may be reduced to 15 feet. All rear yard decks must comply with the side yard setbacks as established in the zone.

~~(2) All dwellings in the R-2 District shall comply with all additional requirements contained in this chapter and the Municipal Land Use Law of the State of New Jersey, ¹⁷⁻including any and all parking requirements.~~

~~(3) There shall be a minimum of 10 feet between buildings on adjoining lots in the R-2 Zone. Any applicant for a building permit shall have the responsibility to submit a survey or other documentation showing the home/building on contiguous lots are at least 10 feet away from the proposed home/building on the applicant's lot.~~

~~(4) For any single family or duplex use in this zone there shall be no more than three floors of dwelling space and the combined height of all such dwelling space or portions thereof shall not exceed 35 feet. The thirty-five foot height is to allow more architecturally pleasing houses to be constructed in the City of Brigantine. The increase in height over 30 feet is not designed to allow a fourth floor to be added to a dwelling. All dwellings with flat roofs shall be limited to 28 feet in height. Partial flat roofs shall also be limited to 28 feet in height.~~

~~(5) On lots with rear yards that abut the golf course, golf ball protective netting is allowed up to (20) twenty feet in height along rear and side yards. All netting must be at least (25) twenty-five feet from the front property line and (1) one foot in from the rear and side property lines. All netting shall be professionally designed and constructed for appearance and wind load.~~

B. The schedule of bulk requirements for the R-2A Residential District is as follows:

R-2A Schedule of Bulk Requirements	
Use	Requirement
One-Family Dwellings	
Minimum lot area (square feet)	Maximum height (feet)
Minimum lot frontage (feet)	5,400
Minimum lot depth (feet)	60
Principal Building Yard Requirements	90
Minimum front yard setback (feet)	
Minimum rear yard setback (feet)	20
One side setback (feet)	20
Second side setback (feet)	10

Maximum building coverage
Maximum site coverage

40%
60%

17. Editor's Note: See N.J.S.A. 40:550-1 et seq.

R-2A Schedule of Bulk Requirements

Use	Requirement
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Accessory Building Yard Requirements

Accessory structures with floor area smaller than 120 square feet

Side and ~~year~~ **rear** yard setbacks (feet) 3

Maximum height (feet) 12

Accessory structures with floor area of 120 square feet to 432 square feet

Side and ~~year~~ **rear** yard setbacks (feet) 5

Maximum height (feet) 15

~~Accessory structures on corner lots shall be set back a minimum of 25 feet from the front line and shall have a minimum distance of 5 feet to the principal structure on the property~~

NOTES:

~~(1) Where a lot abuts an alley, the rear yard setback may be reduced to a minimum of 10 feet if all other bulk requirements are met. This reduction acknowledges that a twenty-foot wide rear yard alley provides the desired air, light and open space deemed appropriate by the goals of this chapter.~~

~~(2) On bayfront lots, the rear yard setback for first floor decks may be reduced to zero feet at the bulkhead. The rear yard setback to the building shall remain 20 feet.~~

~~Any first floor decks which extend to a bulkhead on bayfront lots must be attached to~~

~~the residential home which exists on said lot. No such deck shall be built higher than elevation 11.6. Second and third floor rear yard decks may extend to within 10 feet of a bulkhead. All rear yard decks must comply with the side yard setbacks established in the zone.~~

~~(3) All dwellings in the R-2 District shall comply with all additional requirements contained in this chapter and the Municipal Land Use Law of the State of New Jersey,¹⁸ including any and all parking requirements.~~

~~(4) For any single family or duplex use in this zone there shall be no more than three floors of dwelling space and the combined height of all such dwelling space or portions thereof shall not exceed 35 feet. The thirty-five foot height is to allow more architecturally pleasing houses to be constructed in the City of Brigantine. The increase in height over 30 feet is not designed to allow a fourth floor to be added to a dwelling. All dwellings with flat roofs shall be limited to 28 feet in~~

~~height. Partial flat roofs shall also be limited to 28 feet in height.~~

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18. Editor's Note: See N.J.S.A. 40:550-1 et seq.

~~(5) For any preexisting lots of record in the R-2A Zone that have less than 60 feet of frontage and are not owned by the owner of a contiguous lot, the side yard setbacks shall be seven feet on one side and three feet on the other. There shall be a minimum of 10 feet between dwellings on adjoining lots. Any applicant for a building permit shall submit a survey or other documentation showing the home/building on contiguous lots are at least 10 feet away from the proposed home/ building on the applicant's lot.~~

§ 198-40. R-3 Schedule of Bulk Requirements.

- A. The Schedule of Bulk Requirements for the R-3 Residential District is as follows:
~~{Amended 12-19-2007 by Ord. No. 25-2007}~~

R-3 Schedule of Bulk Requirements

Use	Requirement
One-Family Dwellings	
Minimum lot area (square feet)	3,600
Minimum lot frontage (feet)	40
Minimum lot depth (feet)	90

Principal Building Yard Requirements

Minimum front yard setback (feet)	20
Minimum rear yard setback (feet)	20
One side yard setback (feet)	7
Second side yard setback (feet)	3
Maximum building height (feet)	35
Maximum building coverage	40%
Maximum site coverage	60%

Accessory Building Yard Requirements

Accessory structures with floor area smaller than 120 square feet

Side and year rear yard setbacks	3
Maximum height (feet)	12

Accessory structures with floor area of 120 square feet to 432 square feet

Side and year rear yard setbacks	5
Maximum height (feet)	15

~~Accessory structures on corner lots shall be set back a minimum of 25 feet from the front line and shall have a minimum distance of 5 feet to the principal structure on the property~~

NOTES:

~~(1) Where a lot abuts an alley, the rear yard setback may be reduced to a minimum of 10 feet if all other bulk requirements are met. This reduction acknowledges that a twenty-foot wide rear yard alley provides the desired air, light and open space deemed appropriate by the goals of this chapter.~~

~~(2) There shall be a minimum of 10 feet between dwellings on adjoining lots. Any applicant for a building permit shall submit a survey or other documentation showing the home/building on contiguous lots are at least 10 feet away from the proposed home/building on the applicant's lot.~~

~~(3) All dwellings in the R-3 District shall comply with all additional requirements contained in this chapter and the Municipal Land Use Law of the State of New Jersey, including any and all parking requirements.~~

~~(4) For any single-family or duplex use in this zone there shall be no more than three floors of dwelling space and the combined height of all such dwelling space or portions thereof shall not exceed 35 feet. The thirty-five-foot height is to allow more architecturally pleasing houses to be constructed in the City of Brigantine. The increase in height over 30 feet is not designed to allow a fourth floor to be added to a dwelling. All dwellings with flat roofs shall be limited to 28 feet in height. Partial flat roofs shall also be limited to 28 feet in height.~~

~~(5) On bayfront lots, the rear yard setback for first floor decks may be reduced to zero feet at the bulkhead. Any first floor deck which extends to a bulkhead on bayfront lots must be attached to the residential home which exists on said lot. No such deck shall be built higher than elevation 11.6. Second and third floor rear yard decks may extend to within 10 feet of a bulkhead. All rear yard decks must comply with the side yard setbacks established in the zone.~~

§ 198-41. (Reserved)

§ 198-42. R-3 B Schedule of Bulk Requirements.

- A. The Schedule of Bulk Requirements for the R-3B Residential District is as follows:
~~{Amended 12-19-2007 by Ord. No. 25-2007}~~

R- 3B Schedule of Bulk Requirements

Use

Requirement

One-Family Dwellings

Minimum lot area (square feet)

Minimum lot frontage (feet)

Minimum lot depth (feet)

Principal Building Yard Requirements

19. Editor's Note: See N.J.S.A. 40:550-1 et seq.

4,500
50
90

R-3B Schedule of Bulk Requirements

Use	Requirement
Minimum front yard setback (feet)	20
Minimum rear yard setback (feet)	20
One side yard setback (feet)	7
Second side yard setback (feet)	3
Maximum building height (feet)	35
Maximum building coverage	40%
Maximum site coverage	60%

Accessory Building Yard Requirements

Accessory structures with floor area smaller than 120 square feet

Side and year rear yard setbacks (feet)	3
Maximum height (feet)	12

Accessory structures with floor area of 120 square feet to 432 square feet

Side and year rear yard setbacks (feet)	5
Maximum height (feet)	15

~~Accessory structures on corner lots shall be set back a minimum of 25 feet from the front line and shall have a minimum distance of 5 feet to the principal structure on the property~~

NOTES:

(1) The lot depth in the R-3B District along Atlantic-Brigantine Boulevard abutting St. George's Thorofare may be reduced to a minimum of 72 feet to meet the requirements of the New Jersey Department of Environmental Protection for the placement of bulkheads. No two-family dwellings will be allowed on such lots that have less than ninety-foot depth and all building, site coverage and setback requirements shall apply regarding the same.

(2) Those lots in the R-3B District along Atlantic-Brigantine Boulevard abutting St. George's Thorofare shall be set back a minimum of 35 feet from the front lot line. The front yard shall be subject to a fifteen-foot-wide easement to provide for a seventeen-foot-wide marginal access road to serve these lots.

19. Editor's Note: See N.J.S.A. 40:550-1 et seq.

~~(3) The rear yard setback for those lots in the R-3B District along Atlantic-Brigantine Boulevard abutting St. George's Thorofare may be reduced to 10 feet as measured from the bulkhead. The rear yard setback for first floor decks on bayfront lots may be reduced to zero feet to the bulkhead if said first floor decks are connected to the primary dwelling situate on said lot. No such deck shall be built higher than elevation~~

~~11.6. Second and third floor rear yard decks may extend to within 10 feet of a bulkhead. All rear yard decks must comply with the side yard setbacks established in the zone.~~

~~(4) For any single family or duplex use in this zone there shall be no more than three floors of dwelling space and the combined height of all such dwelling space or portions thereof shall not exceed 35 feet. The thirty five foot height is to allow more architecturally pleasing houses to be constructed in the City of Brigantine. The increase in height over 30 feet is not designed to allow a fourth floor to be added to a dwelling. All dwellings with flat roofs shall be limited to 28 feet in height. Partial flat roofs shall also be limited to 28 feet in height.~~

~~(5) There shall be a minimum of 10 feet between dwellings on adjoining lots. Any applicant for a building permit shall submit a survey or other documentation showing the home/building on contiguous lots are at least ten feet away from the proposed home/building on the applicant's lot.~~

§ 198-43. R-4 Schedule of Bulk Requirements, Residential.

- A. The Schedule of Bulk Regulations for the R-4 Residential Districts is as follows:
~~{Amended 12-19-2007 by Ord. No. 25-2007}~~

R-4 Schedule of Bulk Requirements

Use	Requirement
One-Family Dwellings	
Minimum lot area (square feet)	4,050
Minimum lot frontage (feet)	45
Minimum lot depth (feet)	90
Principal Building Yard Requirements	
Front yard setback (feet)	20
Rear yard setback (feet)	20
One side yard setback (feet)	7
Second side yard setback (feet)	3
Maximum building height (feet)	35
Maximum- building coverage	40%
Maximum site coverage	60%

Accessory Building Yard Requirements

Accessory structures with floor area smaller

than 120 square feet

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R-4 Schedule of Bulk Requirements

Use	Requirement
-----	-------------

Side and year rear yard setbacks (feet)	3
---	---

Maximum height (feet)	12
-----------------------	----

Accessory structures with floor area of 120 square feet to 432 square feet

Side and year rear yard setbacks (feet)	5
---	---

Maximum height (feet)	15
-----------------------	----

~~Accessory structures on corner lots shall be set back a minimum of 25 feet from the front line and shall have a minimum distance of 5 feet to the principal structure on the property~~

NOTES:

~~(1) Where a lot abuts an alley, the rear yard setback may be reduced to a minimum of 10 feet if all other bulk requirements are met. This reduction acknowledges that a twenty-foot wide rear yard alley provides the desired air, light and open space deemed appropriate by the goals of this chapter.~~

~~(2) There shall be a minimum of 10 feet between buildings on adjoining lots. An applicant for a building permit shall submit a survey or other documentation showing the home/building on contiguous lots are at least ten feet away from the proposed home/building on the applicant's lot.~~

~~(3) All dwellings in the R-4 District shall comply with all additional requirements contained in this chapter and the Municipal Land Use Law of the state of New Jersey,~~
²⁰~~including any and all parking requirements.~~

~~(4) For any single family or duplex use in this zone there shall be no more than three floors of dwelling space and the combined height of all such dwelling space or portions thereof shall not exceed 35 feet. The thirty-five-foot height is to allow more architecturally pleasing houses to be constructed in the City of Brigantine. The increase in height over 30 feet is not designed to allow a fourth floor to be added to a dwelling. All dwellings with flat roofs shall be limited to 28 feet in height. Partial flat roofs shall also be limited to 28 feet in height.~~

§ 198-44. R-4 Schedule of Bulk Requirements, Hotel/Motel.

- A. The Schedule of Bulk Requirements for the R-4 District, Hotels and Motels, is as follows:

20. Editor's Note: See N.J.S.A. 40:SSD-1 et seq.

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R-4 Schedule of Bulk Requirements

Use	Requirement
Hotel/Motel	
Minimum lot area (square feet)	40,000
Minimum lot frontage (feet)	200
Minimum lot depth (feet)	200
Principal Building Yard Requirements	
Minimum front yard setback (feet)	25
Minimum rear yard setback (feet)	20
One side setback (feet)	20
Second side setback (feet)	20
Maximum building height (feet)	35
Maximum building coverage	50%
Maximum site coverage	75%
Accessory Building Yard Requirements	
All sides and rear setbacks (feet)	15
Height (feet)	15

NOTES:

~~(1) Hotel/motels in the R-4 District shall comply with all additional requirements contained in this chapter and the Municipal Land Use Law of the State of New Jersey,²¹ including any and all parking requirements.~~

(2) Hotel/motels as permitted in the R-4 District shall be subject to the sections titled Commercial design standards, Design standards for off-street parking, Landscaping, Buffers and Open Space Design,²² and any other applicable section of this chapter and the Municipal Land Use Law of the State of New Jersey.²³

§ 198-45. R-5 Schedule of Bulk Requirements.

- A. The Schedule of Bulk Requirements for the R-5 Residential District is as follows:
~~{Amended 12-19-2007 by Ord. No. 25-2007}~~

21. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

22. Editor's Note: See Art. XIV, Commercial Use Design Standards, Art. XI, Off-Street Parking and Art. XII, Landscaping, Buffers and Open Space Design.

23. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

R-5 Schedule of Bulk Requirements

Use	Requirement
Townhouses	
Minimum lot area (square feet)	174,240
Minimum lot frontage (feet)	250
Minimum lot depth (feet)	200
Principal Building Yard Requirements	
Minimum front yard setback (feet)	40
Minimum rear yard setback (feet)	40
One side setback (feet)	30
Second side setback (feet)	20
Maximum building height (feet)	35
Maximum building coverage	20%
Maximum site coverage	40%
Accessory Building Yard Requirements	
All sides and rear setbacks (feet)	30
Maximum height (feet)	20

NOTES:

(1) Townhouses as permitted in the R-5 District shall be subject to the requirements of the section titled Multifamily design standards. ²⁴

~~(2) Townhouses as permitted in the R-5 District shall comply with all additional requirements contained in this chapter and the Municipal Land Use Law of the State of New Jersey, and including any and all parking requirements.~~

(3) Senior citizen housing will be permitted in the R-5 Zone.

~~(4) For any townhouse use in this zone there shall be no more than three floors of dwelling space and the combined height of all such dwelling space or portions thereof shall not exceed 35 feet. The thirty five foot height is to allow more architecturally pleasing townhouses to be constructed in the City of Brigantine. The increase in height over 30 feet is not designed to allow a fourth floor to be added to the dwelling. All dwellings with flat roofs shall be limited to 28 feet in height. Partial flat roofs shall also be limited to 28 feet in height.~~

§ 198-46. R-6 Schedule of Bulk Requirements.

~~A.~~ The Schedule of Bulk Requirements for the R-6 Residential District is as follows:
~~[Amended 12-19-2007 by Ord. No. 25-2007]~~

24. Editor's Note: See Art. XIII, Multifamily Development Design Standards.

25. Editor's Note: See N.J.S.A. 40:550-1 et seq.

R-6 Schedule of Bulk Requirements

Use	Requirement	
	One-Family	Townhouse Parcel
Minimum lot area (square feet)	6,000	174,240
Minimum lot frontage (feet)	60	250
Minimum lot depth (feet)	100	100
Principal Building Yard Requirements		
Minimum front yard setback (feet)	20	25
Minimum rear yard setback (feet)	20	25
One side setback (feet)	10	25
Second side setback (feet)	5	25
Maximum building height (feet)	35	35
Maximum building coverage	25%	25%
Maximum site coverage	40%	40%
Accessory Building Yard Requirements		
All sides and rear setbacks (feet)	20 <u>5</u>	25
Maximum height (feet)	15	25

NOTES:

(1) The townhouse requirements in this schedule are applicable to the overall tract; refer to design standards applicable to townhouses for individual townhouse lot requirements.²⁶

~~(2) Townhouses as permitted in the R-6 District shall comply with all additional requirements contained in this chapter and the Municipal Land Use Law of the State of New Jersey,²⁷ including any and all parking requirements.~~

(3) Townhouses as permitted in the R-6 District shall be subject to the requirements of the section titled Multifamily design standards ²⁸ .

~~(4) For any single family, duplex or townhouse use in this zone there shall be no more than three floors of dwelling space and the combined height of all such dwelling space or portions thereof shall not exceed 35 feet. The thirty five foot height is to allow more architecturally pleasing houses to be constructed in the City of Brigantine. The increase in height over 30 feet is not designed to allow a fourth floor to be added a dwelling. All dwellings with flat roofs shall be limited to 28 feet in height. Partial flat roofs shall also be limited to 28 feet in height.~~

26. Editor's Note: See §198-100, Townhouses.

27. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

28. Editor's Note: See Art. XIII, Multifamily Development Design Standards.

~~(5) The rear yard setback for first floor decks on bayfront lots may be reduced to zero feet to the bulkhead if said first floor decks are connected to the primary dwelling situate on said lot. No such deck shall be built higher than elevation 11.6. Second and third floor rear yard decks may extend to within 10 feet of a bulkhead. All rear yard decks must comply with the side yard setbacks established in the zone.~~

§ 198-46.1. R-7 Schedule of Bulk Requirements.

- A. The Schedule of Bulk Requirements for the R-7 Residential District is as follows:
~~[Amended 12-19-2007 by Ord. No. 25-2007]~~

Use	R-7 Schedule of Bulk Requirements		
	Requirement		
	One-Family	Hotel/Motel	Townhouse Parcel
Minimum lot area (square feet)	6,000	40,000	174,240
Minimum lot frontage (feet)	60	200	250
Minimum lot depth (feet)	100	200	200
Principal Building Yard Requirements			
Minimum front yard (feet)	20	25	25
Minimum rear yard (feet)	20	20	25
One side setback (feet)	10	20	25
Second side setback (feet)	5	20	25
Maximum building height (feet)	35	35	35
Maximum building coverage	35% <u>40%</u>	50%	20%
Maximum site coverage	60%	75%	40%
Accessory Building Yard Requirements			
All sides and rear setback (feet)	20 <u>5</u>	15	25
Maximum height (feet)	15	15	15

NOTES:

~~(1) One-family residential, townhouses and hotel/motels as permitted in the R-7 District shall comply with all additional requirements contained in this chapter and the Municipal Land Use Law of the State of New Jersey,²⁹ including any and all parking requirements.~~

(2) Townhouses as permitted in the R-7 District shall be subject to the requirements of the section titled Multifamily design standards.³⁰

(3) Hotels/motels in the R-7 District shall be subject to the requirements of sections titled Commercial design standards, Design standards for off-street parking, Landscaping, Buffers and Open Space Design,³¹ and any other applicable section of this chapter and the Municipal Land Use Law of the State of New Jersey.³²

~~(4) For any single-family or townhouse use in this zone there shall be no more than three floors of dwelling space and the combined height of all such dwelling space or portions thereof shall not exceed 35 feet. The thirty-five foot height is to allow more architecturally pleasing houses to be constructed in the City of Brigantine. The increase in height over 30 feet is not designed to allow a fourth floor to be added to the dwelling. All dwellings with flat roofs shall be limited to 28 feet in height. Partial flat roofs shall also be limited to 28 feet in height.~~

§ 198-46.2. R-8 Schedule of Bulk Requirements.

- A. The Schedule of Bulk Requirements for the R-8 Residential District is as follows:
~~[Amended 12-19-2007 by Ord. No. 25-2007]~~

R-8 Schedule of Bulk Requirements

Use	Requirement	
	One-Family	Marina
Minimum lot area (square feet)	4,500	10,000
Minimum lot frontage (feet)	50	100
Minimum lot depth (feet)	90	100
Principal Building Yard Requirements		
Minimum front yard setback (feet)	20	20
Minimum rear yard setback (feet)	20	20
One side setback (feet)	7	10
Second side setback (feet)	3	5
Maximum height (feet)	35	30
Maximum building coverage	40%	40%

29. Editor's Note: See N.J.S.A. 40:550-1 et seq.

30. Editor's Note: See Art. XIII, Multifamily Development Design Standards.

31. Editor's Note: See Art. XIV, Commercial Use Design Standards, Art. XI, Off-Street Parking and Art. XII, Landscaping, Buffers and Open Space Design.

32. Editor's Note: See N.,J.S.A. 40:5SD-1 et seq.

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R-8 Schedule of Bulk Requirements

Use	Requirement	
	One-Family	Marina
Maximum site coverage	60%	60%
Accessory Building Yard Requirements		
All side and rear setbacks		
Accessory structures with floor area smaller than 120 square feet (feet)	3	3
Accessory structures with floor area of 120 square feet to 432 square feet (feet)	5	5
Accessory structures on corner lots shall be set back a minimum of 25 feet from the front lot line and shall have a minimum distance of 5 feet to the principle structure on the property.		
Maximum height	15	15

NOTES:

~~(1) The rear yard setback for the first floor decks on bayfront lots may be reduced to zero feet to the bulkhead if said first floor decks are connected to the primary dwelling situate on said lot. No such deck shall be built higher than elevation 11.6. Second and third floor rear yard deck setbacks may be reduced to 10 feet along the bulkhead. All rear yard decks must comply with the side yard setbacks established in the zone.~~

~~(2) All dwelling and structures in the R-8 District shall comply with all additional requirements contained in this chapter and the Municipal Land Use Law of the State of New Jersey,³³ including any parking requirements.~~

(3) Uses and activities ancillary to a marina shall be allowed on properties where marinas are located in the R-8 District. Such ancillary uses, and activities include, but are not limited to repair of boats, sale of bait, tackle and fishing supplies, sale of marine equipment and motors and sale of food to boaters and visitors.

~~(4) For any single family or duplex use in this zone there shall be no more than three floors of dwelling space and the combined height of all such dwelling space or portions thereof shall not exceed 35 feet. The thirty five foot height is to allow more architecturally pleasing houses to be constructed in the City of Brigantine. The increase in height over 30 feet is not designed to allow a fourth floor to be added to the dwelling or living space in excess of the thirty foot limit. All dwellings with flat roofs shall be limited to 28 feet in height. Partial flat roofs shall also be limited to 28 feet in height.~~

33. Editor's Note: See N.J.S.A. 40:SSD-1 et seq.

§ 198-47. ~~Exceptions to bulk requirements in residential zones.~~
Regulations applicable to all Residential Districts.

A. (Reserved)

B. Irregular pie-shaped lots.

- (1) In the case of irregular pie-shaped lots in all residential zones, the minimum lot frontage may be measured at the point and place on said lot where the lot is wide enough to meet the minimum frontage requirements specified in the schedule of bulk requirements for the zone in which the lot is located. This exception will only apply if all other setback and bulk requirements are met using said point and place. This exception shall not apply or be granted for any lot which is less than 40 feet wide at any point.
- (2) EXAMPLE: An irregular pie-shaped lot in the R-2 Zone needs 50 feet of lot frontage. If a lot in the R-2 Zone has 43 feet of frontage closest to the street and expands so that it is 125 feet at the rear portion of the lot, the property owner can be given a building permit without need for seeking a variance if the point and place where the lot is fifty feet wide is used as the front yard lot line and all other setback and bulk requirements are met.

C. Yard setback encroachments.

- (1) Eaves or roof overhangs, ~~42~~ **10** feet or more above average finished grade, shall not exceed 24 inches. (Note that both side yard setbacks may be encroached).
- (2) **Chimneys, 10 feet or more above average finished grade, shall not exceed 12 inches in depth and five feet wide in side yard setback. (Note that both side yard setbacks may be encroached).**
- (3) The following extensions or projections from residential structures are permitted in **primary** front and rear yards only:
 - (a) **Total encroachment of open entry porches and including stairs, not to exceed four five feet in depth and 18 feet wide.**
 - (b) Chimneys, not to exceed ~~18~~ **24** inches **in depth and five feet wide.**
 - ~~(c) Steps (up to eight feet wide) into the principal building, not to exceed a thirty-six inch encroachment. [Amended 12-19-2007 by Ord. No. 25-2007]~~
 - (d) Bay windows, not to exceed twenty-four-inch encroachment.
 - (e) Mechanical equipment **and emergency generators** in rear yard not to exceed 48 inches encroachment.
Mechanical equipment is permitted in rear yards ~~within the center 1/3 of the lot width~~ and shall be soundproofed to conform to the local sound ordinance.³⁴
 - (f) Decks and porches are to be considered as part of the principal structure unless specifically addressed in other portions of this chapter.

D. Height requirements. ~~{Added 12-19-2007 by Ord. No. 25-2007}~~

(1) Church steeples.

(2) A chimney, to the extent necessary to comply with Building Code requirements.

E. All dwellings in the R-1, R-2, R-2A, R-3, R-4, R-5, R-6, R-7, R-8 districts shall comply with all additional requirements contained in this Ordinance and the Municipal Land Use Law of the State of New Jersey including any and all parking requirements.

F. For any single family, duplex or townhouse use there shall be no more than three floors of dwelling space and the combined height of all such dwelling space or portions thereof shall not exceed 35 feet. The thirty-five-foot height is to allow more architecturally pleasing houses to be constructed in the City of Brigantine. The increase in height over thirty feet is not designed to allow fourth floor to be added to a dwelling . All dwellings with flat roofs shall be limited to 28 feet in height. Partial flat roofs shall also be limited to 28 feet in height.

G. On bayfront lots the rear yard setback for first floor decks may be reduced to zero (0) feet at the bulkhead. Any first-floor deck which extends to a bulkhead on bayfront lots must be attached to the residential home which exists on said lot. The last 10 feet adjacent to the bulkhead shall be built no higher than elevation 10.3 on N.A.V.D. 1988 Datum. Second or third floor rear yard decks may be extended a maximum of 50% of the deck below. This is to allow tiered decks on upper level floors. An example would be the first-floor deck measures twenty (20) feet from the principal to the bulkhead, a second-floor deck would be permitted to extend 10 feet from the principal structure. A subsequent third floor deck would then be permitted to extend 5 feet from the principal structure. All rear yard decks must comply with the side yard setbacks established in the zone. This section shall be applicable to all bayfront decks within Brigantine.

H. There shall be a minimum of fifteen (15') feet in R-1, R-2A, R-6 and R-7 Zones with lot width of 60' or greater, and ten (10) feet in All Zones with lot width less than 60 feet, between buildings on adjoining lots. Any applicant for a building permit shall have the responsibility to submit a survey or other documentation showing the home/building on contiguous lots are at least the minimum specified feet away from the proposed home/building on applicant's lot.

I. For any preexisting lots of record in R-1, R-2A, R-6 and R-7 Zones that have less than 60 feet of frontage and are not owned by the owner of a contiguous lot, the side yard setbacks shall be seven feet on one side and three feet on the other. There shall be a minimum of 10 feet between dwellings on adjoining lots. Any applicant for a building permit shall submit a survey or other documentation showing the home/building on contiguous lots are at least 10 feet away from the proposed home/building on the applicant's lot.

J. The side and rear yard setback on an alley will be a minimum of ten (10) feet. The purpose of this reduction is that since an alley is typically 20-foot wide, it will provide the desired air, light and open space deemed appropriate by the goals of this Ordinance.

34. Editor's Note: See Ch. 216, Noise.

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ARTICLE VI
Business Zone Regulations

§ 198-48. Intent.

It is the intent of this article governing commercial uses to maintain the character and vitality of the existing business districts in the City, while encouraging their development and enhancement as set forth in the Master Plan adopted November 2001.

§ 198-49. Business use matrix. ~~[Amended 12-19-2007 by Ord. No. 25-2007]~~

The following matrix and schedule provide a summary of the permitted commercial, residential, accessory uses and conditional uses in the business districts. Uses which are not specifically set forth in this section are considered prohibited uses and shall not be permitted unless otherwise permitted by this chapter, with the exception of municipal uses, municipal facilities and municipal recreation facilities which are permitted to be placed by the Brigantine City Council in any zone.

Business Use Matrix					
Uses	Zone District				
	B-1A	B-1	B-2	B-3	B-6
Commercial Uses					
Hotels	N/A	P	N/A	N/A	P
Automobile body and shops	N/A	P	N/A	N/A	N/A
Automobile sales facility	N/A	N/A	N/A	N/A	N/A
Banks	P	P	N/A	P	P
Bars	N/A	P	N/A	P	P
Boardinghouses	N/A	N/A	N/A	N/A	N/A
Drugstores	P	P	N/A	P	N/A
Funeral homes	N/A	P	N/A	N/A	N/A
Amusement facilities	N/A	N/A	N/A	N/A	N/A
Laundromats	N/A	P	N/A	N/A	N/A
Lodges	P	P	N/A	N/A	N/A
Marinas, commercial	N/A	P	P	N/A	P
Marina, private club/yacht club	N/A	N/A	P	N/A	P
Motels	N/A	P	N/A	N/A	P
Retail food establishments	P	P	N/A	P	N/A
Retail trade establishments			P		P
Retail service establishment	P	P	N/A	P	N/A
Restaurants	P	P	N/A	P	P
Restaurants, carry-out	P	P	N/A	P	P
Restaurants, fast-food	N/A	P	N/A	P	N/A

Business Use Matrix

Uses	Zone District				
	B-1A	B-1	B-2	B-3	B-6
Shopping centers	N/A	N/A	N/A	P	N/A
Taxicab storage, repairs	N/A	P	P	P	N/A
Specialty food stores	N/A	P	N/A	P	P
Supermarkets	N/A	P	N/A	P	N/A
Theaters	N/A	P	N/A	P	N/A
Accessory Uses					
Parking lots	P	P	P	P	P
Parking garages	P	P	N/A	P	P
Accessory building	P	P	P	P	P
Fences	P	P	P	P	P
Signs	P	P	P	P	P
Residential Uses					
One-family dwelling	N/A	N/A	P	N/A	N/A P
Three-family dwelling	N/A	N/A	N/A	N/A	N/A
Four-family dwelling	N/A	N/A	N/A	N/A	N/A
Garden apartments	N/A	N/A	N/A	N/A	N/A
Townhouses	N/A	N/A	N/A	N/A	N/A
Conditional Uses					
Automobile service stations	N/A	C	N/A	N/A	N/A
Amusement facilities	N/A	N/A	N/A	N/A	C
Churches	N/A	C	C	C	C
Home occupations	N/A	N/A	C	N/A	C
Hospitals, municipal facilities	C	C	C	C	C
Mixed Use – Commercial. & Residential	C	C	N/A	N/A	N/A
Public utility facilities	N/A	C	C	C P	C
Recreational facilities	N/A	C	C	C	C
Two-family dwelling	N/A	N/A	C	N/A	N/A

NOTES:

P = Permitted use

C = Conditional use

N/A = Not allowed

§ 198-51. B-1 Schedule of Bulk Requirements. ~~Amended 12-19-2007 by Ord. No. 25-2007]~~

The B-1 Schedule of Bulk Requirements, comprised of area and bulk requirements and minimum yard and setback requirements, is as follows:

Uses	Lot Front-age (feet)	Lot Area (square feet)	Lot Depth (feet)	Building Coverage (percent)	Site Coverage (percent)	Building Height (feet)
Automobile body and repair shop	200	20,000	100	40	60	30
Banks	100	10,000	100	40	60	30
Bars	100	10,000	100	40	60	30
Drugstores	200	20,000	100	40	60	30
Funeral homes	200	20,000	100	40	60	30
Laundromats	100	10,000	100	40	60	30
Lodges	100	10,000	100	40	60	30
Marinas, commercial	200	20,000	100	40	60	30
Motels/ Hotels	200	20,000	100	40	60	30
Retail food establishments	80	7,200	90	40	60	30
Retail trade establishments	50	4,500	90	40	60	30
Retail service establishments	50	4,500	90	40	60	30
Restaurants	200	20,000	100	40	60	30
Restaurants, carry-out	100	10,000	100	40	60	30
Restaurants, fast-food	200	20,000	100	40	60	30
Specialty food stores	50	4,500	90	40	60	30
Super- markets	200	20,000	100	40	60	30
Theaters	200	40,000	200	40	60	30
Conditional Uses						
Automobile service stations	150	30,000	200	40	60	30
Churches	200	40,000	200	40	60	30
Hospitals	200	40,000	200	40	60	30
Public utility	100	10,000	100	40	60	30
Recreational facility	200	40,000	100	40	60	30
Residential Uses						
Single-family (where permitted)	50	4,500	90	40	60	30 35

Minimum Yard and Setback Requirements

Uses	Front Yard	Rear Yard (feet)	Side Yard (feet)	2nd Side Yard (feet)	Accessory Building (feet)
Automobile body and repair shop	2	15	5	5	5
Bank	20	15	5	5	5
Bar	20	15	5	5	5
Drug store	20	15	5	5	5
Funeral homes	2	15	5	5	5
Laundromats	2	15	5	5	5
Lodges	2	15	5	5	5
Marinas, commercial	2 0	15	5	5	5
Motels/ Hotels	2	15	5	5	5
Retail food establishments	2	15	5	5	5
Retail trade Establishments	2	15	5	5	5
Restaurant	2	15	5	5	5
Restaurant, carry-out	2	15	5	5	5
Restaurant, fast-food	2	15	5	5	5
Specialty food store	20	15	5	5	5
Super- markets	2	15	5	5	5
Theaters	2	15	5	5	5
Conditional Use					
Automobile service station	2	20	20	20	10
Churches	2	20	20	20	10
Hospitals	6 0	60	60	60	10

Minimum Yard and Setback Requirements

Uses	Front Yar	Rear Yard (feet)	Side Yard (feet)	2nd Side	Accessory
				Yard (feet)	Building (feet)
Public utilities	20	20	20	20	10
Recreational facility	60	60	60	60	10
<u>Single family family</u>	<u>20</u>	<u>20</u>	<u>3</u>	<u>7</u>	<u>5</u>

(where permitted)

NOTES:

~~(1) On bay front lots, the rear yard setback for first floor decks may be reduced to zero feet at the bulkhead. The rear yard setback will be 20 feet. Any first floor decks which extend to the bulkhead on bayfront lots must be attached to the primary structure on said lot. No said deck may be built higher than 12 inches above the eap of said bulkhead or elevation 11.6 and must be built to the lower of the above two options. Second and third floor rear yard decks must comply with the rear yard setbacks as established in the zone. All rear yard decks must comply with the side yard setbacks established in the zone.~~

~~(2) The bulk and setback requirements for home occupations will be the same bulk and setback requirements as required for the residential use in which the home occupation is located. A home occupation may not be conducted in a preexisting nonconforming residential dwelling unless said home occupation was being conducted at the time of the effective date of the 1996 Municipal Land Use Ordinance³⁵ or the residential use is brought into conformity with the zoning regulations as set forth in this chapter.~~

(3) Within the B-1 District, freestanding commercial signs are permitted in accordance with the following standards:

- (a) Signs shall not exceed 30 square feet, measured on one side;
- (b) Such signs may be internally or directly lit;
- (c) Such signs shall be limited to 15 feet in height or no higher than the highest part of the principal building on the site, whichever is lower;
- (d) The sign shall be set back a minimum of 10 feet from the street right-of-way and shall not intrude into any sight triangles for driveways or adjacent streets.

§ 198-51.1 AFFORDABLE HOUSING OVERLAY – B1 (AHO-B1) ZONE

A. PURPOSE.

- (1) The purpose of the Affordable Housing Overlay B1 (AHO-B1) overlay zone is to create an incentive to redevelop property for inclusionary development. The tract may be developed at a density of 20 units per acre. The density is predicated on a set-aside for affordable housing (low- and moderate-income housing). If the affordable units are for sale, the set-aside shall be 20 percent. If the affordable units are for rent, the set-aside shall be 15 percent.

B. DESIGNATED OVERLAY AREA

- (1) The AHO-B1 zone will encompass a portion of the B1 (Business) zone. This District will be the focus of an overlay zone with residential uses over existing commercial. This zone contains an existing commercial retail and service uses that is located along Atlantic-Brigantine Boulevard and is listed on the Tax Map as Block 3701, Lots 1-9 and Block 3702, Lots 1-9. The overlay zone at this location will provide for up to three residential floors above the existing or new commercial uses. There will be a 15 percent set-aside for affordable family rental units with 13 percent of the affordable units for very low-income households. The underlying B1 zone, its permitted uses, area and bulk requirements shall remain unchanged unless the Overlay District option for Affordable Housing is implemented by the property owner(s) or developer.

C. PERMITTED USES.

- (1) Mixed use, commercial first floor with residential above

D. SCHEDULE OF AREA AND BULK REQUIREMENTS.

- (1) Lot area. The minimum lot area shall be based on the underlying B-3 lot size requirements.
- (2) Lot frontage. The minimum frontage shall be based on the underlying B-3 lot frontage requirements.
- (3) Perimeter setbacks. The minimum perimeter setback shall be based on the minimum setbacks as outlined in the underlying B-3 District.
- (4) Density – 20 dwelling units per acre.
- (5) Public service. Every residential and commercial unit shall be served by public water and sanitary sewer, which, if required, shall be installed by and at the expense of the developer.

owing minimum site improvements: streets, access ways, off-street parking areas, sidewalks, street lighting, storm drainage facilities, landscaping and open space areas. These improvements shall be installed in accordance with this chapter unless a specific waiver is granted as provided for within the applicable standards or requirements. Whenever a developer is required to place catch basins as part of an approval, the Planning Board shall, in its discretion, require the developer to pay for and place a sign at each such catch basin setting forth the requirements and penalties of §§ 220-23 to 220-26 of the Code of the City of Brigantine.

- (b) All utilities shall be installed underground within the mixed use development. These utilities shall include but not be limited to gas, television cable, telephone, and electric.

(6) Parking.

- (a) Onsite parking for the residential component of the development in accordance with the Residential Site Improvement Standards (RSIS).
- (b) Parking for the commercial aspect of the development shall be provided in accordance with the City of Brigantine onsite parking requirements.

(7) Solid waste disposal areas.

- (a) All trash compactors, bins and areas of refuse storage and recyclable storage areas shall be located in a common area and in such a manner to be screened from the general view of the public and must comply with all other ordinances of the City of Brigantine including any ordinance in reference to dumpsters.
- (b) Solid waste disposal areas shall be fully accessible to service vehicles.
- (c) Solid waste disposal areas shall be maintained in a clean and orderly condition at all times.
- (d) Solid waste disposal areas shall be designed of a durable material consistent with the architectural theme of the development.
- (e) Disposal area and all facilities shall be provided and maintained by the owner of the development.

(8) Public safety considerations.

- (a) All multifamily developments shall address the following public safety issues within the application for development:

hicles.

- ii. Architectural techniques utilized to enhance the security of the development's occupants.

- (b) All public safety facilities located in a project shall be kept unobstructed by parking and/or any other type of storage. No parking spaces shall be placed to obstruct access as approved by the Fire Chief and/or Police Chief of the City of Brigantine.

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§ 198-51.2. B-1A Schedule of Bulk Requirements.

The area and bulk requirements for permitted uses in the B-1A Zone shall be the exact same requirements as required for those same uses in the B-1 Zone. Some uses permitted in the B-1 Zone are prohibited in the B-1A Zone.

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35. Editor's Note: A copy of the 1996 Land Use Ordinance, adopted 6-5-1996, and which was superseded by this chapter, is on file in the City offices.

§ 198-51.3 AFFORDABLE HOUSING OVERLAY – B1A (AHO-B1A) ZONE**A. PURPOSE.**

- (1) The purpose of the Affordable Housing Overlay B1A (AHO-B1A) overlay zone is to create an incentive to redevelop property for inclusionary development. The tract may be developed at a density of 20 units per acre. The density is predicated on a set-aside for affordable housing (low- and moderate-income housing). If the affordable units are for sale, the set-aside shall be 20 percent. If the affordable units are for rent, the set-aside shall be 15 percent.

B. DESIGNATED OVERLAY AREA

- (1) The AHO-B1A zone will encompass a portion of the B1A (Business) zone. This District will be the focus of an overlay zone with residential uses over existing commercial. This zone contains an existing commercial retail store (former CVS Store) that is located along Brigantine Avenue and is listed on the Tax Map as Block 806, Lot 1. The overlay zone at this location will provide for up to three residential floors with the potential of parking underneath the structure. There will be a 15 percent set-aside for affordable family rental units with 13 percent of the affordable units for very low-income households. The underlying B1A zone, its permitted uses, area and bulk requirements shall remain unchanged unless the Overlay District option for Affordable Housing is implemented by the property owner(s) or developer.

C. PERMITTED USES.

- (1) Multi-family dwellings

D. SCHEDULE OF AREA AND BULK REQUIREMENTS.

- (1) Lot area. The minimum lot area shall be 24,000 sf.
- (2) Lot frontage. The minimum frontage shall be based on the underlying B1A lot frontage requirements.
- (3) Perimeter setbacks. The minimum perimeter setback shall be based on the minimum setbacks as outlined in the underlying B1A District.
- (4) Density – 20 dwelling units per acre.

(5) Public service. Every residential and commercial unit shall be served by public water and sanitary sewer, which, if required, shall be installed by and at the expense of the developer.

(a) The developer shall install, at his sole expense, the following minimum site improvements: streets, access ways, off-street parking areas, sidewalks, street lighting, storm drainage facilities, landscaping and open space areas. These improvements shall be installed in accordance with this chapter unless a specific waiver is granted as provided for within the applicable standards or requirements. Whenever a developer is required to place catch basins as part of an approval, the Planning Board shall, in its discretion, require the developer to pay for and place a sign at each such catch basin setting forth the requirements and penalties of §§ 220-23 to 220-26 of the Code of the City of Brigantine.

(b) All utilities shall be installed underground within the mixed use development. These utilities shall include but not be limited to gas, television cable, telephone, and electric.

(6) Parking.

(a) Onsite parking for the residential component of the development in accordance with the Residential Site Improvement Standards (RSIS).

(7) Solid waste disposal areas.

(a) All trash compactors, bins and areas of refuse storage and recyclable storage areas shall be located in a common area and in such a manner to be screened from the general view of the public and must comply with all other ordinances of the City of Brigantine including any ordinance in reference to dumpsters.

(b) Solid waste disposal areas shall be fully accessible to service vehicles.

(c) Solid waste disposal areas shall be maintained in a clean and orderly condition at all time.

(d) Solid waste disposal areas shall be designed of a durable material consistent with the architectural theme of the development.

(e) Disposal area and all facilities shall be provided and maintained by the owner of the development.

(8) Public safety considerations.

(a) All multifamily developments shall address the following public safety issues within the application for development:

i. Emergency access routes for police, fire and ambulance vehicles.

- ii. Architectural techniques utilized to enhance the security of the development's occupants.
- (b) All public safety facilities located in a project shall be kept unobstructed by parking and/or any other type of storage. No parking spaces shall be placed to obstruct access as approved by the Fire Chief and/or Police Chief of the City of Brigantine.

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§ 198-52. B-2 Schedule of Bulk Requirements. ~~[Amended 12-19-2007 by Ord. No. 25-2007]~~

The Schedule of Bulk Regulations for the B-2 District is as follows:

B-2 Schedule of Bulk Requirements Area and Bulk Requirements

Uses	Lot Frontage (feet)	Lot Area (square feet)	Lot Depth (feet)	Building Coverage (percent)	Site Coverage (percent)	Building Height (feet)
Commercial Uses						
Marina, commercial	100	10,000	100	40	60	25
Marina, private club/yacht club	100	10,000	100	40	60	25
Retail trade establishment	100	10,000	100	40	60	25
Residential Uses						
Single-family	50	4,500	90	40	60	35*
Two-family (conditional use)	60	5,400	90	40	60	35

*No such single-family dwelling shall be permitted to have a fourth floor.

Minimum Yard and Setback Requirements

Uses	Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)	2nd Side Yard (feet)	Accessory Building (feet)
Commercial Uses					
Marina, commercial	20	20	7	3	3
Marina, private club/yacht club	20	20	7	3	3
Retail trade establishments	20	20	7	3	3
Residential Uses					
Single-family	20	20	7	3	3
Two-family (conditional)	20	20	10	5	3

NOTES:

~~(1) On bayfront lots, the rear setback for decks may be reduced to zero feet at the bulkhead. The rear yard setback to the building will remain 20 feet. Any deck which extends to the bulkhead on bayfront lots must be attached to the primary structure on said lot. No such deck shall be higher than 12 inches above the cap of said bulkhead or elevation 11.6 and must be built to the lower of the above two options. Second and third floor rear yard decks must comply with rear yard setbacks as established in the zone. All rear yard decks must comply with the side yard setbacks established in the zone.~~

~~Minimum Yard and Setback Requirements~~

Uses	Front Yard	Rear Yard	Side Yard	2nd Side	Accessory
	(feet)	(feet)	(feet)	Yard- (feet)	Building- (feet)

(2) Bulk requirements and setback requirements for conditional uses which are permitted in the B-2 Zone shall be the same as set forth for said conditional uses in the B1 and **B1A** Zones.

(3) There shall be a minimum of 10 feet between buildings on adjacent lots unless setback requirements require a greater distance. An applicant for a building permit shall submit a survey or other documentation showing the home/building on contiguous lots are at least 10 feet away from the proposed home/building on the applicant's lot.

§ 198-53. B-3 Schedule of Bulk Requirements; additional requirements.

The B-3 Schedule of Bulk Requirements, comprised of area and bulk requirements and minimum yard and setback requirements, is as follows:

B-3 Schedule of Bulk Requirements Area and Bulk Requirements

Uses	Lot Frontage (feet)	Lot Area (square feet)	Lot Depth (feet)	Building Coverage (percent)	Site Coverage (percent)	Building Height (feet)
Shopping centers	700	453,600	500	45	75	30
Banks	150	30,000	200	40	60	30
Restaurants	200	40,000	200	40	75	30
<u>Public Utilities</u>	<u>75</u>	<u>30,000</u>	<u>200</u>	<u>40</u>	<u>60</u>	<u>30</u>

Note: Public Utilities setbacks to all lot lines is 20'.

§ 198-54. AFFORDABLE HOUSING OVERLAY – B3 (AHO-B3) ZONE

A. PURPOSE.

- (1) The purpose of the Affordable Housing Overlay B3 (AHO-B3) overlay zone is to create an incentive to redevelop property for inclusionary development. The density is predicated on a set-aside for affordable housing (low and moderate-income housing). The affordable units will be for rent, the set-aside shall be 15 percent.

B. DESIGNATED OVERLAY AREA

- (1) The AHO-B3 zone will encompass a portion of the B3 (Business) zone. This District will be the focus of an overlay zone with residential uses over existing commercial. This zone contains a shopping area (Town Center) that is located between Harbor Beach Blvd., 38th Street, Bayshore and Amhurst Avenue (Block 3804, Lot 1). The overlay zone at this shopping center will provide for three residential floors above commercial. There will be a 15 percent set-aside for affordable family rental units with 13 percent of the affordable units for very low-income households. The underlying B-1 zone, its permitted uses, area and bulk requirements shall remain unchanged unless the Overlay District option for Affordable Housing is implemented by the property owner(s) or developer.

C. PERMITTED USES.

- (1) Mixed use, commercial first floor with residential above.

D. SCHEDULE OF AREA AND BULK REQUIREMENTS.

- (1) Lot area. The minimum lot area shall be based on the underlying B-1 lot size requirements.
- (2) Lot frontage. The minimum frontage shall be based on the underlying B-1 lot frontage requirements.
- (3) Perimeter setbacks. The minimum perimeter setback shall be based on the minimum setbacks as outlined in the underlying B-1 District.
- (4) Public service. Every residential and commercial unit shall be served by public water and sanitary sewer, which, if required, shall be installed by and at the expense of the developer.
 - (a) The developer shall install, at his sole expense, the following minimum site improvements: streets, access ways, off-street parking areas, sidewalks, street lighting, storm drainage facilities, landscaping and open space areas. These improvements shall be installed in accordance with this chapter unless a specific waiver is granted as provided for within the applicable standards or requirements. Whenever a developer is required to place catch basins as part of an approval, the Planning Board shall, in its discretion, require the developer to pay for and place a sign at each such catch basin setting forth the requirements and penalties of §§ 220-23 to 220-26 of the Code of the City of Brigantine.
 - (b) All utilities shall be installed underground within the mixed-use development. These utilities shall include but not be limited to gas, television cable, telephone, and electric.

E. Parking.

- (1) Onsite parking for the residential component of the development in accordance with the Residential Site Improvement Standards (RSIS).

- (2) Parking for the commercial aspect of the development shall be provided in accordance with the City of Brigantine onsite parking requirements.

F. Solid waste disposal areas.

- (1) All trash compactors, bins and areas of refuse storage and recyclable storage areas shall be located in a common area and in such a manner to be screened from the general view of the public and must comply with all other ordinances of the City of Brigantine including any ordinance in reference to dumpsters.
- (2) Solid waste disposal areas shall be fully accessible to service vehicles.
- (3) Solid waste disposal areas shall be maintained in a clean and orderly condition at all time.
- (4) Solid waste disposal areas shall be designed of a durable material consistent with the architectural theme of the development.
- (5) Disposal area and all facilities shall be provided and maintained by the owner of the development.

G. Public safety considerations.

- (1) All multifamily developments shall address the following public safety issues within the application for development:
 - i. Emergency access routes for police, fire and ambulance vehicles.
 - ii. Architectural techniques utilized to enhance the security of the development's occupants.
- (2) All public safety facilities located in a project shall be kept unobstructed by parking and/or any other type of storage. No parking spaces shall be placed to obstruct access as approved by the Fire Chief and/or Police Chief of the City of Brigantine.

§ 198-55. B-6 Schedule of Bulk Requirements. ~~{Amended 12-19-2007 by Ord. No. 25-2007}~~

The B-6 Schedule of Bulk Requirements, comprised of area and bulk requirements and minimum yard and setback requirements, is as follows:

B-6 Schedule of Bulk Requirements Area and Bulk Requirements

Uses	Lot Frontage (feet)	Lot Area (square feet)	Lot Depth (feet)	Building Coverage (percent)	Site Coverage (percent)	Building Height (feet)
Banks	100	10,000	100	40	60	30
Bars	100	10,000	100	40	60	30
Marinas, commercial	80	8,000	100	40	60	30
Marinas, private club	80	8,000	100	40	60	30
Motels/Hotels	80	8,000	100	40	60	30
Retail trade establishments	90	8,000	100	40	60	30
Restaurants	80	8,000	198.80.1 100	40	60	30

07.01. 2008

Restaurants, carry-out	80	8,000	100	40	60	30
Specialty food stores	80	8,000	100	40	60	30
Single-family	60 <u>50</u>	5,400 <u>5,000</u>	100	40	60	35 ¹

B-6 Schedule of Bulk Requirements Area and Bulk Requirements

Uses	Lot Frontage (feet)	Lot Area (square feet)	Lot Depth (feet)	Building Coverage (percent)	Site Coverage (percent)	Building Height (feet)
Accessory structure						
Floor area smaller than 120 square feet						12
Floor area 120 to 432 square feet						15

Minimum Yard and Setback Requirements

Uses	Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)	2nd Side Yard (feet)	Accessory Building (feet)
Banks	20	20	10	10	15
Bars	20	20	10	10	15
Marinas, commercial	20	20	10	10	15
Marinas, private club	20	20	10	10	15
Motels/Hotels	20	20	10	10	15
Retail trade establishments	20	20	10	10	15
Restaurants	20	20	10	10	15
Restaurants, carry-out	20	20	10	10	15
Specialty food stores	20	20	10	10	15
Single-family	20	20	10	5	See below
Accessory structure ²					
Floor area smaller than 120 square feet		3	3		
Floor area 120 to 432 square feet		5	5		

NOTES:

¹ No such single-family dwelling shall be permitted to have a fourth floor.

² ~~Accessory structures on corner lots shall be set back a minimum of 25 feet from the front lot line and shall have a minimum distance of 5 feet to the principal structure on the property.~~

§ 198-56. Regulations applicable to all commercial districts.

The following notes are applicable to the commercial district schedules in this article:

- A. Commercial structures may be set back a minimum of five feet from the street line or the average of the setbacks within the block on the same side of the street, whichever is greater, if such setback is given Board approval and will conform with the commercial district in which the commercial structure is located.
- B. Individual commercial uses in the B-3 District shall not be subject to the area and bulk requirements or minimum yard and setback requirements in § 198-53, when included as an integral part of a shopping center.
- C. No structure in any commercial or residential zone shall contain a mix of residential and commercial uses unless specifically permitted by this chapter.
- D. The maximum height of accessory uses for residential dwellings shall be 15 feet.
- E. Awnings extending from any principal building shall be considered part of such building and shall meet all applicable setback requirements. ~~Added 12-19-2007 by Ord. No. 25-2007.~~ **Retractable awnings may extend a maximum of 20' onto the front yard setback, or to the property line.**

ARTICLE VII Conservation Zone Regulations

§ 198-57. Purpose and intent.

It is the purpose of this article to define those environmentally sensitive areas, such as the beaches, dunes and wetlands unique to the barrier island environs of the Jersey shore, as well as those recreational resources created by man for his enjoyment, in order to protect, enhance and preserve for the general public. Consistent with the overall purpose and intent, this article is the exercise of the power of the municipality to protect the resources of the community in the interest of the safety and welfare of the general public.

§ 198-58. Findings and declarations.

It is hereby noted as a finding of fact that the City of Brigantine, as a barrier island in the New Jersey Coastal Zone, is a unique environment requiring special means of maintenance, protection and preservation. There are three separate and distinct areas in the Conservation Zone, each with a distinct declaration and finding of fact.

- A. Dune and beach.
 - iii. Certain portions of the beachfront and strand bordering on the Atlantic Ocean, the entire length of the oceanfront from the north City boundary line to the stone jetty on the north side of the Absecon Inlet, have in the past suffered from damage caused by storms and storm tides, at which time the sea has encroached upon the land and has caused damage to both public and private property and has endangered the safety and welfare of the general public.

- (2) The situation created along the beach by reason of such storm tides and resulting damage has been so serious that thousands of dollars of both public and private funds have been expended for the erection of bulkheads, sand fences and other devices intended to prevent encroachment by the sea.
- (3) It has been demonstrated that well-established and protected sand dunes, together with berms, beaches and underwater slopes of suitable configuration and of proper grade and height, are some of the elements of a durable and effective protection against tides and flooding and against damage by the ocean under storm conditions, and are the natural protection of the coastal areas adjacent thereto, and the state and its subdivisions and their inhabitants have an interest in the continued protection thereof and in the need to restore them in the event of damage or destruction.
- (4) Sand dunes are vulnerable to erosion by both wind and water, but primarily by wind, since its attacks against the dunes are sustained for substantial and frequently recurring periods of time, whereas, if protected by typical berms, beaches and underwater slopes, the dunes are attacked by water only at infrequent intervals. The best available means of protecting said dunes against wind erosion is by preventing indiscriminate trespassing, construction or other acts oceanward of the development restriction line which might destroy or damage said dunes and through the use of native plantings, supplemented by sand fencing and other devices designated to prevent the free blowing of sand and the maintenance of the surface tensions, root accumulations, normal contours and other features found in typical natural dunes.
- (5) The immediate dune and beach areas, located between the ocean and the development restriction line, are not capable of rigid definition or delineation or of completely firm stabilization, so that particular sites at the time free of dunes, may, as a result of natural forces, become part of the dune area necessary for the continuation of the protection outlined above. The residents of the City of Brigantine must therefore be prepared to revise the development restriction line from time to time.
- (6) The erosion of the beachfront has created a threat and danger to the property and life of persons in the City of Brigantine by reason of the destruction of the sand barriers which protect the City's oceanfront on both public and private property within the City of Brigantine.
- (7) The interference with or the depletion of the beach and sand dunes tends to permit encroachment by the sea, and conditions recited above make it imperative that the governing body regulate and control the removal of sand from the beach or dunes or any other interference with or depletion of the protective barrier on the oceanfront of the City of Brigantine.

B. Wetlands.

- (1) In agreement with the Legislature of the State of New Jersey, the City of Brigantine finds and declares that one of the most vital and productive areas of the barrier island system is the estuarine zone.

- (2) This area protects the land from the force of the sea, moderates the weather at the shore, provides a home for waterfowl, fish and shellfish and assists in absorbing sewerage discharge by the rivers of the land.
- (3) Coastal wetlands contribute to the physical stability of the coastal zone by serving as:
 - (a) A transitional area between the forces of the open sea and uplands areas that absorb and dissipate wind-driven storm waves and storm surges.
 - (b) A floodwater storage area.

(c) A sediment and pollution trap.

- (4) The wetlands naturally perform the wastewater treatment process of removing phosphorous and nitrogenous water pollutants.

C. Golf course.

- (1) One of the unique recreational and environmental assets other than the coastal environs within the City of Brigantine is the golf course area established during the initial development of the island. This course is the only such recreational feature on any barrier island along the New Jersey shore.
- (2) The existence of a recognized eighteen-hole regulation golf course adds not only to the recreational opportunities of the residents of the City, but is a vital element of the total open space available for the visual enjoyment of those residents adjoining the facility.
- (3) Such a golf course, by its open and spacious nature, offers a counterbalance to the residential densities of the City.
- (4) The long-range impact of establishing and maintaining an uplands recreational facility with substantial contiguous open space is in the best interest of the residents of the City of Brigantine.

§ 198-59. C-1 Conservation · Beaches, Dunes and Wetland regulations.

The following regulations are applicable to the C-1 Zone District, which is comprised of the Dune Maintenance District, Dune Restoration District and Dune Reconstruction District as shown on the maps of the Brigantine Dune and Shoreline Management Plan, and the wetlands.

A. Prohibited activities. Within the above-designated areas of the C-1 District, no construction of any type shall be allowed except works undertaken by the City of Brigantine as approved by the Division of Coastal Resources, New Jersey Department of Environmental Protection and/or United States Army Corps of Engineers when required by regulations and the following activities within the beach and dune areas:

- (1) Sand fencing placed to encourage the accumulation of sand and enhance the growth of the dune system.
- (2) Temporary or seasonal structures utilized by lifesaving personnel.
- (3) Raised walkways designed to allow pedestrian access to the beach, while protecting the dune system from damage due to pedestrian travel.
- (4) Protective fencing placed to control access to endangered species, such as the least tern.
- (5) Signs as permitted in § 198-114.

B. Beach access.

- (1) Access to the beach shall be along and within designated beach accessways as shown on the Brigantine Beach Access Plan, such as street ends or properly constructed and permitted walkways.
- (2) No access shall be constructed by a private owner without a permit as required in Subsection E.
- (3) No access across the dune systems located between the ocean and the development restriction line shall be restricted or denied from the reasonable and safe use, as permitted by the governing body, of the general public.
- (4) All beach accessways shall be linear and direct pedestrian movements from the uplands to the beach without unnecessary or uncontrolled movements from the accessway.
- (5) Commercial and multifamily developments adjacent to the beach and dune system shall be encouraged to construct beach accessways for the use of the general public in accordance with the intent of this section.

C. Beach access structures.

- (1) The development of beach access structures which protect the dune fields, as well as natural and artificial means used to stabilize said dune fields, is hereby encouraged by this chapter.
- (2) In addition to those beach accessways shown in the Beach Access Plan, the City of Brigantine may, from time to time, require and request the development of additional beach access structures.
- (3) In any development application, the Planning Board shall require that persons seeking to develop property adjacent to dunes in the Conservation District for either multifamily or commercial uses erect beach accessways at the sole cost and expense of the applicant. Any application for development or subdivision shall include as part of said application a legal description and plot plan showing the development restriction line. No development shall be permitted beyond said line.
- (4) Beach accessways will be constructed in such a manner as to protect the right of public access to the beach and shore front.
- (5) In cases where the most appropriate accessway is determined to be at or originating from a street end, the Planning Board and/or City shall require that the applicant erect, own and maintain such accessways on an easement and under a declaration of covenants and restrictions agreed to by the applicant and the City.
- (6) In the case of single lots for development of single-family dwellings, the Construction Official shall refer the applicant to the governing body for determination as to whether the erection of any beach accessway should be required.

- D. Sand fencing. The City may erect or require the installation of sand fencing in and along the districts delineated by the Dune and Shoreline Management Plan³⁶ as may be necessary to accomplish the purposes of this chapter and require signage to identify the same. Persons may enter such areas only to carry out the purposes of this chapter. Where beach accessways exist, the dune field shall be suitable bordered with sand fencing to prevent damage to the dunes or berms which they cross.
- E. Special permit required. No individual, firm or corporation shall be permitted to move or displace sand within the C-1 Zone District except to protect improvements to their prior condition. Prior to the commencement of such activities, a special permit shall be required pursuant to the review and approval of the governing body.
- F. Information required for permit review. The following information shall be furnished in any application to the Municipal Engineer for the movement and displacement of sand in the C-1 District:
- (1) The name and address of applicant.
 - (2) The location of site and boundaries of the sand to be removed.
 - (3) The nature and purpose of the proposed activity.
 - (4) A description of the methods by which the applicant intends to move or displace the sand, including a listing and description of the equipment, machinery or any other apparatus to be used.
 - (5) An estimate of the volume of sand, expressed in cubic yards, to be moved or displaced.
 - (6) A topographic survey, prepared by a professional land surveyor, showing the existing conditions of the site.
 - (7) A grading plan, prepared by a professional engineer, showing the proposed grades and contours of the site upon completion of the proposed project.
 - (8) A delineation of the methods of stabilization to be used during construction, including a construction timetable.
 - (9) Any reasonable information that may be required by the Municipal Engineer in order to fully review the application.
 - (10) The permit fee as required in § 198-17.
- G. Conditions for the issuance of permit.
- (1) No permit in the C-1 District shall be issued without a determination by the Municipal Engineer, based on an inspection of the site, that such removal or displacement of sand shall not create a danger or hazard to the property or the general public.

36. Editor's Note: Said plan is on file in the City offices.

- (2) No permit shall be granted if the movement or displacement of sand will:
 - (a) Adversely impact the littoral drift in the districts delineated by the Dune and Shoreline Management Plan.³⁷
 - (b) Result in a reduction of dune protection and the dune area as provided for the Dune and Shoreline Management Plan.
 - (c) Interfere with the general configuration of the beach and dune areas of either the property in question or the adjoining beachfront properties.
 - (d) Interfere with the general configuration of the districts as delineated by the Dune and Shoreline Management Plan.
 - (e) Otherwise substantially impair or interfere with the intent and purpose of this chapter.
- H. Specifications for the movement of sand. The following specifications shall be applied to the movement or displacement of sand within the C-1 Zone District:
 - (1) The applicant or the applicant's contractor shall, in the process of performing work on the dune, maintain the elevation of the dune as established by the Municipal Engineer.
 - (2) The applicant shall be required to preserve all existing dune grass during the course of any construction work, removal or displacement of sand within the dune field. The reestablishment or transplanting of dune grasses shall be American beach grass (*Ammophila breviligulata*) and such dune grass shall be planted in conformance with the current standards of the United States Department of Agriculture Soil Conservation Service. Reference is made to Technical Note NJ-25, Guide for Dune Protection, New Jersey dated October 1978.
 - (3) The applicant shall place a one-inch mat of salt hay over the entire area of the portion of the dune which has been disturbed during construction.
 - (4) The applicant shall preserve all existing dune grass during the course of any construction, removal or displacement of sand within the dune field. The reestablishment or transplanting of dune grasses shall be required in all disturbed areas.
 - (5) Where, by the action of high winds and/or tides, sand is blown or washed upon the lands, including street ends, lying westwardly from the dune line, such sand shall be placed only on the back-beach area.
 - (6) It is required, in addition to the planting of dune grass, that the applicant shall install sand fencing. Said fencing shall be set in a parallel row or rows in the backshore area and along the fore dune according to the specification of the City Engineer.

37. Editor's Note: Said plan is on file in the City offices.

- (7) The applicant shall notify the Municipal Engineer 72 hours prior to the start of construction or work.
- I. Movement of sand by natural forces. Where, by the action of high winds and/or tides, sand is blown or washed upon the lands, including street ends, lying westwardly from the development restriction line, such sand shall be placed only on the back-beach area.
- J. Permit fees.
- (1) Each application for a permit to move or displace sand in the C-1 Zone District shall be accompanied by the fees as specified in § 198-17 of this chapter. This shall include both an inspection fee for the City Engineer and legal fees.
- (2) The applicant shall be responsible for retention and payment to the professional engineer for the filing and preparation of an application for a permit.
- K. Performance guaranty.
- (1) A cash bond of not less than \$1,000 shall be deposited by the applicant at the time of the issuance of the permit. The actual amount of said bond shall be determined by the Municipal Engineer, based on the scope of the work.
- (2) The bond shall be refunded upon the Municipal Engineer's approval of the work which has been done. If the work has not been in compliance with the specifications contained in Subsection H herein, the City shall have the right to have the work done as so required, charging the cost thereof against the bond. Any portion of the deposit remaining unused for such purpose shall be returned to the applicant. No interest shall accrue on funds deposited as a performance guaranty.
- L. Permit review procedure. Any application to move or displace sand in the C-1 Zone District shall be reviewed in conformance with § 198-13B, Application for minor site plan approval.
- M. Form of City approval.
- (1) All permits to move or displace sand in the C-1 Zone District shall be issued by the City government of the City of Brigantine, in the form of a resolution, for temporary activities on City-owned properties, or in the form of ordinance, granting an easement over City-owned properties for permanent activities.
- (2) Permits shall be issued by resolution, on privately owned properties, within the area delineated by the Dune and Shoreline Management Plan³⁸ only for those activities permitted by this chapter.
- N. Stop-work order. The Municipal Engineer is empowered to pursue such equitable and legal relief as may be necessary to abate any violation of this chapter. In the event that the violation involves either the movement or displacement of sand or conduct in violation of any permit issued pursuant to this section, the Municipal Engineer is hereby

38. Editor's Note: Said plan is on file in the City offices.

empowered to issue a stop-work order, in addition to pursuing any legal or equitable remedy hereunder.

O. Adoption of Dune and Shoreline Management Plan. The following are hereby adopted:

- (1) The Dune and Shoreline Management Plan as set forth and delineated in Section III of the Dune and Shoreline Management Plan prepared for the City of Brigantine by Pennoni Associates, Inc., consisting of an index map and 16 pages dated June 24, 1981, and revised August 12, 1981.³⁹
- (2) The Beach Access Plan prepared by Pennoni Associates, Inc., consisting of 16 pages dated August 14, 1981, all of which are considered to be supplemental to the Official Zoning Map and Tax Map, previously adopted by the City Council.⁴⁰

§ 198-60. C-2 Conservation - Golf Course/Country Club.

The following regulations are applicable to the C-2 Zone District, which is comprised of the country club facility and adjoining golf course, commonly referred to as "Brigantine Country Club":

- A. Preservation of existing facilities. Within the context of the Brigantine Master Plan and this chapter, any development activity which impairs, restricts or eliminates the existing use of the C-2 Zone District as a country club and golf course is prohibited. The repair, reconstruction or replacement of the country club and golf course is permitted and encouraged.
- B. Principal uses shall be as follows:
 - (1) Golf course.
 - (2) Municipal facilities deemed necessary and appropriate by the governing body.
 - (3) Restaurants and bars only as an integral part of the country club use.
- C. Accessory uses are as follows: customary accessory uses and structures incidental to the principal uses and structures, such as country clubs, golf and tennis equipment stores, maintenance buildings, motels and yacht clubs.
- D. Area and bulk requirements. The expansion of the existing country club facilities or reconfiguration of the golf course shall be reviewed as a conditional use. Area and bulk requirements shall be determined by the findings and purposes of this article.

39. Editor's Note: The Dune and Shoreline Management Plan is in file in the City offices.

40. Editor's Note: The Beach Access Plan is on file in the City offices.

ARTICLE VIII
Regulations Applicable to All Zones

§ 198-61. Compliance required.

- A. New construction or renovation. No building or structure shall be erected or constructed, and no existing building or structure shall be moved, structurally altered, rebuilt, added to or enlarged unless it is in conformance with the applicable sections for the zone district in which it is located and all necessary permits, including a zoning permit, have been obtained.
- B. Land use. No land shall be used for any purpose other than those included among the uses listed as permitted uses in the applicable zone district described in this chapter and shall meet the specific requirements herein.
- C. Yards and open space. Any open space contiguous to any building shall not be encroached upon or reduced in any manner, except in conformity with the yard, lot area, building setbacks, building and site coverage, off-street parking areas and all other regulations specified for the zone district in which it is located.
- D. Nonconformance. In the event of any unlawful encroachment or reduction, such building, structure or use shall be deemed to be in violation of this chapter, and the development permit and any other permits shall become null and void.
- E. No structure in any commercial or residential zone shall contain a mix of residential and commercial uses unless specifically permitted by this chapter.

§ 198-62. Prohibited uses.

- A. Any use not specifically permitted in a zoning district established by this chapter is hereby expressly prohibited from the district.
- B. In addition, the following uses and activities shall be specifically prohibited in any zone district in the City of Brigantine:
 - (1) Sexually oriented businesses as defined in N.J.S.A. 2C:34-2 within 1,000 feet of any church, synagogue, temple or other place of worship, any school or school bus stop, any beach or playground or any area zoned for residential use.
 - (2) Signs and advertisements: all billboards, signboards, advertising signs or devices not expressly related to the business being conducted on the premises or otherwise specifically permitted by this chapter.
 - (3) Mobile homes: trailers, mobile homes or houses, trailer sales or servicing, trailer camps, trailer parks or courts and trailer coach parks.
 - (4) Houseboats: residential houseboat facilities and residential use of houseboats. Nothing in this chapter shall prevent the use of recreational boating facilities for one overnight accommodation, so long as such overnight accommodations are not used for temporary or permanent residential use.

- (5) Camping structures: tents or other temporary structures for either sleeping or dwelling purposes, as well as camping activities, either temporarily or permanently in trailers, tents or other temporary or mobile structures.
- (6) Warehousing: wholesale, storage or warehouse facilities or uses except for governmental uses deemed necessary and approved by the Planning Board or City Council.
- (7) Mining activities: extractive or surface-stripping activities such as gravel pits, topsoil or turf removal.
- (8) Off-shore support facilities: all on-shore supply bases, docks, warehouses, fabrication or storage areas used in connection with the exploration, development, extraction, transmission or transportation of oil or natural gas.
- (9) Public nuisance: any use which may be noxious or a nuisance due to the emission of excessive or objectionable amounts of dust fumes, noise, odor, smoke, vibration or waste products, as stated in Chapter 216, Noise.
- (10) Intercept or satellite parking lots: any parking lot or area designed solely for the purpose of accommodating automobiles, buses or any other vehicles not directly associated with a permitted use in the zone district.
- (11) Any business engaged primarily in check cashing or like activity that is not a financial institution.
- (12) Spiritual advisors, fortune tellers, palm or card readers, phrenologists, mediums, clairvoyants, soothsayers, reader-advisors or other such occupations. ~~{Added 9-17-2008 by Ord. No. 26-2008}~~
- ~~(13)~~ Any piercing parlors, tattoo parlors or similar uses. ~~{Added 9-17-2008 by Ord. No. 26-2008}~~
- ~~(14)~~ Escort services, massage parlors or other similar uses. ~~{Added 9-17-2008 by Ord. No. 26-2008}~~

C. General prohibited uses. The following uses are prohibited:

- (1) Roadside or sidewalk stands of any sort.
- (2) Auctions or auction markets except for auctions of real estate or other foreclosure activities if otherwise permitted by law and auctions conducted by the City of Brigantine pursuant to statute.
- (3) Auto scrap metal or other junkyards.
- (4) Gambling, gaming, bookmaking, or other similar criminal activities.

§ 198-63. General regulations.

- A. Street frontage. Every principal building shall be built upon a lot with frontage on a public street which has either been improved to meet City standards or for which such

improvements have been insured by the posting of a performance guaranty pursuant to the provisions of Article III, Development Application Review and Approval Procedures.

- B. Conflict with the Master Plan or Official Map.⁴¹ Where a lot has frontage upon a street where the Master Plan or Official Map has proposed a widening of the existing right-of-way, the front yard shall be measured from the proposed right-of-way.

41. Editor's Note: Said plan and map are on file in the City offices.

C. (Reserved)⁴²D. Corner lots. ~~{Amended 12-19-2007 by Ord. No. 25-2007}~~

- (1) On all corner lots, the front yard shall be determined by the following methods:
 - (a) The small dimension shall be considered the primary lot frontage on regularly shaped lots and the front yard setback from that line.
 - (b) Secondary front yards are permitted a setback of 15 feet, ~~provided that all other area and bulk requirements are being met.~~ Should parking be proposed within this front yard, a minimum of an eighteen-foot setback must be provided.
 - (c) On an irregularly shaped lot, primary frontage shall be considered the smaller dimension either along the right-of-way line or building setback line as measured at the required front yard setback for that zone district.
 - (d) On a lot having equal dimension along both street right-of-way lines, primary lot frontage shall be considered as that on the more heavily traveled street.
 - (e) The rear yard or rear lot line shall be that yard or line opposite and most distant from the primary lot frontage.
 - (f) The rear yard on corner lots, in all zones, shall be a minimum of 10 feet.
- (2) The yard opposite the secondary front yard, considered a side yard in this subsection, shall meet the required setback and building separation requirements of the particular zone in which the parcel is located.

E. Accessory buildings.

- (1) No accessory building shall be permitted in any required front yard area.
- (2) Accessory buildings attached to a principal building shall comply in all respects with the yard requirements of this chapter for principal buildings..
- (3) Detached accessory buildings shall be located to the rear of the front building line of the principal building and, if located in a side yard area, shall conform to the side yard requirements of this chapter.
- (4) No more than one accessory structure shall be allowed per lot.**
- (5) Accessory structures shall be set back a minimum of 25 feet from a front property line.**
- (6) Accessory structures shall have a minimum distance of 5 feet from the principal structure on the property.**
- (7) Existing accessory structures that do not conform to the current bulk requirements must be removed when the principal structure is removed.**
- (8) Accessory structures shall not be used for residential or living purposes.**

F. Principal buildings. No residential lot shall have erected upon it more than one principal building.

G. Storage of materials.

- (1) No front yard shall be used for the storage of boats, vehicles or any other equipment except for validly licensed and validly inspection-stickered vehicular parking on driveways.
- (2) All open storage areas shall be properly landscaped in accordance with Article XII.

42. Editor's Note: Former Subsection C, Yards, was repealed 12-19-2007 by Ord. No. 25-2007.

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- H. Displays. Business structures or uses shall not display goods for sale or coin-operated vending machines of any type in any location which would encroach upon required yard areas specified in this chapter.
- I. Artificial lighting.
- (1) No artificial lights shall be used by any building or on any premises which, because of intensity, location, color or any other factor, disturb the comfort, health or safety of those residing, working or using public property, including streets within the range of those lights.
 - (2) Artificial lighting systems shall be installed in accordance with § 198-71, Lighting.
- J. Temporary buildings. Temporary buildings and structures for use incidental to construction work shall be permitted in all zones, provided that such buildings are removed upon completion or abandonment for 30 days of the construction work.
- K. Solid waste disposal. The dumping of refuse, solid waste material or other similar substances is prohibited within the City of Brigantine. Any waste disposal necessary in connection with all new construction, remodeling, renovation and/or additions shall complete a document available at the Bureau of Inspections stating the name of the disposal dump location. No building permit is to be issued until this information is provided in writing.
- L. Placement of fill.
- (1) Only inorganic matter may be used for the purpose of fill in order to establish grades. All fill material shall conform to New Jersey State Highway Department Standard Specifications for Road and Bridge Construction: Division 2, Earthwork, Section 4, Borrow excavation used as fill.
 - (2) A permit shall be obtained by the owner or developer from the Construction Official prior to the placement of five or more cubic yards of approved fill material on any property to be developed.
- M. Essential services. Nothing in this chapter shall preclude the construction, operation and maintenance of public utility, transmission, distribution or collection systems in any zone for water, gas, telephone, or electric service subject to the conditions of this chapter. Such systems may include systems of poles, wires, underground pipes, conduits, ducts and transformation equipment, including substations and appurtenances, necessary for the transmission and/or distribution of the commodity or service rendered by the public utility to its customers.
- N. Decks. No decks will be permitted in any zone which in anyway extend from or are attached to peaked roof.
- O. Roof Decks above the third floor: Roof deck controls shall apply to all residential structures in zones where roof decks are permitted and must conform to the following design standards.**
- (a) Maximum Area: Roof deck area shall not exceed twenty percent (20%) of the horizontal roof area within which it is located, or two hundred square feet (200) whichever is less.**
- (b) Setbacks: The roof deck and all required railing shall be set back a minimum of four feet (4') from all exterior walls of the building.**

(c) A roof deck shall not be higher than fourteen inches (14") above the primary roof eave elevation or the maximum roof eave elevation of that portion of the building upon which the roof deck is located, whichever is less.

(d) No other structure or accessory is permitted above a roof deck, including without limitation, awnings anchored or otherwise, canopies, pergolas or other structures permanent or temporary.

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ARTICLE IX
Design Standards

§ 198-64. General requirements.

The developer shall observe the following requirements and principles of land subdivision and site planning in the design of each subdivision, site plan or portion thereof. The subdivision plat or site plan shall conform to design standards that will encourage good development

patterns within the City of Brigantine. Where either or both an Official Map or Master Plan has or have been adopted, the subdivision or site plan shall conform to the proposals and conditions shown thereon. The streets, drainage rights-of-ways, school sites, public parks and playgrounds and conservation areas shown on the officially adopted Master Plan or Official Map shall be considered in approval of subdivision plats or site plans. Where no Master Plan or Official Map exists, streets and drainage rights-of-way shall be shown in the final plat or site plan in accordance with Section 20 of Chapter 433 of the Laws of 1953 ⁴²and shall be

such as to lend themselves to the harmonious development of the City of Brigantine and enhance the public welfare in accordance with the design standards enumerated in the following sections.

§ 198-65. Blocks.

- A. Minimum standards. Block length, width and acreage within the boundary roads shall be such as to accommodate the size of lot required in the zoning district by this chapter and to provide for convenient access, circulation control and safety of both pedestrian and vehicular traffic. For commercial and multifamily housing, block size shall be sufficient to meet all area and yard requirements specified in this chapter for such uses.
- B. Maximum length. Blocks shall not be in excess of 600 feet long. Pedestrian walk-through may be required through the block in locations deemed necessary by the Planning Board. Such walkways shall be 10 feet wide and straight from street to street.

§ 198-66. Lots.

- A. Minimum standards. Lot dimensions and area shall not be less than the requirements as specified in Article V, Residential Zone Regulations, and Article XIV, Commercial Zone Regulations.
- B. Frontage on improved streets. Each lot shall front upon an improved street with the appropriate width as specified in Article X, Design of Streets. Alleys are not considered as streets in this subsection.
- C. Side lot lines. Insofar as practical, side lot lines shall be at right angles to straight streets and radial to curved streets.
- D. Dedication of additional lot width. Where additional lands have been dedicated for widening of existing streets, lots shall begin at the street line as widened, and all setback lines shall be measured from such line.
- E. Grading. All grading of the lot or lots shown in the subdivision site plan shall be in accordance with the final plan. No building or structure shall be erected upon a lot which does not meet the requirements for grade level as specified in the Building Code of the City of Brigantine.
- F. Setback to existing buildings. When a new lot is formed so as to include within its boundaries any part of a former lot on which there is an existing building or use, the

42. Editor's Note: See now N.J.S.A. 40:55D-1 et seq.

subdivision must be carried out in such a manner as will not infringe upon any of the provisions of this chapter, either with respect to any existing buildings, structures or uses and any proposed structures, buildings or uses, and shall be carried out in conformance with this chapter.

- G. Curbing and sidewalks shall be required on all new construction. Curbing and sidewalk shall be installed on all adjacent street frontage.
- H. Applications for subdivisions shall include legal descriptions and demarcation of the development restriction line. No development shall be permitted beyond said line.

§ 198-67. Easements.

- A. Minimum width of utility easements. In any development which requires easements for the installation of utilities, such easements shall be a minimum of 15 feet wide and located in consultation with the utility concerned, as well as the Department of Public Works and Municipal Engineer.
- B. Minimum width of pedestrian easements. In any development which requires an easement to allow public access either to or through the development, such easements shall be a minimum of 12 feet wide and located in consultation with the Planning Board.
- ~~C. Storm drainage. Where a subdivision, site plan or any new construction is traversed by a watercourse, drainage way or street, there shall be provided a stormwater easement or drainage right of way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose. All drainage shall be directed toward a public right of way. No drainage shall be permitted to drain on any adjacent property.~~

§ 198-68. Fences and walls.

- A. Permit required. No fence, wall, fence-like or wall-like structure shall be erected without first obtaining a permit from the Construction Official or Zoning Official.
- B. Maintenance. Every fence or wall shall be maintained in safe, sound, upright condition and in accordance with the approved plan on file with the Construction Official. If the Zoning Officer, upon inspection, determines that any fence is not being maintained in a safe, sound or upright condition, he shall notify the owner of such fence, in writing, of his findings and state briefly the reasons for such finding and order such fence or portion of such fence repaired or removed within 15 days of the date of the written notice.
- C. Prohibited fence types. Except for required security fences, the following fences and fencing material are specifically prohibited: barbed-wire fences, sharp pointed fences, canvas, cloth and electrically charged fences and expandable and collapsible fences.
- D. Height limitations.

- (1) Fences may be erected, altered or reconstructed to a height not to exceed four feet above the ground level when located within ~~25 feet of any street~~ **20 feet of any front property** line in a residential zone. ~~{Amended 12-19-2007 by Ord. No. 25-2007}~~
- (2) Fences may be erected, altered or reconstructed to a height not to exceed six feet above ground level when located more than ~~25 feet from any street~~ **20 feet of any front property** line in a residential zone or when located in any yard area of a use in a business zone. Fences or walls as permitted above shall be constructed with the finished side facing out. The post for the fence may be extended an additional six inches in height and the pilasters for a wall may extend an additional 12 inches in height. The same decorative extensions to the posts and pilasters permitted in rear yards are also permitted in the front yard. ~~{Amended 12-19-2007 by Ord. No. 25-2007}~~
- (3) Fences may be erected, altered or reconstructed to a height not to exceed six feet when located in the side or rear yard of any dwelling in a residential zone, ~~and erected around a swimming pool.~~
- (4) The foregoing restrictions shall not be applied so as to prevent the erection of an open-wire fence not exceeding eight feet above ground level anywhere within a park, public playground or school premises.
- E. Location. All fences must be erected within the property lines, and no fence shall be erected so as to encroach upon a public right-of-way.
- F. General. The foregoing restriction shall not be applied so as to restrict the erection of a retaining wall for the purpose of retaining earth or a temporary fence for the protection of shrubbery
- G. A "privacy fence or wall" is defined as any fence or wall that obscures visibility through the fence by 50% if viewed at right angles. ~~{Added 12-19-2007 by Ord. No. 25-2007}~~

§ 198-69. Swimming pools.

- A. Required setbacks. No swimming pool shall be located closer to any property line than specified in Subsection B, in the Schedule of Swimming Pool Setbacks. The required setbacks shall be measured from the nearest pool line to the property line.
- B. The Schedule of Swimming Pool Setbacks is as follows:

Schedule of Swimming Pool Setbacks

<u>Zone-District Type of Dwelling</u>	Front (feet)	Required Side (feet)	Rear (feet)
<u>R-1</u>	20	7	7
<u>R-2</u>	20	6	6
<u>One Family</u>			

R-2A	20	6	6
<u>Two Family</u>			
R-3	20	6	6
R-3B	20	7	7

Schedule of Swimming Pool Setbacks

Zone-District Type of Dwelling	Front (feet)	Required Side (feet)	Rear (feet)
R-4	20	6	6
R-5	40	20	20
All Others			
R-6	25	20	20
R-7	25	20	20
R-8	20	7	7

- C. Safety enclosure. All swimming pools shall be completely surrounded by a safety enclosure, permanent barrier or obstruction, such as a fence or wall. This enclosure shall be a minimum of four feet in height and shall be constructed in such a manner to entirely enclose the area on which the swimming pool is located and prevent all reasonable and normal access to the swimming pool except through a substantial self-closing gate or gates of the same height as the fence, equipped with a facility for locking said gate when the pool is unattended or unguarded. A residence or clubhouse may be considered as part of the safety enclosure if it meets the preceding criteria.
- D. **Hot Tubs shall be considered pools for setback requirements.**
- E. **All pool heaters, pumps and other equipment setbacks are 4 feet from side and rear yards and a minimum of 10 feet from any adjoining structures. Must be surrounded with sound proof material.**

§ 198-70. Off-street loading and unloading.

- A. General requirements. For every building, structure or part thereof having over 3,000 square feet of gross floor area, erected and occupied for retail trade establishments, motels, places of public and quasi-public assembly and other similar uses involved in the receipt and distribution of materials or merchandise by vehicles, there shall be provided and permanently maintained adequate space for off-street standing, loading and unloading services in order to avoid undue interference with the public use of streets or alleys. Every building, structure or addition thereto having a use which complies with the above definition shall be provided with at least one loading space. One additional truck space of these dimensions shall be provided for every additional 10,000 square feet of gross floor area.
- B. Dimension. A required loading space shall be a minimum of 15 by 40 feet or 600 square feet.
- C. Access. Access to the loading and unloading space shall be provided directly from a public street or from an accessway that will not interfere with public convenience and will permit orderly and safe movement of service vehicles.
- D. Restricted use. Loading spaces as required under this section shall be provided as area in addition to off-street parking space and shall not be considered as furnishing off-street parking space.

following lighting standards shall be applied to all zone districts in the City of Brigantine.

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- A. Public safety and security. All off-street parking areas, pedestrian walkways and accessways serving both residential and commercial uses shall be adequately illuminated for security and safety purposes.
- B. Glare prevention. All lighting shall be designed, oriented and installed in order to prevent glare.
- C. Lighting intensity standards. Lighting intensity standards shall be as follows:
 - (1) Minimum intensity in any illuminated area shall be 0.3 footcandles.
 - (2) Average lighting intensity in any illuminated area shall be 0.5 footcandles.

- (3) Off-street parking areas for commercial and multifamily uses shall have a lighting intensity of 1 1/2 footcandles.
- (4) Lighting intensity in all other areas shall be based on accepted industry standards.
- D. Fixture heights. The maximum height for any lighting standard shall not exceed 25 feet, unless specifically waived by the Planning Board.

§ 198-72. Stormwater management.

- A. Intent. The intent of this section is to provide clear design criteria for the various types of development in the City of Brigantine. The objective of stormwater management within the City is to keep all post development flows.
- B. Refer to Chapter 258 Stormwater Control.
- C. Storm Drainage. Where a subdivision, site plan or any construction is traversed by a watercourse, drainage way or street, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose. All drainage shall be directed toward a public right-of-way. No drainage shall be permitted to drain on any adjacent property.
- ~~D. Provision for emergency overflow. Whenever feasible, as determined by the City Engineer, positive outflows for emergency stormwater discharge are required. This design requirement will be strictly enforced for new development along the beaches and back bays.~~
- ~~E. Soil borings. Soil borings shall be required to verify if on-site stormwater recharge is feasible.~~
- ~~F. On-site retention of stormwater. Stormwater retention basins, designed to hold water for lengthy periods of time, are discouraged.~~
- ~~G. Design storm criteria. All proposed development projects in the City shall use a twenty-five year storm event of twenty-four hour duration as the design criteria.~~
- ~~H. Whenever an applicant has received approval from the Planning Board for a development which will require the placement of catch basins at or near said development, the Planning Board shall, in its discretion, require the developer to pay for and place a sign at each said catch basin setting forth the requirements and penalties of §§ 220-23 to 220-26 of the Code of the City of Brigantine.~~

§ 198-73. Performance standards.

- A. Standards for review. All permitted uses shall conform to the following performance standards. If the performance characteristics of any proposed use are questionable, a building permit may be withheld until the applicant for such use shall, upon request of the review agency, furnish any or all of the following:
 - (1) A detailed description of the proposed process and its product.

- (2) Reports prepared by competent technical experts showing that dissemination of smoke, dust, odors, fumes and other obnoxious gases shall be within the limits of the State of New Jersey.
- (3) Liquid waste and effluents shall be discharged into an approved existing sewage treatment plant, in accordance with that plant's regulations.

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- (4) Precaution against fire hazards, radiation and explosion and proper handling and storage of materials and structural design and safeguards for the health of workers shall comply with the state statutes and requirements of the State Department of Health and Occupational Safety and Health Administration.
 - (5) No vibration or glare will be evident at any point beyond the property lines of the lot on which it is located.
- B. All uses must stay within the tolerance standards set forth above, and the user shall furnish proof of this when asked to so by the governing body.

ARTICLE X

Design of Streets

§ 198-74. Intent.

The intent of this article is to ensure that the future arrangement of streets not presently shown on the Master Plan⁴³ be in harmony with the existing street patterns, provide for the logical and orderly extension of existing streets and enhance the control of vehicular movements within the City of Brigantine.

§ 198-75. Street widths.

- A. All streets shall be designed in accordance with the standards shown in the following schedule:

Schedule of Street Widths		
Minimum Width		
Category	Street Right-of Way (feet)	Cartway (feet)
Major arterial	100	60
Minor arterial	80	48
Collector	60	40
Local	50	36
Cul-de-sac	50	30
Limited access	42	28
Marginal access	40	26

- B. Modification of street width.

- (1) The above schedule shall be construed as the minimum standards and may be increased in special cases where, because of high traffic volumes or reasons of

43. Editor's Note: Said plan is on file in the City offices.

public safety the Planning Board or its experts deem such modification as necessary.

- (2) Applications requesting the reduction of either street or cartway widths shall require a public hearing and be reviewed as an application for variance.
- C. Street dedication. Subdivisions or site plans that adjoin or include existing streets do not conform to the widths as shown on the Master Plan or in Subsection A, which contains the Schedule of Street Widths, shall dedicate additional width along either or both sides. One-half of the required extra width shall be dedicated on each or either side.

§198-76. Street geometry.

The following design standards shall be utilized in the design of any new street or extension of an existing street:

- A. Street intersections shall be as nearly at right angles as possible and in no case less than 60.
- B. Street jogs with center-line offsets of less than 125 feet shall be prohibited.
- C. All changes in grade shall be connected by vertical curves of sufficient radius to provide a smooth transition and proper site distance.
- D. Maximum grade on arterial and collector streets shall be 4%.
- E. Maximum grade on local, internal access and marginal access streets and cul-de-sac shall be 10%.
- F. Minimum grade on all streets shall be 1/2%.
- G. Curb radii at intersections shall not be less than 20 feet.
- H. A tangent at least 100 feet in length shall be introduced between reverse curves on arterial and collector streets.
- I. When connecting street lines deflect from each other at any one point by more than 10 and not more than 45, they shall be connected by a curve with a radius of not less than 100 feet for local streets and 300 feet for arterial and collector streets.

§198-77. Sight triangles.

At the intersection of two or more streets, no vegetation, landscaping, fence or wall, other than a single post or tree not exceeding one square foot in cross section, which is higher than three feet above street grade, nor any other obstruction to vision, shall be permitted in the triangular area formed by the intersecting street lines and a line joining points each 25 feet distant from said intersection along said street lines. This standard is subject to the rules and regulations of the Atlantic County Division of Planning and the New Jersey Department of Transportation.

§ 198-78. (Reserved)**§ 198-79. General requirements.**

- A. Local streets. Local streets shall be designed so as to discourage through traffic.
- B. Street names. 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.
- C. Reserve strips. No subdivision or site plan showing reserve strips controlling access to streets shall be approved except where the control and disposal of land comprising such strips has been placed with the City government under conditions approved by the Planning Board.
- D. Restriction of use. No yard, open space, parking area, buffer strip or landscaping shall be permitted within a dedicated street.

§ 198-80. Accessways and access control.

- A. Purpose. The purpose of controlling site access is to encourage the sound development of street frontage by the elimination of unchanneled automobile access or egress to nonresidential sites.
- B. Access barriers. All buildings or building complexes used for nonresidential purposes, including off-street parking areas, shall be physically separated from any street by a curb. In addition to curbing, arterial streets shall have a landscaped strip of not less than 10 feet in depth along the entire frontage except for accessways permitted in Subsection C. Streets other than arterial streets shall have a landscape strip with a minimum depth of five feet. The design of access barriers shall be in accordance with Article XII, Landscaping, Buffers and Open Space Design.
- C. Accessways. Each permitted nonresidential use shall be limited to the number of accessways or driveways as shown in Subsection D, which contains the Schedule of Permitted Accessways. These standards shall be followed in the design of accessways or driveways.
 - (1) If practical, the use of common accessways by two or more permitted uses shall be provided for in order to reduce the number and closeness of access points along the streets.
 - (2) The use of marginal access streets shall be considered for nonresidential uses along arterial streets.
 - (3) Accessways for nonresidential uses shall be a minimum of 24 feet in width and shall not exceed 40 feet in width.
 - (4) Accessways for ~~other than nonresidential~~ **multifamily residential** uses shall be a minimum of 20 feet in width and shall not exceed 30 feet in width.

D. The Schedule of Permitted Accessways is as follows:

Schedule of Permitted Accessways

Frontage (feet)	Permitted Accessway	
	1-Way	2-Way
Residential use		
200 or less	2	1
200 to 500	4	2
500 to 1,000	5	3
1,000 to 2,000	7	5
2,000 or more	8	6
Nonresidential use		
200 or less	2	
200 to 500	4	2
500 to 1,000	6	4
1,000 to 2,000	7	5
2,000 or more	8	6

E. Construction of accessways.

- (1) Grading of accessways shall conform to the following:
 - (a) Five-tenths percent minimum to 10% maximum.
 - (b) Maximum slope of 2% for the first 20 feet from the street line.
- (2) Curb cuts to a public street shall not be closer than 25 feet from the point of curvature or point of tangency of the corner radius curb of an intersecting street.
- (3) Driveway pavement shall extend to the paved portion of the street which it connects and shall be constructed with a minimum of six inches of Portland cement concrete Class B.
- (4) No accessways shall be curbed closer to any property line than five feet. **Curb cuts for one family dwellings shall be a minimum of 12 feet and a maximum of 30 feet with a total opening dimension of 30 feet per street frontage.**
- (5) Driveway pavement serving a loading area shall be constructed with a minimum of six inches of portland cement concrete.

F. Pedestrian safety. The means for the vehicular access and egress to any commercial or multifamily development shall be clearly defined and controlled to ensure the safe integration of automotive traffic with other vehicular and pedestrian traffic.

§ 198-81. Street construction.

- A. Pavement thickness. The pavement thickness design of a dedicated public street shall, as a minimum, conform to the following schedule:

TYPE II

Street Classification	<u>Surface</u> Type of Pavement	Bituminous Stabilized Base (inches)	Class B Subbase (inches)
Arterial	2-inch FABC	4	12
Collector	2-inch FABC	3	6
Local or cul-de-sac	2-inch FABC	2	6
Marginal access	2-inch	2	6

Replace FABC above with HMA9.5M64 in all three locations.

- B. Alternate street design.
- (1) At the option of the Municipal Engineer, the pavement thickness may be determined by the certified results of soil testing and analysis conducted to determine the bearing strength of the subgrade soil, together with the projected use of the street with an adequate margin to cover all contingencies and extraordinary conditions.
 - (2) When such tests are conducted, the pavement design shall be reviewed and approved by the Municipal Engineer.
 - (3) In no event shall the paving be less than six inches of Type II Class B subbase, with two inches of bituminous stabilized base and two inches of ~~FABC-I~~ surface pavement.

§ 198-82. Sidewalks, curbs and gutters.

- A. Sidewalk requirements.

- (1) Concrete sidewalks shall be installed on both sides of the street in accordance with the construction standards in Subsection B.
- (2) All new construction of any nature shall require concrete sidewalk and concrete, curbing, as described in Subsection B. Cracked existing concrete shall be replaced to new condition (Class C concrete).

- B. Construction standards.

- (1) All sidewalks shall be a minimum of four feet wide and four inches thick portland cement concrete, Class C.
- (2) All driveways, including walkway crossings, shall be six inches thick, portland cement concrete, Class C, and shall include six-by-six-by-six-inch No. 6 gauge wire mesh reinforcement.

- (3) All sidewalk and driveway concrete shall be struck with contraction joints every five feet, maximum, and have an approved expansion joint each 25 feet, maximum. Expansion joint material to be cork or mastic materials or approved equal.
- (4) All sidewalks serving multifamily developments shall be a minimum of five feet wide and four inches thick.
- (5) All sidewalks serving commercial and business uses shall be a minimum of six feet wide and four inches thick.
- C. Curb requirements. Concrete curbing shall be installed on both sides of the street in accordance with the construction standards in Subsection D.
- D. Construction standards for curbs.
 - (1) All curbing shall be constructed to the dimensions of six inches wide at the top, eight inches wide at the bottom and 18 inches deep and construction of portland cement concrete, Class B.
 - (2) Expansion joints of cork or mastic materials or approved equal shall be installed every 25 feet, maximum.

ARTICLE XI Off-Street Parking

§ 198-83. Purpose and intent.

The purpose of this article is to ensure that adequate off-street parking is provided to meet the parking needs of all uses located within the City of Brigantine. All parking areas shall be designed and situated so as to ensure their usefulness, to protect the public safety and, where appropriate, to mitigate potential adverse impact on adjacent uses. It shall be the responsibility of the developer, owner or operator of a specific use to provide and maintain adequate off-street parking for that use.

§ 198-84. Off-Street Parking Schedule; additional requirements.

- A. The Off-Street Parking Schedule is as follows: ~~{Amended 12-19-2007 by Ord. No. 25-2007}~~

Off-Street Parking Schedule

Minimum Off-Street Parking Requirements

Proposed Land Use	Minimum Number of Off-Street Parking Spaces
Amusement facility	1 per 200 square feet, plus 1 per employee
Automobile service station	2, plus 4 per service bay
Barbershop or beauty parlor	2 per chair or station, plus 1 per employee
Bowling alley	2 per lane

Off-Street Parking Schedule**Minimum Off-Street Parking Requirements**

Proposed Land Use	Minimum Number of Off-Street Parking Spaces
Billiard hall	2 per table, plus 1 per employee
Commercial marina	1 per berth
Church	1 per 4 seats
Golf course, country club	6 per regulation hole, plus additional parking as required by use
Laundromat	1 per 4 washing machines
Marina yacht club	1 per berth
Motel or hotel	Refer to Subsection B
Multifamily	Refer to Subsection D
Office building	4 per 1,000 square feet of gross leasable area
Professional office	1 per 300 square feet, plus 1 per employee
Public assembly	1 per 4 seats or 1 per 35 square feet
Recreational facility	10 minimum, plus 1 per 35 square feet
Restaurant and bars	1 per 3 seats or portion thereof, plus 1 per 2 employees
Restaurant, fast-food	1 per 3 seats or portion thereof, plus 1 per employee
Retail food establishment	1 per 100 square feet
Retail service establishment	4 per 1,000 square feet of gross leasable area
Retail trade establishment	1 per 400 square feet
Single-family detached	Refer to Subsection D
Supermarket	1 per 100 square feet
Specialty food store	1 per 100 square feet

B. Hotels and motels.

- (1) Parking requirements for hotels and motels shall be determined according to the following types of units:

Proposed Land Use	Minimum Number of Off-Street Parking Spaces
Single room unit	1 per unit
Efficiency unit	1 per unit
Suite unit	1 per bedroom

- (2) Parking must be provided for each employee intended to be on the premises (one space per employee). Parking space and sufficient driveways must also be shown for purposes of guest check-in and each accessory use intended for the premises. The Planning Board may take into account potential joint use of the facilities by

guests, between principal uses and accessory uses, in determining the maximum

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required spaces for any motel or hotel facility. In making such determination, the Planning Board and the applicant should take into account the reasonable

requirements of the operation of a proposed motel or hotel, of the type presented to the Board and the impact upon the surrounding uses to ensure that sufficient parking exists such that the proposed use will not adversely impact adjoining neighborhoods or access to the beach, dunes or other recreation areas.

- C. The applicable standard shall be whichever results in the greater number of parking spaces.
- D. Parking must be provided for all residential construction according to ~~the following housing types:~~ **RSIS.**

Proposed Land Use	Minimum Number of Off-Street Parking Spaces
Single family detached	2 for up to 4 bedrooms, 3 for 5 or more bedrooms
Multifamily attached	2 per unit*

~~*NOTE: Except one space for each two bedrooms in any zone where the dwelling unit is an apartment above a store or office where such use is permitted, and parking is provided for in accordance with this chapter. Where such dwelling unit exceeds two bedrooms, then the minimum number of off-street parking spaces shall be an additional one space per each additional bedroom.~~

- E. General notes.
- (1) Where the application of the preceding schedules results in a fractional space, then the fraction shall be rounded to the higher whole number.
 - (2) The number of parking spaces required by these schedules may be increased as a condition of a conditional use approval if it can be demonstrated through a parking study that the proposed use would have a parking demand in excess of the requirements given in this chapter.
 - (3) The parking requirements for uses not specifically listed in the schedule shall be determined by the Planning Board on the basis of requirements for similar uses and on any traffic engineering and planning data that is appropriate to the establishment of a minimum requirement.
 - (4) In applications that propose a combination of uses on the site, parking shall be provided for each of the uses on the site according to the schedules given in this chapter.
 - (5) Total coverage restrictions of Article XI of this chapter shall exempt, as a matter of right, the off-street parking required by this chapter for single-family construction.

§ 198-85. Applicability; general requirements.

- A. New construction. Off-street parking facilities shall be provided for any new building constructed, for any new use established, for any addition or enlargement of an existing building or use and for any change of occupancy of an existing building or the manner in which a use is conducted that would result in additional parking spaces being required.

- B. Additions to existing buildings. For additions or enlargements of any existing building or use, or any change of occupancy or manner of operation that would increase the number of parking spaces required, the additional parking spaces shall be required only for such addition, enlargement or change and not for the entire building or use, unless required as a condition of approval of conditional use permit.
- C. Handicapped spaces. In all situations where additional off-street parking is required, all existing and proposed handicapped parking spaces located on the site shall be marked and striped in accordance with § 198-88.
- D. Temporary uses. The requirements of this chapter shall apply to temporary as well as permanent uses.
- E. Continuance. No building or use of land lawfully existing as of the effective date of this chapter shall be considered nonconforming solely because of lack of off-street parking facilities required by this chapter.
- F. Approved projects of records. Projects with unexpired site plan or conditional use approvals prior to the effective date of this chapter must only meet the requirements of this section of this chapter in effect on the date of final approval.

§ 198-86. Modification of requirements.

Decreases in the number of off-street parking spaces required by this chapter in the preceding schedules may be granted under the following criteria:

- A. Shared parking areas.
 - (1) In the instance of an application for a variance from the Off-Street Parking Schedule⁴⁴ due to the consideration for shared parking, a parking study shall be submitted by the applicant demonstrating that there will not exist substantial conflict in the peak hours of parking demand for the uses for which shared parking is proposed.
 - (2) The number of parking spaces which may be credited against the requirements for the structures or uses involved shall not exceed the number of spaces reasonably anticipated to be available during differing hours of operation.
 - (3) An application for shared parking shall be accompanied by a written agreement executed by the parties concerned assuring the continued availability of the parking spaces designated for shared use. The agreement shall be subject to the review of the Municipal Attorney.
- B. Transportation management plan.
 - (1) The number of required parking spaces for retail trade and service establishments may be reduced up to 20%, subject to the approval of a transportation management plan furnished by the applicant.

44. Editor's Note: See § 198-84.

- (2) The evaluation of such a reduction shall include, but not be limited to, the evaluation of the following factors:
 - (a) Projected effectiveness of car pools, van pools, staggered work hours or similar transportation programs.
 - (b) Proximity to public transportation facilities serving a significant portion of employees and/or customers.
 - (c) Evidence that employees and/or customers utilize on a regular basis transportation alternative to the automobile.
- C. Required findings of fact. Any application for a variance from the required off-street parking in the preceding schedules shall require the Planning Board to make the following findings:
 - (1) That the intent of this section of this chapter shall be preserved.
 - (2) That the parking provided will be sufficient to serve the use for which it is intended.
 - (3) That the modification will not be detrimental to the public health, safety or welfare.

§ 198-87. Parking space dimensions.

A. Automobile, residential.

- (1) Covered stall or space. Each covered off-street parking space shall be in a garage or carport. Such a space shall be a minimum of nine feet in width and 20 feet in depth. These measurements shall not include the exterior walls or structural supports. No stacked covered parking shall be provided unless full-time valet parking is provided.
- (2) Uncovered stall. Each uncovered off-street parking space shall be a minimum of nine feet in width and 18 feet in depth.
- (3) Parallel stall. Each parallel off-street parking space shall have a minimum dimension of eight feet wide by 22 feet long. If a parallel space abuts one or fewer parallel spaces and access is adequate to that space, then the length may be reduced to 20 feet.
- (4) Stacked space. No stacked parking is permitted except when one parking space is stacked behind a closed-door, garaged single space in connection with one-to-two dwelling unit residential construction. Stacked parking is permitted in commercial uses when full-time valet parking is provided.
- (5) Notwithstanding anything to the contrary, stacked parking will be permitted in association with detached single-family residential uses.

B. Automobile, all other uses.

- (1) Full-sized space. Each full-sized off-street parking space shall be a minimum of nine feet in width and 18 feet in depth. If such a space is covered, these dimensions shall not include the exterior walls or structural supports.
 - (2) Employee/valet or long-term space. Parking spaces shall be specifically assigned to employees, parking spaces shall be utilized by a valet parking system, and parking spaces designated for long-term usage may be reduced to 8.5 feet in width.
 - (3) Parallel stall. Each parallel off-street parking space shall have a minimum dimension of eight feet wide by 22 feet long. If a parallel space abuts one or fewer parallel spaces and access is adequate to that space, then the length may be reduced to 20 feet.
- C. Handicapped, all applicable uses. Each handicapped space shall be 14 feet wide, lined to provide a nine-foot-wide parking area and a five-foot-wide loading area, and 19 feet in depth. If two handicapped spaces are adjacent to each other, they may share the five-foot-wide loading area, resulting in a width of 23 feet for both spaces.

§ 198-88. Standard improvements.

The following improvements shall be required for all off-street parking areas:

- A. Surfacing. All parking spaces, driveways and aisles shall be paved with a dustless durable, asphaltic or portland concrete all-weather surface or as approved by the Municipal Engineer.
- B. Wheel stops. All parking spaces shall have concrete wheel stops not less than six inches in height where required to prevent encroachment into landscaped or pedestrian areas, fences and property lines.
- C. Directional arrows and signage. Parking areas or facilities containing 10 or more parking spaces shall have all aisles, driveways, approach lanes and maneuvering areas clearly marked with directional arrows and signs in order to expedite traffic movement. Signage shall be in conformance with Article XV, Sign Regulations, of this chapter.
- D. Pedestrian safety islands. Pedestrian safety islands shall be required at the end of alternate parking bays if such bays are more than 200 feet in length. Such islands shall be landscaped and designed in such a manner as to provide a safe area for pedestrians to wait prior to crossing vehicular traffic lanes. Each safety island shall be at least 300 square feet in area.
- E. Striping and identification.
 - (1) Automobile. All parking stalls shall be clearly outlined with either single or double lines of a minimum of three inches in width, in white paint, according to the sizes delineated in § 198-87, Parking spaces dimensions.
 - (2) Handicapped. All handicapped spaces shall be striped and marked according to the applicable state standards.

- (3) All spaces shall be clearly identified according to their respective use, such as employee, handicapped, valet or car-pool spaces.

F. Operation and maintenance.

- (1) All parking areas and facilities required by this chapter or in operation at the time of the adoption of this chapter shall be maintained for the duration of the use requiring these facilities.
- (2) It shall be the responsibility of the owner or operator of a specific use to ensure that the required parking facilities are maintained in good operating condition and to ensure that the parking facilities are periodically swept and cleaned.

G. Restriction of parking lot uses.

- (1) These facilities shall be used exclusively for the parking of vehicles.
- (2) The parking facilities shall not be used for the storage of merchandise storage -or repair of vehicles or equipment.
- (3) Parking facilities shall not be used for the sale of merchandise, except on a temporary basis for special events, subject to the approval of City Council or its designated representative.

H. General requirements. All parking areas shall either meet or exceed the requirements of the following sections of this chapter:

- (1) Article XII, Landscaping, Buffers and Open Space Design.
- (2) Section 198-71, Lighting.
- (3) Section 198-72, Stormwater management.

§ 198-89. Location of parking spaces.

The purpose of the requirements in this section is to ensure that parking facilities are situated so that they will conveniently access the uses they are intended to serve. All parking spaces required by this chapter shall be located on the same site they are intended to serve, except as permitted in the following sections:

A. Residential parking areas.

- (I) All automobile spaces required for residential uses shall be located, at a maximum, the following distances from the units they are serving:
 - (a) Resident parking: 200 feet.
 - (b) Visitor parking: 250 feet.
- (2) Distances shall be measured from a dwelling unit's entry to the parking space(s) serving that unit. For developments where a stairway or elevator provides access to

the dwelling unit(s), that stairway or elevator shall be considered to be the entrance to the dwelling unit(s) for the purpose of computing distances.

- (3) Variation from this section shall be considered as a design waiver subject to the approval of the Planning Board.
- B. Handicapped spaces. All handicapped spaces shall be located as close as it is practical to the principal entrance of the use they are intended to serve and oriented so that a user of the handicapped space does not have to go past the rear of the parking space in order to reach the building's principal entrance.
- C. Commercial and nonresidential uses.
- (1) For commercial and all nonresidential uses in business districts, required off-street parking shall be provided within 200 feet of such use. It shall be measured from the nearest point of the parking facility to the nearest point of the use it is intended to serve.
 - (2) Additional parking areas may be maintained as accessory to such use, provided that such areas are located within 1,000 feet of the subject property, measured as herein provided, and are in the same zone.
- D. Shared parking between uses. A parking area or facility may serve two or more buildings or uses located on adjacent lots within the same zone, provided that the total of the parking spaces furnished to serve these buildings or uses shall not be less than the total number of off-street parking spaces required by this chapter if computed separately for each use or building. Furthermore, the land on which this shared parking facility is located shall be owned by one or more of the collective users.
- E. Yard restrictions. Parking areas for commercial uses and multifamily uses, not including garden apartments and townhouses, may be located in any yard area, but not closer than five feet from a street line. Parking areas containing spaces for more than six vehicles shall not be closer than 15 feet to a property line which is a common property line with a lot zoned to permit a one-family dwelling unless said adjacent lot is used for either a nonresidential purpose or a residential use, including parking for 20 or more vehicles.
- F. Access aisles. Access aisles and driveways to parking areas shall not be less than 10 feet in width. Access aisles and driveways within parking areas shall have minimum width as follows:
- (1) For angle parking from 90° to 60° : 25 feet.
 - (2) For angle parking from 60° to 45°: 20 feet.
 - (3) For angle parking from 45° and less: 1 foot.
 - (4) For parallel parking: 12 feet.

ARTICLE XII Landscaping, Buffers and Open Space Design

§ 198-90. Purpose and intent.

The intention of this article is to improve the appearance of ~~nonresidential~~ all yards, off-street parking areas and service areas in the City of Brigantine. Its purpose is to protect and preserve the character and value of the surrounding neighborhoods, thereby promoting the general welfare. The unique Brigantine shore and beachfront environment shall be maintained, enhanced and improved through the implementation of good landscaping practices in the development, installation and construction of buffer area and select screening devices and plantings.

All residential lots shall have a minimum of 40% of the lot landscaped, with a minimum of 30% of the front setback area being natural landscape. All areas not occupied by buildings, parking areas, patios, walkways and/or any other impervious surface shall be suitably landscaped with natural living plant materials. No landscaping shall interfere with required sight triangles. Such landscaping minimum of 40% may be reduced to the minimum extent required to accommodate stairs, steps, ADA-compliant ramps and related elements providing access to the first floor necessary to conform with lowest floor requirements. In no case, however, shall such percentage be lower than 30% of the lot.

§ 198-91. Areas requiring landscaping.

- A. Off-street parking areas. All areas used for the parking of any and all types of vehicles, boats or heavy-construction equipment, whether such vehicles, boats or equipment are self-propelled or not, and all land upon which vehicles traverse the property as a function of the primary use, including but not limited to activities of a drive-in nature such as, but not limited. to, automobile service stations, drugstores and supermarkets, banks, restaurants and the like, shall conform to the minimum landscaping requirements hereinafter provided, save and except areas used for parking or other vehicular uses under, on or within buildings, and parking areas serving one- and two-family uses as normally such residential areas are voluntarily landscaped.
- B. All areas of transition between either buildings, structures or uses having different visual and scenic characteristics shall conform to the minimum landscaping requirements contained in this article.
- C. **For all original construction or enlargement of detached housing, two trees shall be planted per frontage. For multifamily dwellings one tree per unit shall be planted. For duplex units, four trees shall be planted. A suggested list of tree species is detailed at the end of this chapter. Required trees shall be located only in the front of the house and shall be no closer than 20 feet to the street corners. The minimum caliper size at planting shall be 2.5" – 3.0".**
- D. **Any landscaping which, within two years of planting, dies for any reason shall be replaced by the developer(s) or by the current owner at their sole expense.**
- E. **In all single-family and duplex districts, grass, or permeable decorative pavers, at the homeowner's option, shall be maintained between the sidewalk line and the curblin. All applications for development shall provide this**

grass strip if previously removed.

§ 198-92. Landscaping required adjacent to streets.

On the site of a building or open lot use providing an off-street parking area or other vehicular use area, where such area will not be entirely screened visually by an intervening building or structure from any abutting street, excluding dedicated alleys, there shall be provided landscaping between these areas and the street as follows:

A. Buffer strips along off-street parking areas.

- (1) A strip of land at least five feet in depth located between the abutting street and the off-street parking area or other vehicular use area which is exposed to an abutting street shall be landscaped, such landscaping to include one tree for each 50 linear feet or fraction thereof.
- (2) Trees located between the abutting street and off-street parking area or other vehicular use area shall be planted in an area of at least 25 square feet with one dimension of at least five feet.

- (3) In addition to shade trees, a hedge, wall or other durable landscape barrier of at least two feet in height shall be placed along only the perimeter of such landscape strip.
 - (4) If such durable barrier is of nonliving material, for each 10 feet thereof, one shrub or vine shall be planted abutting such barrier but need not be spaced 10 feet apart. Such shrubs or vines shall be planted along the street side of such barrier unless they are of sufficient height at the time of the planting to be readily visible over the top of such barrier.
 - (5) The remainder of the required landscaped areas shall be landscaped with grass, ground cover or other landscape treatment, excluding paving.
- B. Accessways and driveways. Necessary accessways from the public street through all such landscaping shall be permitted to service the parking or other vehicular use areas, and such accessways may be subtracted from the linear dimension used to determine the number of trees required.

§ 198-93. Buffer strips.

- A. General areas. All property other than the required landscaped strip lying between the street and off-street parking area or other vehicular use area shall be landscaped with at least grass or other ground cover.
- B. Nonresidential and residential areas. Where a side or rear nonresidential or multifamily development lot line coincides with a residential lot line, a fifteen-foot-wide buffer strip shall be provided along the side and rear property lines of the nonresidential or multifamily project so as to furnish a visual barrier and to provide protection between the structures, buildings and uses.
- C. Extension of use areas. Where a commercial use is extended into a residential zone district in accordance with § 198-29, Extension of use area, a fifteen-foot-wide buffer strip shall be provided along either side or rear property lines abutting the residential zone or within the extended use area so as to furnish a visual barrier between the structures, buildings and uses.
- D. Minimum widths. Buffer strips shall be a minimum of 15 feet in width, unless waived by the Planning Board.
- E. Restricted use. Buffer strips shall be from buildings, structures, accessory buildings, signs, accessways, off-street parking areas, outdoor storage areas, recreational facilities or any other uses.

§ 198-94. Required landscape screening.

- A. Screening required.
 - (1) On the site of a building or structure or open lot use providing an off-street parking area or other vehicular use, where such areas will not be entirely screened visually

by an intervening building or structure from abutting property, that portion of such area not so screened shall be provided with a wall or hedge or other durable landscape barrier not greater than six feet in height nor less than four feet in height to form a continuous screen between the off-street parking area and such abutting property.

- (2) All utilitarian areas, including but not limited to delivery and pickup areas for multifamily development, retail trade and service establishments, shall be screened to provide both a visual and acoustical barrier. Such screening may include the following structural and landscaping elements, subject to review and approval by the Planning Board:

- (a) A solid masonry wall not less than five feet, six inches above finished grade.
- (b) A solid fence, with a uniform surface treatment, constructed of a naturally durable material suitable to the coastal environment not less than six feet above finished grade.
- (c) A densely landscaped evergreen screen planted at 30 inches on center in a single row or at five feet on center in two staggered rows. This evergreen screen shall be a minimum of five feet above finished grade at the time of planting with a projected minimum growth to six feet above finished grade.

B. Location of screening. Such landscape barrier shall be located between the common lot line and the off-street parking area or other vehicular use area exposed to the abutting property, provided that the purpose of screening off-street parking area and other vehicular use areas is accomplished. If such barrier consists all or in part of plant materials, such plant materials shall be planted in a planting strip of not less than 2 1/2 feet in width. In addition, one tree shall be provided for each 75 linear feet in such landscape barrier or fractional part thereof. Such trees shall be located between the common lot line and the off-street parking area or other vehicular use area. Each shade tree shall be planted in at least 25 square feet of planting area with a minimum dimension of at least five feet. Each such planting area shall be landscaped with grass, ground cover or other landscape material, excluding paving, in addition to the required trees.

C. Exceptions. The provisions of Subsection B shall not be applicable in the following situations:

- (1) When a property line abuts a dedicated alley, or to those portions of the property that are opposite a building or other structure located on the abutting property.
- (2) Where a proposed parking area or other vehicular use area abuts an existing hedge, wall or other durable landscape barrier on an abutting property, said existing barrier may be used to satisfy the landscape barrier requirements of Subsection B, provided that said existing barrier meets all applicable standards of this chapter and protection against vehicular encroachment is provided for hedges.
- (3) Where the abutting property is zoned or used for nonresidential uses, only the tree provision with its planting area as prescribed in Subsection B shall be required;

however, the number of trees may be reduced to one tree for every 125 linear feet or fraction thereof, but all perimeter requirements shall apply within the front setback area.

§ 198-95. Interior landscaping of parking area.

A. Minimum landscaping requirements.

- (1) Off-street parking areas shall have at least 10 square feet of interior landscaping for each parking space, excluding those spaces abutting a perimeter for which landscaping is required by other sections hereof and excluding all parking spaces which are directly served by an aisle abutting and running parallel to such a perimeter.
- (2) Other vehicular use areas shall have one square foot of landscape area for each 100 square feet or fraction thereof of the total paved area excluding the first 5,000 square feet of paved area.

B. Minimum landscaped area requirement for property containing both parking areas and other vehicular use areas. Where the property contains both parking areas and other vehicular use areas, the two types of areas may be separated for the purpose of determining the other vehicular use area by first multiplying the total number of parking spaces by 400 and subtracting the resulting figure from the total square footage of the paved area.

C. Minimum landscaped area requirements.

- (1) Each separate landscaped area shall contain a minimum dimension of at least five feet and shall include at least one tree having a clear trunk of at least five feet, with the remaining area adequately landscaped with shrubs, ground cover or other permitted landscaping material not to exceed three feet in height.
- (2) The total number of trees shall not be less than one for each 100 square feet or fraction thereof of required interior landscaped area. Such landscaped areas shall be located in such a manner as to divide and break up the expanse of paving.
- (3) In other vehicular use areas where the strict application of this subsection will seriously limit the function of said area, the required landscaping may be located near the perimeter of the paved area including such perimeters which may be adjacent to a building on the site. Such required interior landscaping which is relocated as herein provided shall be in addition to the perimeter landscaping requirements.

D. Vehicular encroachment. The front of a vehicle may encroach upon any interior landscaped area when said area is at least 3 1/2 feet in depth per abutting parking space and protected by wheel stops or curbing. Two feet of said landscaped area may be part of the required depth of each abutting parking space.

§ 198-96. Landscaping in sight triangles.

- A. Applicability of sight triangle requirements. When an accessway intersects a public right-of-way or when the subject property abuts the intersection of two or more streets, all landscaping within the triangular areas described below shall provide unobstructed cross-visibility at a level between three feet and six feet; provided, however, that trees having limbs and foliage trimmed in such a manner that no limbs or foliage extend into the cross-visibility area shall be allowed, provided that they are so located so as not to create a traffic hazard. Landscaping except required grass or ground cover shall not be located closer than three feet from the edge of any accessway pavement.
- B. Description of sight triangles. The triangular areas above referred to are:
- (1) The areas of property formed by the intersecting lines of the public street and accessway and a line joining points, each 15 feet distant from said intersection along said lines of the street and accessway.
 - (2) The area of property located at a corner formed by the intersection of two or more streets and a line joining points each 25 feet distant from said intersection along said lines of the street and accessway.

§ 198-97. Plant material.

- A. Existing plant material. In instances where healthy plant material exists prior to its development, in part or in whole, for purposes of off-street parking or other vehicular use areas, the Planning Board may adjust the application of these standards to allow credit for such plant material if, in its opinion, such an adjustment is in keeping with and will preserve the intent of this section.
- B. Plant materials used in conformance with provisions of this chapter shall conform to the Standards of the American Standard of Nursery Stock.
- C. **Every effort will be made to use native and indigenous species of the region in the landscape. This promotes the natural environment, provides familiar nourishment for native animals and insects, and helps to reduce requirements for supplemental watering and feeding. See list below:**

Small trees tolerant of salt spray and saline soils:**Allegheny serviceberry (Amelanchier laevis)****Pawpaw (Asimina triloba)****American Holly (Ilex Opaca)****Eastern Red Cedar (Juniperus virginiana)****Sweetbay Magnolia (Magnolia virginiana)****Willow Oak (Quercus phellos)****American Mountain Ash (Sorbus Americana)****Fruitless Mulberry Tree (Morus alba)**

Large shrubs tolerant of salt spray and saline soils:

Indigo bush (*Amorpha fruticosa*)
Red Chokeberry (*Aronia arbutifolia*)
Black Chokeberry (*Aronia melanocarpa*)
Beautyberry (*Callicarpa Americana*)
False Cypress (*Chamaecyparis pisifera*)
Coastal sweet pepperbush (*Clethra alnifolia*)
Rockspray Cotoneaster (*Cotoneaster horizontalis*)
Japanese cedar (*Cryptomeria japonica*)
Rose of Sharon (*Hibiscus syriacus*)
Bigleaf Hydrangea (*Hydrangea macrophylla*)
Inkberry (*Ilex glabra*)
Common Junipers (*Juniperus communis*)
Northern Bayberry (*Myrica pensylvanica*)
Mock Orange (*Philadelphus coronaries*)
Purple Leaf Sand Cherry (*Prunus x cisterna*)
Bumalda Spirea (*Spirea x bumalda*)
Lilac (*Syringa vulgaris*)
Southern arrowwood (*Viburnum dentatum*)

Some non-native ornamental shrubs that are tolerant of salt spray and found commonly in seaside plantings include Hydrangeas, Rose-of-Sharon, Rugosa roses, Butterfly bush, Bayberry, Potentilla, Weigelia and Pyracantha.

C. Trees.

- (1) Trees shall be species having an average mature spread of crown of greater than 15 feet in Atlantic County and having trunk(s) which can be maintained in a clean condition over five feet of clear wood.
- (2) Trees having an average mature spread of crown less than 15 feet may be substituted by grouping the same so as to create the equivalent of a fifteen-foot crown spread.
- (3) Tree species shall be a minimum of seven feet overall height immediately after planting.
- (4) Trees of species whose roots are known to cause damage to streets or other public works shall not be planted closer than 12 feet to such public works. A list of such tree species shall be maintained by the Department of Public Works for the guidance of the applicant or developer.

D. Shrubs and hedges.

- (1) Shrubs shall be a minimum of two feet in height when measured immediately after planting.
 - (2) Hedges, where required, shall be planted and maintained so as to form a continuous, unbroken, solid, visual screen within a maximum of one year after time of planting.
- E. Vines. Vines shall be a minimum of 30 inches in height immediately after planting and may be used in conjunction with fences, screens or walls to meet physical barrier requirements as specified.
- F. Ground cover. Ground covers used in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within three months after planting.
- G. Lawn grass.
- (1) Grass areas shall be planted in species normally grown as permanent lawns in Atlantic County.
 - (2) Grass areas may be sodded, plugged, sprigged or seeded except that solid sod shall be used in swales or other areas subject to erosion, and provided that, in areas where other than solid sod or grass seed is used, nurse grass seed shall be sown for immediate effect and protection until coverage is otherwise achieved.

§ 198-98. Installation, inspection and maintenance.

- A. Installation. All landscaping shall be installed in a sound workmanlike manner and according to accepted good planting procedures with the quality of plant materials as described in § 198-97, Plant material. All elements of landscaping, exclusive of plant material except hedges, shall be installed so as to meet all other applicable ordinances and code requirements.
- B. Inspection. The Building Inspector or his representative shall inspect all landscaping, and no certificate of occupancy or similar authorization will be issued unless the landscaping meets the requirements of this section and/or the specifications of the final plan.
- C. Irrigation systems. All landscaped areas shall be provided with a readily available water supply with at least one outlet located within 150 feet of all plant material to be maintained.
- D. Maintenance. The owner, tenant and their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping which shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris.

ARTICLE XIII
Multifamily Development Design Standards

§ 198-99. Purpose and intent.

The purpose of this article is to afford the opportunity for residential development of moderate to high densities in the coastal environment of the City of Brigantine, while maintaining the character of the existing neighborhoods. The intent of these standards is to provide an attractive and effective transition zone between low-density residential uses and commercial districts.

§ 198-100. Townhouses.

- A. Lot area. The minimum area of a townhouse parcel shall be four acres.
- B. Lot frontage. The minimum frontage of a townhouse parcel upon the principal street shall be 250 feet.
- C. Perimeter setbacks. No townhouse structure shall be closer than 25 feet to any boundary of the townhouse parcel except where such boundary is a common boundary with Conservation Zone District C-1. Where such common boundary exists, the minimum setback shall be determined by the Planning Board and its experts but shall in no case exceed 50 feet.
- D. Minimum bulk requirement for individual lots shall be as follows:
 - (1) Lot area: 2,000 square feet.
 - (2) Lot width: 20 feet.
 - (3) Lot depth: 100 feet.
 - (4) Front setback: 25 feet.
 - (5) Rear setback: 25 feet.
 - (6) Side setback: zero feet.
 - (7) Maximum height: 35 feet.
 - (8) Maximum site coverage: 75%.
- E. Density
 - (1) There shall be not more than 40 townhouse dwelling units per four-acre parcel of developable land. All lands below the mean high-water line or designated as coastal wetlands shall not be included within the gross acreage of the tract for purposes of calculating density.
- F. Public service.
 - (1) Every townhouse unit shall be served by public water and sanitary sewer, which, if required, shall be installed by and at the expense of the developer.

- (2) The developer shall install, at his sole expense, the following minimum site improvements: streets, accessways, off-street parking areas, sidewalks, street-lighting, storm drainage facilities, landscaping and open space areas. These improvements shall be installed in accordance with this chapter unless a specific waiver is granted as provided for within the applicable standards or requirements. Whenever a developer is required to place catch basins as part of an approval, the Planning Board shall, in its discretion, require the developer to pay for and place a sign at each such catch basin setting forth the requirements and penalties of §§ 220-23 to 220-26 of the Code of the City of Brigantine.
- (3) All utilities shall be installed underground within the townhouse development. These utilities shall include but not be limited to gas, television cable, telephone, and electric.

G. Parking areas and garages.

- (1) All common parking areas, whether open-air or sheltered, shall be owned, operated and maintained by either a homeowners' association or condominium association, whichever is applicable, upon the completion of the project or transfer of ownership from the developer.
- (2) If private residential garages are provided, they shall be an integral part of the townhouse units and not separate structures.
- (3) Private residential garages shall be included in the calculation of minimum off-street parking spaces to be furnished within the project.

H. Private area requirements.

- (1) Each townhouse dwelling unit shall have a private area at grade and/or a deck or balcony accessible from the dwelling unit and adjacent to open space. The total area of the combined elements shall be a minimum of 400 square feet.
- (2) Each townhouse dwelling unit shall be situated on a fee simple lot defined as under the control of the occupant for their private use. This lot shall include both front and rear yards having frontage on a public or private street or common open space.
- (3) No accessory building shall be permitted within the private areas unless proposed as part of the individual unit and townhouse complex and approved by the Planning Board.
- (4) The enclosure of private areas by fences, wall, landscaping or any other solid form is permitted, subject to the review and approval of the ~~Planning Board~~ **Zoning Officer**.

I. Structural requirements.

- (1) A maximum of eight living units shall be allowed in each row of townhouses.
- (2) The front facade of any townhouse structure shall not continue on the same plane for a distance of more than the width of two adjacent dwelling units. Offsets between front facade planes shall be a least four feet.

- (3) When an end unit of a row of townhouses does not side on a street, an open space of at least 20 feet in width shall be provided between the street and the adjacent row of townhouses.
- (4) Townhouses shall be constructed up to the side lot lines without side yards, and no windows, door or other openings shall be installed in any common wall between units. However, where a two-story townhouse adjoins a single-story townhouse, windows may be installed in the second-story wall of the two-story townhouse.
- J. Appearance. An architectural theme shall be utilized within the townhouse complex to form an aesthetically pleasing environment for the occupants. A variety of design elements shall be utilized within this theme to avoid a repetitive and monotonous appearance of the units.
- K. Distance between buildings. Minimum distances between buildings are shown in § 198-102A, in the Schedule of Distances Between Buildings.

§ 198-101. Garden apartments and nontransient condominiums.

(Reserved)

§ 198-102. Standards applicable to all multifamily developments.

- A. The Schedule of Distances Between Buildings is as follows:

Schedule of Distances Between Buildings		
Building Face	Minimum (feet)	Average (feet)
End to end (garden apartment)		
End to end (townhouse)	16	18
End to back	30	35
Back to Back	40	50
Front to back	70	75
Front to front	70	75
Front to end	70	75

- B. Measurement of building separation. Distances shall be measured perpendicular to the walls of any multifamily structure. In no case shall a multifamily structure be closer than 16 feet to another structure, as measured from any angle. Averages shall be computed within the entire project or portions of the project if different portions of the project are separated by 200 feet or more.
- C. Solid waste disposal areas.

- (1) All trash compactors, bins and areas of refuse storage and recyclable storage areas shall be located in a common area and in such a manner to be screened from the general view of the public and must comply with all other ordinances of the City of Brigantine including any ordinance in reference to dumpsters.⁴⁵
- (2) Solid waste disposal areas shall be fully accessible to service vehicles.
- (3) Solid waste disposal areas shall be maintained in a clean and orderly condition at all time.
- (4) Solid waste disposal areas shall be designed of a durable material consistent with the architectural theme of the development.
- (5) Disposal area and all facilities shall be provided and maintained by the owner of the apartment or condominium project.

D. Public safety considerations.

- (1) All multifamily developments shall address the following public safety issues within the application for development:
 - (a) Emergency access routes for police, fire and ambulance vehicles.
 - (b) Architectural techniques utilized to enhance the security of the development's occupants.
- (2) All public safety facilities located in a project shall be kept unobstructed by parking and/or any other type of storage. No parking spaces shall be placed to obstruct access as approved by the Fire Chief and/or Police Chief of the City of Brigantine.

ARTICLE XIV Commercial Use Design Standards

§ 198-103. Intent.

It is the intent of this article to assimilate commercial uses within the City without physically or visually impacting the established residential character of Brigantine.

§ 198-104. Motels, hotels and transient condominiums.

- A. Bulk requirements. Motels and hotels shall be subject to the bulk requirements of the specific zone district where these uses are located. Refer to Article XIV, Commercial Zone Regulations.
- B. Density. The permitted number of motel or hotel rooms shall be determined according to the following schedule:

45. Editor's Note: See Ch. 187, Garbage, Rubbish and Refuse.

Room Type	Minimum Site Area Per Room (square feet)
Motel or hotel room (bedroom room only)	800
Motel or hotel efficiency unit, including kitchen	1,000
Motel or hotel suite unit (1 or more bedrooms)	1,250

- C. Density calculation. The following formulas shall be used to determine the maximum number of motel or hotel rooms permitted on site:

$$\text{Room type} \quad \times \quad \text{Minimum site area per room} \quad = \quad \text{Total site area required}$$

OR

$$\frac{\text{Total site area}}{\text{Total motel or Minimum site area per room}} = \text{hotel rooms permitted}$$

- D. Solid waste disposal areas.

- (1) All trash compactors, bins and areas of refuse storage and recyclable storage shall be located in a common area and in such a manner to be screened from the general view of the public and must comply with all other ordinances of the City of Brigantine including any ordinances in reference to dumpsters.⁴⁶
- (2) Solid waste disposal areas shall be fully accessible to service vehicles.
- (3) Solid waste disposal areas shall be maintained in a clean and orderly condition at all times.
- (4) Solid waste disposal enclosures shall be designed of a durable material consistent with the architectural theme of the development.

- E. Public safety considerations. All motel or hotel developments shall address the following public safety issues within the application for development:

- (1) Emergency access routes for police, fire and ambulance vehicles.
- (2) Architectural techniques utilized to enhance the security of the development's occupants.
- (3) Barrier-free access throughout the facility.

46. Editor's Note: See Ch.187, Garbage, Rubbish and Refuse.

- F. Minimum habitable floor area. A motel or hotel room shall contain a minimum of 275 square feet.
- G. Accessory uses.
 - (1) Restaurants and bars are permitted accessory uses within a motel or hotel complex containing 100 units or more, subject to the bulk requirements of the zone district.
 - (2) The site area assigned to these uses will not reduce the total site area used to compute the maximum number of motel or hotel rooms permitted.
 - (3) Other permitted accessory uses to a motel or hotel complex containing 100 rooms or more include management and sales offices, health clubs and small retail trade establishments.
 - (4) No individual accessory use shall exceed 2,000 square feet of gross leasable area, and the total aggregate area of these accessory uses within a single complex shall not exceed 10% of the total gross floor area.
 - (5) Accessory uses as described herein shall not be permitted above the ground floor.
- H. Building separation. There shall be a minimum of 75 feet between building faces containing windows. In any other case, there shall be a minimum of 20 feet between structures.
- I. Off-street parking. All off-street parking shall be designed and operated in accordance with Article XI, Off-Street Parking.
- J. Signs. All signs shall be designed and constructed in accordance with the provisions of Article XV, Sign Regulations.
- K. Landscaping. Landscaping shall be provided in accordance with Article XII, Landscaping, Buffers and Open Space Design.
- L. All motels/hotels must have a main lobby, a central reservation desk and a specified area for the pickup and drop-off of guests and luggage.

§198-105. Shopping centers.

- A. Permitted commercial uses. Those uses specified in § 198-49, Business use matrix, are permitted uses when included as an integral part of a shopping center. Banks, restaurants, fast-food and carry-out restaurants, motels or hotels are permitted on separate parcels within the B-3 Zone District subject to the area and bulk requirements previously stated. These uses must be integrated with the overall design of the shopping center in respect to parking, signage, landscaping, traffic circulation and aesthetic character.
- B. Maximum floor area. The gross leasable area of the commercial and business uses shall not exceed 150% of the total site area or be less than 25% of the total site area.
- C. Commercial and business use mix. Retail service establishments (business) shall not exceed 60% of the occupancy of the gross leasable area. The total area of either hotel or

motel rooms shall be considered as gross leasable area for those uses in this zone district and shall not exceed 30% of the occupancy of the gross leasable area.

- D. Hotel and motel density. The total number of motel or hotel rooms permitted shall be determined as specified in § 198-104.
- E. Solid waste disposal areas.
 - (1) All trash compactors, bins and areas of refuse storage and recyclables shall be located in a common area and in such a manner as to be screened from the general view of the public and must comply with all other ordinances of the City of Brigantine including any ordinance in reference to dumpsters.⁴⁷
 - (2) Solid waste disposal areas shall be fully accessible to service vehicles.
 - (3) Solid waste disposal areas shall be maintained in a clean and orderly condition at all times.
 - (4) Solid waste disposal enclosures shall be designed of a durable material consistent with the architectural theme of the development.
- F. Building separation. There shall be a minimum of 15 feet between any commercial structure.
- G. Off-street parking. All off-street parking shall be designed and operated in accordance with Article XI, Off-Street Parking.
- H. Signs. All signs shall be designed and constructed in accordance with the provisions of Article XV, Sign Regulations.
- I. Landscaping. Landscaping shall be provided in accordance with Article XII, Landscaping, Buffers and Open Space Design.
- J. Design coordination. A shopping center shall be designed and constructed as one attached architectural unit, including building, on-site parking facilities, on-site loading facilities and other requirements contained in this chapter.
- K. Underground services. All utility service lines in the shopping center complex shall be underground.

§ 198-106. Commercial marinas.

- A. Permitted activities. The following activities and commercial uses may be permitted as part of the operation of a commercial marina:
 - (1) Berth rental and watercraft dockage.
 - (2) Wet storage and temporary docking.
 - (3) Watercraft rental.

47. Editor's Note: See Ch. 187, Garbage, Rubbish and Refuse.

- (4) Launching facilities.
 - (5) Dry storage.
 - (6) Maintenance and minor repairs.
 - (7) Retail food establishments.
 - (8) Retail trade establishments.
 - (9) Business and administrative offices.
- B. Signs. All signs shall be designed and constructed in accordance with the provisions of Article XV, Sign Regulations.
- C. Off-street parking. All off-street parking areas shall be designed and operated in accordance with Article XI, Off-Street Parking.
- D. Dry storage.
- (1) The dry storage of seaworthy watercraft and outside storage of licensed watercraft trailers shall not exceed 10% of the total lot area between May 1 and October 31, inclusive, and 50% of the total lot area between November 1 and April 30, inclusive.
 - (2) Dry storage shall be considered as an accessory use to a commercial marina subject to the yard and setback requirements in Article XIV, Commercial Zone Regulations.
 - (3) The stacked dry storage of watercraft shall not exceed 30 feet in height. ~~Amended 8-6-2003 by Ord. No. 9-2003~~
- E. Watercraft maintenance. Maintenance of watercraft shall be limited to those simple repairs that can normally be done while the vessel is in the water, although such maintenance and repair work may be done on land, and may include scraping, sanding, painting and emergency repairs of watercraft.
- F. Limitation of retail sales. Retail sale activities within a commercial marina shall be limited to those relating to and in support of the marina functions. Specifically, these sales shall be limited to groceries, fishing supplies, watercraft, watercraft accessories, and marine engines. Vending machines dispensing foods and beverages are permitted. ~~Amended 8-6-2003 by Ord. No. 9-2003~~
- G. Launching facilities.
- (1) Launching ramps for watercraft are permitted, subject to Subsection A(4).
 - (2) Hoists for the launching and removal of watercraft shall be limited to a maximum rated lift capacity of 4,000 pounds.
- H. Administrative offices. Offices and/or administrative facilities shall be limited to those required for the operation of the commercial marina.

- I. Marine fuel sales. The sale and dispensing of marine fuels are permitted in commercial marinas in the City of Brigantine, subject to the review and approval of the Planning Board. Marinas must provide emergency containment equipment, including but not limited to floating booms and oil-absorbent pads in case of fuel spill.
- J. Pump-out facility. Waste transferred from boat to shore shall utilize an approved system for waste disposal pump-out.
- K. Environmental design standards. In evaluating marina uses, the Planning Board shall consider the following factors:
 - (1) Maintenance of state water quality standards.
 - (2) Preservation of the natural shoreline and wetland vegetation.
 - (3) Reduction of stormwater runoff and erosion by minimizing use of impervious surfaces.
 - (4) Location and maintenance of marina uses in such a manner that shall provide the least detrimental impact to adjacent residential properties.
 - (5) Preservation of natural circulation patterns, tidal flow patterns, salinity and distribution of nutrients in the water.
 - (6) Maintenance of the pattern and volume of littoral drift passing the site.

§ 198-107. Marina private club.

- A. Permitted activities. The following activities and commercial uses may be permitted as part of the operation of a marina yacht club:
 - (1) Berth rental and watercraft dockage.
 - (2) Wet storage and temporary docking.
 - (3) Watercraft rental.
 - (4) Launching facilities.
 - (5) Dry storage.
 - (6) Maintenance and repairs.
 - (7) Retail food establishments.
 - (8) Retail trade establishments.
 - (9) Business and administrative offices.
 - (10) Restaurants and bars.
 - (11) Recreational facilities.

- B. Signs. All signs shall be designed and constructed in accordance with the provisions of Article XV, Sign Regulations.
- C. Off-street parking. All off-street parking areas shall be designed and operated in accordance with Article XI, Off-Street Parking.
- D. Dry storage.
 - (1) The dry storage of seaworthy watercraft shall not exceed 10% of the total lot area.
 - (2) Dry storage shall be considered as an accessory use to a marina private club subject to the yard and setback requirements of Article XIV, Commercial Zone Regulations.
 - (3) The stacked dry storage of watercraft is not permitted.
- E. Watercraft maintenance. Maintenance of watercraft shall be limited to those simple repairs that can normally be done while the vessel is in the water.
- F. Limitation of retail sales. Retail sales activities within a marina private club shall be limited to those relating to and in support of the marina functions. Specifically, these sales shall be limited to groceries, fishing supplies and watercraft accessories. Vending machines dispensing foods and beverages are permitted within the marina facility only. Specifically excluded is the sale of watercraft, marine engines and watercraft trailers.
- G. Launching facilities.
 - (1) Launching ramps for watercraft are permitted, subject to Subsection A(4).
 - (2) Hoists for the launching and removal of watercraft shall be limited to a maximum rated lift capacity of 4,000 pounds.
- H. Administrative offices. Offices and/or administrative facilities shall be limited to those required for the operation of the commercial marina.
- I. Marine fuel sales. The sale and dispensing of marine fuels are permitted in marina yacht clubs in the City of Brigantine, subject to municipal approval, and must conform to the requirements of § 198-1061 and J.
- J. Recreational facilities. A marina yacht club may include the following recreational facilities:
 - (1) Swimming pools, subject to § 198-69 of this chapter.
 - (2) Tennis courts.
 - (3) Playground equipment.
 - (4) Other recreational facilities normally associated with waterfront uses.
- K. Restaurants and bars.

- (1) A restaurant shall be considered an accessory use to a marina private club subject to the following conditions:
 - (a) The restaurant shall be compatible with the permitted marina use and be an integral part of the club.
 - (b) The restaurant shall not preempt waterfront activities normally associated with a marina.
 - (c) Off-street parking shall be furnished in accordance with Subsection C.
 - (d) The gross floor area of the restaurant shall not exceed 20% of the total lot area.
 - (2) No bar shall be permitted, unless included as an accessory use to the proposed restaurant.
- L. Environmental design standards. A marina private club shall be subject to environmental design standards as stated in § 198-106K.

§ 198-107.1. Bed-and-breakfast inns.

- A. Bed-and-breakfast inns as conditional uses. Any and all bed-and-breakfast establishments shall be conditional uses and must obtain conditional use approval from the Planning Board of the City of Brigantine prior to commencing operation or opening for business.
- B. Permitted locations. Bed-and-breakfast establishments shall only be located on Brigantine Avenue, Atlantic-Brigantine Boulevard, Bayshore Avenue or on any other lot in the City of Brigantine which meets the requirements of this chapter and is directly adjacent to and abutting any bay, beach or lagoon within the City of Brigantine.
- C. Submission to Planning Board. All applications for approval of a bed-and-breakfast must contain all plans and documentation as set forth in the section of the Municipal Land Use Ordinance governing Planning Board applications. All proposed bed-and-breakfast applicants must receive, at a minimum conditional use approval including site plan approval. Said plans shall also clearly show and identify all guest rooms and other rooms contained in said bed-and-breakfast and the dimensions thereof.
- D. Bed-and-breakfasts must be owner-occupied. No property shall be approved for a bed-and-breakfast use unless the same will be owner-occupied and is the primary residence of the proprietor of said bed-and-breakfast establishment.
- E. Guest bedrooms. In order to be approved as a bed-and-breakfast establishment, the structure housing said bed-and-breakfast establishment must have at least four but no more than eight bedrooms within a single structure. At least three but no more than seven of said bedrooms must be guest bedrooms which are available for public use at all times. At least one bedroom must be used at all times as the bedroom and living quarters of the proprietor of said bed-and-breakfast.
- F. Bathrooms. All bed-and-breakfast establishments within the City of Brigantine are encouraged to have a full bathroom for each guest room although shared bathrooms may

be permitted in the discretion of the Planning Board. A bed-and-breakfast shall have at least three full bathrooms of which at least two shall be available to guests of the bed-and-breakfast at all times.

- G. Cooking facilities. All bed-and-breakfast establishments in the City of Brigantine shall have a central cooking area large enough to prepare meals for all guests at one time. Any and all cooking facilities or devices, of any nature, shall be strictly prohibited in guest rooms.
- H. Common dining area. All bed-and-breakfast establishments in the City of Brigantine shall have a common dining area large enough to seat all guests of said bed-and-breakfast at one sitting. Said dining area shall have a minimum of two chairs for every one bedroom at the bed-and-breakfast establishment. Said common dining area must be arranged so that breakfast, lunch, dinner and afternoon tea/coffee may be served to guests therein.
- I. Room service shall be permitted.
- J. Common lounge area. All bed-and-breakfast establishments in the City of Brigantine shall have a common living room or lounge where guests may sit or otherwise relax and mingle.
- K. Parking.
 - (1) All bed-and-breakfasts in the City of Brigantine shall have the following number of parking spaces:
 - (a) One parking space for each bedroom in the bed-and-breakfast including nonguest bedrooms;
 - (b) One parking space for each employee who shall be employed at the bed-and-breakfast at any time; plus
 - (c) Any and all handicap space(s) as required by law or regulation.
 - (2) Each parking space shall be a minimum of nine feet in width and 18 feet in depth. Each handicap space shall be a minimum of 14 feet in width and 19 feet in depth.
- M. Landscaping. All landscaping at bed-and-breakfast establishments in the City of Brigantine shall be plants indigenous to the Brigantine and southern New Jersey area. All landscaping and landscaping schemes shall be approved by the Planning Board.
- N. Fences. Fences shall be permitted at bed-and-breakfast establishments in the style and height of fences permitted for single-family residential uses in the zone in which said bed-and-breakfast establishment is located.
- O. Signs. Each bed-and-breakfast establishment within the City of Brigantine shall be permitted to erect one five square feet, freestanding, two-sided sign which may indicate the name of the bed-and-breakfast, its address and whether vacancies exist or not. All other signs included but not limited to wall-mounted signs, rooftop signs or other signs of any nature are strictly prohibited.

- O. Compliance with laws. All bed-and-breakfast establishments in the City of Brigantine shall comply with all federal, state, county and municipal laws, rules and regulations. This includes, but is not limited, to all requirements of the Uniform Construction Code including square footage for guest rooms, BOCA Property Maintenance Code, State Fire Safety Code, including but not limited to the Uniform Fire Code Retrofit Guidelines and all County Health Department guidelines.⁴⁸
- P. Length Of stay. No bed-and-breakfast establishment within the City of Brigantine shall be operated in such a manner as to become a permanent guest house, boardinghouse or other type of permanent living quarters. No guest may stay at any bed-and-breakfast establishment in the City of Brigantine for longer than 14 consecutive days, nor shall any guest stay at a bed-and-breakfast establishment in the City of Brigantine for more than 14 days in any month. This section shall be interpreted in a light most favorable to the City of Brigantine and in such a manner as to further the intent of the City of Brigantine to create bed-and-breakfast establishments pursuant to this chapter and not to create rooming houses or other types of permanent or semi permanent living quarters.
- Q. Employees. Bed-and-breakfast establishments in the City of Brigantine shall have employees who are occupants of the bed-and-breakfast or familial relationships thereof. No more than three employees shall work at a bed-and-breakfast establishment at any time who are not resident members of the family unit which occupies and owns said bed-and-breakfast establishment.
- R. Accessory uses. Fences, signs and parking areas are the only accessory uses permitted to be used in conjunction with a bed-and-breakfast establishment. All bed-and-breakfast establishments shall contain all guest rooms within one structure only and there shall not be more than one structure on any lot. All storage of food, etc., shall be contained within the principle structure and no sheds shall be permitted.
- S. Trash enclosure. The pickup and removal of trash, and the cost for the same, shall be the responsibility of the owner/operator of the bed-and-breakfast establishment. They shall contract with a private trash hauler for said services. Trash shall only be stored in trash containers on the side of or behind the bed-and-breakfast establishment and all such trash areas shall be enclosed by a fence whose height and style is the same as that permitted in the residential zone in which the bed-and-breakfast establishment is located. No trash container, can or enclosure, or any portion thereof, shall be located in front of the front wall of the bed-and-breakfast establishment.
- T. Additional Planning Board approval. Any enlargement of, addition to or expansion of a bed-and-breakfast establishment must receive Planning Board approval and must comply with all conditions of the Municipal Land Use Ordinance. Any bed-and-breakfast establishment which is going to deconvert into a single-family use, must receive prior approval of the Brigantine Construction Official, Zoning Officer and Fire Department to ensure that said deconversion is performed in accordance with the Uniform Construction Code, Uniform Fire Code and all other applicable statutes and regulations.⁴⁹

48. Editor's Note: See Cb. 143, Construction Codes, Uniform, Ch. 175, Fire Prevention and Ch. 238, Property Maintenance.

49. Editor's Note: See Ch. 143, Construction Codes, Uniform and Ch. 175, Fire Prevention.

- U. Licensure. Each bed-and-breakfast establishment shall be licensed on an annual basis by the City Council of the City of Brigantine. The annual fee shall be \$250.
- V. Revocation. Any owner/operator of a bed-and-breakfast establishment in the City of Brigantine may be fined up to \$1,250 and/or have their license to operate revoked for any violation of this section. No license shall be revoked unless notice of such revocation is provided and a hearing regarding any violation is held before the Brigantine City Council. If a license is revoked, the property can no longer be used and/or operated as a bed-and-breakfast establishment.
- W. Bulk requirements. Any lot within the City of Brigantine where a bed-and-breakfast establishment will be located must contain a minimum of 80 feet of frontage, depth of 90 feet and total area of 7,200 square feet. All other bulk and setback requirements including, but not limited to, building height, lot coverage, rear, front and side yard setbacks, shall be the same as established for single-family homes in the zone where the bed-and-breakfast establishment is located.

ARTICLE XV

Sign Regulations

§ 198-108. Purpose and intent.

The purpose of this article is to regulate and control the design, use, erection and maintenance of signs in such a manner as to support and complement the goals and objectives expressed both within this chapter, as well as the Master Plan of the City of Brigantine.⁵⁰ The intent is to permit such signs that will not, by their size, location, construction or manner of display, endanger the public safety of the general public; obstruct the clear views necessary for traffic safety; or lead to the deterioration of the visual environment of the City.

§ 198-109. Permitted signs.

Except as otherwise provided, signs permitted shall be as enumerated in the following sections:

- A. Section 198-112, Residential zones.
- B. Section 198-113, Commercial zones.
- C. Section 198-114, Conservation zones.

§ 198-110. Prohibited signs.

- A. General restrictions. It shall be unlawful to erect or maintain any sign which is not included under the types of signs permitted in this chapter.
- B. Advertisement.

50. Editor's Note: Said plan is on file in the City offices.

- (1) Any sign which advertises or publicizes an activity not conducted on the premises upon which the sign is maintained is prohibited. ~~Electronic message boards are also prohibited. [Amended 12-19-2007 by Ord. No. 25-2007]~~
 - (2) Any advertisement sign which uses a series of two or more signs or units, placed in a line parallel to a street, or in similar fashion, all carrying a single advertising message, part of which is contained on each sign, is prohibited.
 - (3) Billboards, signboards, portable signs or other freestanding advertising signs are prohibited.
- C. Flashing or electronic interference.
- (1) No blinking, flashing, fluttering or animated signs are permitted in the City.
 - (2) Signs with any lighting or control mechanism which may cause radio or television interference are prohibited.
- D. Public safety.
- (1) Any sign so erected, constructed or maintained as to obstruct or be attached to any fire escape, window, door or opening used as a means of egress, or for firefighting purposes or places so as to interfere with any opening required for legal ventilation, is prohibited.
 - (2) Any sign which is of such a form, character or shape as to confuse or dangerously distract the attention of the operator of a motor vehicle is prohibited.
 - (3) Signs which in any way simulate official or directional or warning signs erected or maintained by the State of New Jersey, County of Atlantic, City of Brigantine or by any federal, public utility or similar agency concerned with the protection of public health, welfare and safety are prohibited.

§ 198-111. General requirements and design criteria.

The following requirements, provisions or design criteria are applicable to all zoning districts with the City of Brigantine or those specific zone districts, uses or structures enumerated: ·

- A. Height restriction. No sign shall be located on a roof or extension thereof.
- B. Illumination. All illuminated signs shall be shielded to prevent any glare, and no sign shall be illuminated by lighting of intermittent or varying intensity.
- C. Building graphics. Letters, numerals, symbols and designs of any structure cut in the shape which are an integral part of that structure and not intended to draw attention to any goods, merchandise, business, entertainment or amusement activity or establishment shall be considered as a part of that structure and shall be subject to the regulations of this chapter. Signage mounted on or attached to awnings shall also be considered as part of the structure and shall be subject to the regulations of this chapter. ~~[Amended 12-19-2007 by Ord. No. 25-2007]~~

D. Calculation of sign area.

- (1) Sign area shall be considered the entire face of the sign, including the advertising surface and any framing, trim or molding, but not including the supporting structure.
- (2) In the case of two or more business uses occupying the same structure, the front wall area to be used in determining permitted sign area shall only include that portion of the front wall area occupied by the use in question.
- (3) On a freestanding two-sided sign, only one face is counted in computing the sign area.

E. Side and rear wall sign.

- (1) Where the side or rear of a business structure adjoins an off-street parking area, or a private area intended for the use of the structure in question, identification signs may be placed or inscribed on said side or rear wall.
- (2) Where a business structure is located at the intersection of two public streets, an additional identification sign may be erected or inscribed upon the side wall on the second street side, provided that the combined areas of two signs do not exceed the sign area permitted in that zone district.
- (3) Except as permitted in Subsection E(1) and (2), no signs shall be permitted to be placed, erected or inscribed on a side or rear wall of any structure.

F. Special event displays. Portable signs and banners may be utilized on the property of an establishment having a grand opening or special event, provided that such signs shall be displayed for a period not to exceed seven calendar days within any six-month period.

G. Clearances.

- (1) Signs shall maintain all clearances from electrical conductors and communication equipment in accordance with the regulations of the public utility in question as well as any applicable municipal or state codes.
- (2) Signs and their supporting structures shall maintain clearance and noninterference with all surface and underground facilities or utilities. In addition, such placement shall not interfere with either natural or artificial drainage or surface water or groundwater.

H. Maintenance. Every sign, including those signs erected prior to the adoption of this chapter, shall be maintained in a safe, presentable and good structural material condition at all times, including the replacement of defective parts, painting, repainting, cleaning and other acts required for the maintenance of said sign. The owner of any property on which a sign is located and those responsible for maintenance of the sign shall be equally responsible for the conditions of the area in the vicinity of the sign and shall be required to keep this area clean, sanitary and free from noxious or offensive substances.

I. **Feather Flags are limited to two (2) per street frontage and shall only be permitted to be on display during business hours.**

§ 198-112. Residential zones.

Within the residential zone districts of the City of Brigantine, no sign or signs shall be erected or altered in whole or in part unless in compliance with the following regulations; all heights are to top of sign:

- A. Address sign. Address signs shall not be larger than one square foot in area. The sign shall be limited to showing the name and/or address of the occupant of the dwelling unit without direct illumination; it shall be limited to five feet in height where freestanding and **eight twelve** feet in height where wall-mounted and located within the property lines of the dwelling unit or units it identifies.
- B. Construction sign. Construction signs shall not be larger than nine square feet in area. Said sign shall be limited in use as defined in Article IV of this chapter without direct illumination; it shall be limited to eight feet in height where freestanding and 12 feet in height where wall-mounted. A construction sign shall be set back a minimum of five feet from any property line. The sign shall be **installed after a construction permit is issued and** removed from the premises within seven days of the issuance of a certificate of occupancy.
- C. Directional sign. Directional signs shall be designed and constructed according to the Manual on Uniform Traffic Control Devices for Streets and Highways.
- D. Governmental sign. Governmental signs shall be designed and constructed according to the needs and standards of the City of Brigantine, County of Atlantic and State of New Jersey.
- E. Identification sign. Identification signs shall not be larger than 20 square feet in area for churches, municipal or recreational facilities. Lodges and public utility installations shall not have a sign larger than 12 square feet in area. All identification signs shall be limited to eight feet in height where freestanding and 12 feet in height where wall-mounted.
- F. Real estate sign. Real estate signs shall not be larger than nine square feet in area. Said sign shall be limited in use as defined in Article IV of this chapter without direct illumination; it shall be limited to eight feet in height where freestanding and 12 feet in height where wall-mounted. A real estate sign shall be set back a minimum of five feet from any property line. The sign shall be removed from the premises within seven days of the completion and execution of an agreement of sale for the property in question. See § 198-77, Sighttriangles.
- G. Informational sign. Signs conveying information for the convenience of the general public using the facility or structure shall not be larger than five square feet in area. Said sign shall be limited to six feet in height where freestanding and eight feet in height where wall-mounted. No direct illumination of the sign shall be located within property in question in such a position to maximize its use without being a visual nuisance or obstruction to sight. No informational signs are permitted in the R-1 and R-2 Zones.
- H. Clarification of signs not permitted in the R-1 and R-2 Residential Zones on City property, including recreation areas and any other public areas. Advertisement signs and any other sign that publicizes any use and/or activity either on the site or any other site are not permitted.

§ 198-113. Commercial zones.

Within the commercial zone district of the City of Brigantine, no sign or signs shall be erected or altered in whole or in part unless in compliance with the following regulations; all heights are to top of sign.

- A. Address sign. Refer to § 198-112A, Address sign, for residential districts.
- B. Construction sign.
 - (1) Construction signs shall not be larger than nine square feet in area.
 - (2) Said sign shall be limited in use as defined in Article IV of this chapter without direct illumination.
 - (3) The sign shall be limited to eight feet in height where freestanding and 12 feet in height where wall-mounted.
 - (4) A construction sign shall be set back a minimum of five feet from any property line.
 - (5) The sign shall be installed after a construction permit is issued and removed from the premises within seven days of the issuance of a certificate of occupancy.
- C. Directional sign. Directional signs shall be designed and constructed according to the Manual on Uniform Traffic Control Devices for Streets and Highways.
- D. Governmental sign. Governmental signs shall be designed and constructed according to the needs and standards of the City of Brigantine, County of Atlantic and State of New Jersey.
- E. Identification sign. Refer to § 198-112E, Identification sign.
- F. Real estate sign.
 - (1) Real estate signs shall not be larger than 12 square feet in area.
 - (2) Said sign shall be limited in use as defined in Article IV of this chapter without direct illumination.
 - (3) The sign shall be limited to eight feet in height where freestanding and 12 feet in height where wall-mounted.
 - (4) A real estate sign shall be set back a minimum of five feet from any property line.
 - (5) The sign shall be removed from the premises within seven days of the completion and execution of an agreement of sale for the property in question.
- G. Informational sign.
 - (1) Signs conveying information for the general public using the facility shall not be larger than five square feet in area.

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- (2) Said sign shall be limited to six feet in height where freestanding and eight feet in height where wall-mounted.
- (3) No direct illumination of the sign shall be located within property in question in a position to maximize its use without being an obstruction to sight.

H. Business signs.

- (1) Signs identifying a commercial use may be placed or inscribed upon the facade or front wall of the building in question.
- (2) Such signs shall not exceed an area equal to an area of three-square feet for each one foot in width of the building upon which the sign is to be placed.
- (3) No sign shall project more than 12 inches beyond the building facade.
- (4) Such a sign may be directly illuminated.
- (5) The sign shall be limited to 15 feet in height where wall-mounted and located within the property lines of the premises.

§ 198-114. Conservation zones.

Within the conservation zone districts of the City of Brigantine, no sign or signs shall be erected or altered in whole or in part unless in compliance with the following regulations. A permit shall be obtained from the City Engineer.

- A. Directional sign. Directional signs shall be designed and constructed according to standards in § 198-113C.
- B. Governmental sign. Governmental signs shall be designed and constructed according to the needs and standards of the City of Brigantine, County of Atlantic and State of New Jersey.
- C. Informational sign. Signs conveying information for the convenience of the general public using the facility or structure shall not be larger than five square feet in area. Said sign shall be limited to six feet in height and must be freestanding. No direct illumination of the sign shall be permitted unless required for safety reasons. It shall be located within property in question in such a position to maximize its use without being a visual nuisance or obstruction to sight.

§ 198-115. Multifamily developments.

- A. (Reserved)
- B. Townhouses.
 - (I) For the purposes of identifying townhouses, no signs shall be permitted except a sign containing the name of the particular townhouse and information with respect to the name and address of the person or firm managing the townhouse.

- (2) Sign area shall not exceed 40 square feet.
- (3) Only one such identifying sign shall be permitted for each street from which the development has an entrance drive.
- (4) Such sign or signs shall blend with the color and architectural style of the development and be erected and designed in such a manner so as to not detract from the surrounding area.

C. Motels/hotels.

- (1) A maximum of three signs are permitted to identify and advertise a motel or hotel.
- (2) The total area of these signs shall not exceed 20% of the area of the first- or ground-story facade. A story shall not exceed 12 feet in calculation the area permitted.

§ 198-116. Shopping centers.

A. Business sign (wall-mounted or facade).

- (1) One sign may be placed or inscribed upon the front or facade of each individually owned and operated establishment with the shopping center.
- (2) The sign area for each use shall not exceed an area equal to 15% of the facade.
- (3) These signs may be directly illuminated.
- (4) The sign may not project more than 12 inches from the face of the building and shall not extend above the top or beyond the sides of the facade.

B. Business sign (canopy-mounted).

- (1) In the case of a shopping center wherein walkways are roofed over with a permanently installed rigid canopy or other structural device, one sign may be hung vertically from the underside of said canopy for each individually owned and operated establishment within the shopping center.
- (2) These signs shall not be larger than four square feet nor less than eight feet above the walkway.
- (3) These signs may be directly illuminated.

C. Identification sign (freestanding).

- (1) Freestanding signs shall be erected only in the B-3 Zone District to identify a shopping center and list individual occupants.
- (2) Only one sign shall be erected for each 500 feet of frontage on a public street.

- (3) The aggregate area of such sign(s) shall not exceed 200 square feet, plus one square foot sign area for every 1,000 square feet of gross leasable area of the retail trade establishments within the center in excess of 50,000 square feet.
- (4) These signs shall not exceed the height of the principal building.
- (5) No sign shall exceed the height of the principal building, or 20 feet, whichever is the highest.
- (6) A freestanding sign in a shopping center shall be located as follows:
 - (a) A minimum of 50 feet from any right-of-way line or parking area driveway.
 - (b) A minimum of 25 feet from any property line.
 - (c) A minimum of 200 feet from the boundary of any residential zone district.
- (7) Such sign or signs shall in no way interfere with the safe functioning of any traffic control signal or directional device.

D. Directional sign (ingress).

- (1) One freestanding directional sign may be erected at each driveway which provides a means of ingress for the off-street parking areas within the shopping center.
- (2) The directional signs shall contain only the name of the use or facility and appropriate traffic instructions.
- (3) Sign areas shall not exceed 20 square feet and shall be mounted so as not to obstruct vision for a height of seven feet above ground level and shall not exceed 11 feet in total height.
- (4) Where directional signs are located in buffer areas, the sign area shall be reduced to 12 square feet.

E. Directional signs (egress).

- (1) Freestanding signs may be erected within the shopping center for the purpose of providing directional information to vehicles leaving the premises.
- (2) The number and location of these signs shall be subject to the review and approval of the Planning Board and its experts.
- (3) Sign area shall not exceed 20 square feet, and the sign shall be mounted so as not to obstruct vision for a height of seven feet above ground level and shall not exceed 11 feet in total height.
- (4) Only one directional sign shall be erected in conjunction with each driveway which provides egress from the shopping center.

F. Traffic control signs.

- (1) Freestanding signs may be erected within the shopping center to control and regulate the movement of traffic on the internal driveways and aisles.
- (2) The number and location of these signs shall be subject to the review and approval of the Planning Board and its experts.
- (3) Sign area shall not exceed four square feet level and shall not exceed seven feet in height.

G. Parking lot signs.

- (1) Freestanding signs may be erected within the shopping center parking areas in order to identify either particular areas or sections for the convenience of the shopper.
- (2) Only one parking lot sign shall be permitted for each 20,000 square feet of parking area.
- (3) Sign area shall not exceed four square feet on any one side, and the sign shall be mounted so as not to obstruct vision for a height of seven feet above ground level and shall not exceed 20 feet in total height.
- (4) Aisle identification signs shall not exceed an area of one foot on any one side and shall be mounted so as not to obstruct vision for a height of seven feet above ground and shall not exceed 11 feet in total height.

ARTICLE XVI

Conditional Uses

§ 198-117. Purpose and intent.

- A. Establishment of procedures. In recognition of the fact that certain necessary specific uses may be, or become, inimical to the public health, safety and general welfare of the City of Brigantine if located or permitted without due consideration to the existing conditions and surroundings, the following standards and procedures are hereby established for the uses designated as conditional uses.
- B. Purpose of standards. These standards are intended to provide the standards for reviewing and deciding upon certain uses not otherwise permitted except under the restrictions or criteria of this article. In approving a site plan for a conditional use, the Planning Board may suggest or require modifications and revisions to the application for development. Such changes and modifications, as well as the original provisions of the site plans which have not been modified, shall be maintained as a condition of the establishment and maintenance of the conditional use to which they are appurtenant.

§ 198-118. Churches and places of worship.

- A. Permitted areas of use. Churches and all places of worship shall be permitted in any residential and business zone district where the general criteria of Subsection C are met.

- B. Site plan requirements. An application to construct or expand a church shall be filed with the Planning Board in accordance with § 198-12, Site plan details.
- C. General criteria.
 - (1) The minimum lot area for a church shall be 40,000 square feet.
 - (2) The minimum lot frontage shall be 200 feet.
 - (3) Off-street parking areas shall be furnished in accordance with Article XI, Off-Street Parking.
 - (4) Landscaping shall be provided in accordance with Article XII, Landscaping, Buffers and Open Space Design.
- D. Special considerations.
 - (1) In its evaluation and review of the site plan, the Planning Board shall consider the impact of the structure upon the established character of the surrounding neighborhood in respect to size, location, building materials, architectural style and massing.
 - (2) The Planning Board shall review means of access and egress, internal traffic patterns, placement of accessways, projected traffic volumes for both scheduled and special events to determine the impacts on streets serving the church as well as its accessory facilities, if any.

§ 198-119. Recreational facilities.

- A. Permitted areas of use. Recreational facilities shall be permitted in any zone district where the general criteria of Subsection D are met. Municipally owned recreation facilities may be placed in any zone and do not have to meet the requirements of Subsection D.
- B. Site plan requirements.
 - (1) An application to construct or expand a nonmunicipal recreational facility shall be filed with the Planning Board in accordance with § 198-12, Site plan details.
 - (2) The application for development shall include an operational plan describing in full detail the method and means of operating the facility.
 - (3) A full membership list, including names and addresses, shall be filed with the application.
- C. Definition of "recreational facility". For purposes of this section of this chapter, a recreational facility shall include, but not be limited to, clubhouses, parks, playgrounds, swimming pools, tennis courts and other structures dedicated to housing recreational activities operated by either nonprofit membership organizations, civic and service clubs, fraternal organizations or lodges.
- D. General criteria.

- (1) The minimum lot area for a recreational facility shall be 10,000 square feet.
- (2) The minimum lot frontage shall be 100 feet.
- (3) Building coverage shall not exceed 40%.
- (4) No recreational facility shall be located within 25 feet of a residential zone.
- (5) Off-street parking areas shall be furnished in accordance with Article XI, Off-Street Parking.
- (6) Landscaping shall be provided in accordance with Article XII, Landscaping, Buffers and Open Space Design.

E. Special considerations.

- (1) In its evaluation and review of the site plan, the Planning Board shall consider the improvement of the facility upon the established character of the surrounding neighborhood.
- (2) The Planning Board shall find that the proposed recreational facility, by the nature of its siting, will not adversely affect the safe and comfortable enjoyment of property rights or the value of the adjacent properties.
- (3) The Planning Board shall review means of access and egress, internal traffic patterns, placement of accessways and projected traffic volumes for both scheduled and special events to determine the impacts on streets providing access to the facility.
- (4) The Board shall determine that the facility is to be operated by a bona fide nonprofit organization solely for the recreation and enjoyment of its membership.
- (5) The membership of the nonprofit organization shall be determined and fixed at maximum limit based on the capacity of the facility at the time of the application for development. No further increase in membership shall be permitted until additional lands are acquired to accommodate this increase. A supplemental application will be required for Board review.

§ 198-120. Hospitals, nursing homes, philanthropic or eleemosynary uses and municipal recreation.

- A. Permitted areas of use. Hospitals, nursing homes, philanthropic or eleemosynary uses shall be permitted in any residential and business zone district where the general criteria of Subsection C are met.
- B. Site plan requirements.
 - (1) An application to construct or expand a permitted use as defined in Subsection A shall be filed with the Planning Board in accordance with § 198-12, Site plan details.

- (2) The application for development shall include an operational plan describing in full detail the method and means of operating the facility.
- (3) A statement of need shall be furnished to the Board for its review.

C. General criteria.

- (1) The minimum lot area for uses defined in Subsection A shall be two acres.
- (2) The minimum lot frontage shall be 200 feet.
- (3) Building coverage shall not exceed 40%.
- (4) All buildings or structures erected to house or serve these uses shall be set back a minimum of 60 feet from any property line.
- (5) Building height shall not exceed 30 feet.
- (6) The minimum setback requirements shall be increased one foot for each foot the building exceeds the maximum building height limit established for the zone district in which it is located.
- (7) Off-street parking areas shall be furnished in accordance with Article XI, Off-Street Parking.
- (8) Landscaping shall be provided in accordance with Article XII, Landscaping, Buffers and Open Space Design.

D. Special considerations.

- (1) In its evaluation and review of the site plan, the Planning Board shall consider the impact of the facility upon the established character of the surrounding neighborhood.
- (2) The Planning Board shall find that the proposed facility, by the nature of its siting, will not adversely affect the safe and comfortable enjoyment of property rights or the value of the adjacent properties.
- (3) The Planning Board shall review means of access and egress, internal traffic patterns, placement of accessways and projected traffic volumes for both scheduled and special events to determine the impacts on streets providing access to the facility.
- (4) The Board shall determine that the facility to be operated is, in fact, required by an established and documented need and will further the general welfare of both the residents of the City of Brigantine and general public of the region.

§ 198-121. Public utilities.

- A. Permitted areas of use. Public utility uses, such as high-voltage (in excess of 69 kilovolts) transmission lines and towers, substations and telephone exchanges and

telephone exchanges, shall be permitted in any zone district where the general criteria of Subsection C are met.

B. Site plan requirements.

- (1) An application to construct or expand such a public utility shall be filed with the Planning Board in accordance with § 198-12, Site plan details.
- (2) The application for development shall include an operational plan describing in full detail the method and means of operating the facility.
- (3) A statement of need shall be furnished to the Board for its review.

C. General criteria.

- (1) Off-street parking areas shall be furnished in accordance with Article XI, Off-Street Parking.
- (2) Landscaping shall be provided in accordance with Article XII, Landscaping, Buffers and Open Space Design.

D. Special considerations.

- (1) The Planning Board shall find that the proposed facility, by the nature of its siting, will not adversely affect the safe and comfortable enjoyment of property rights or the value of the adjacent properties. All high-voltage transmission towers shall have at least a one-hundred-foot buffer area from any residential home.
- (2) The Planning Board shall find, based on information furnished by the public utility in question, that the proposed installation in the specific location is necessary for the convenient and efficient operation of the public utility system or the satisfactory and convenient provision of service by the utility to the neighborhood or area in which the particular use is to be located. The public utility must have considered and presented to the Board other options or methods for the delivery of said utility services.
- (3) The design of any building or structure erected in connection with a public utility installation shall conform to the general character of the neighborhood in which it is located.
- (4) The utility installation shall be furnished with safety devices and features as required to adequately protect the general public.
- (5) The facility shall be maintained by the utility responsible for its operation to sufficient standards so as to eliminate any visual impact during the lifetime of its use.

§198-122. Home occupations.

- A. Purpose and intent. It is the intent of this section of this chapter to permit certain limited and suitable occupations to be conducted entirely within residential dwellings solely by

the residents thereof for the purpose of earning income for these residents. The uses are clearly incidental and secondary to the use of the building as a residence, and they must not change, in any way, the residential character of the zone and neighborhood and/or exert an adverse effect upon other residents of the zone.

B. Permitted home occupations.

- (1) The following are permitted home occupations, provided that they do not violate any of the provisions of Subsection D, Criteria:
 - (a) Dressmaking, sewing and tailoring.
 - (b) Painting, sculpturing or writing.
 - (c) Home crafts, such as model making, weaving and lapidary work.
 - (d) Educational tutoring, limited to two students at one time.
 - (e) Music instruction, limited to one student at one time.
 - (f) Computer programming.
 - (g) Home professional service. (Only permitted on Brigantine Avenue and Bayshore Avenue.)
 - (h) Offices for off-site tradesman owned and operated businesses.
- (2) Any home occupation not included above and not prohibited below shall be considered a conditional use and must apply to the Planning Board for approval prior to the start of said use.

C. Prohibited home occupations. The following are prohibited as home occupations.

- (1) Barbershops, beauty salons, nail salons, manicurists, and pedicurists.
- (2) Animal hospitals, veterinarian offices, animal grooming, kenneling and training facilities
- (3) Dancing studios, photography studios and sound studios.
- (4) Mortuaries, taxidermy.
- (5) Nursery schools, babysitting service, daycare centers except as permitted by state statute.
- (6) Private clubs.
- (7) Repair shops including but not limited to any repairs of a mechanical nature and any jewelry repair.
- (8) Restaurants.
- (9) Automobile repair or paint shop.

- (10) Marine equipment sales or repairs.
 - (11) Sales of any products that have not had value-added modifications and/or changes made to the original materials. Repackaging shall not be considered as value added.
 - (12) Spiritual advisors, fortune tellers, palm or card readers or other such occupations.
 - (13) Taxicab businesses, parking of taxicabs or dispatching of taxicabs.
 - (14) Any retail business.
 - (15) Piercing parlors, tattoo parlors or similar uses.
 - (16) Retail service establishment unless explicitly stated above as permitted.
 - (17) Retail trade establishments unless explicitly stated above as permitted.
 - (18) Escort services and massage parlors.
- D. Criteria. All home occupations shall meet the following criteria. See Subsection B for permitted home occupations:
- (1) The activity is conducted in such a manner that will not alter the normal residential character of the premises and in no way be a nuisance to the adjoining residences. This means that there shall be no outside storage or window display, there shall be no advertisement and/or informational signs, there shall be no dust, odors, noxious fumes or vibrations emanating from the premises and mechanical or electronic equipment which is incidental to the home occupation may be used, provided that it would not create visible or audible interference in radio and/or television receivers or cause fluctuations in line voltage off the premises, and shall not exceed five kilowatts.
 - (2) The proposed home occupation does not generate greater traffic volumes than would normally be expected in a residential neighborhood. This means no delivery of materials or commodities to and from the premises. This also means no parking of customers' or clients' vehicles except for home professional services. Only one commercial vehicle, owned by the practitioner and related to the occupation, may be parked on the premises at any time and shall not exceed a curb weight of 4,000 pounds when fully loaded and may not be parked on any public street, alley, cul-de-sac or other right-of-way.
 - (3) Only merchandise or stock in trade sold, repaired or displayed and used in the performance of the home occupation shall be stored on site and entirely within the residential structure. Merchandise and/or stock and other materials shall not be shipped to any other location under the control or owned by home occupation operator.
 - (4) The home occupation does not increase water or sewer use so that combined total use for the dwelling and home occupation is more than the average for residences in the neighborhood.

- (5) The home occupation shall be conducted only by members of the family residing in the dwelling. Persons in building trades or similar fields, using their homes or apartments as an office for business activities carried on off the premises, may have other employees, provided that they are not employed on the premises and they do not visit the residence during the course of business. Employees shall not report to the residence for work orders or other business reasons. No materials, supplies or equipment to be used at other locations can be stored at the residence in which the home occupation is operated. The home occupation shall serve one client at a time.
- (6) Home occupations shall occupy no more the 300 square feet of residence space and shall be located on the lowest habitable floor level.
- (7) Home occupations shall comply with all other municipal, county or state regulations pertinent to the activity pursued.
- (8) Home occupations may only be conducted between the hours of 9:00 a.m. and 9:00p.m.
- (9) Home occupations may only be conducted in single-family residences.
- (10) Home occupations may only be conducted by the owner of the property and his/her family.
- (11) Home professional services shall only be allowed on Brigantine and Bayshore Avenues.

§ 198-123. Private residential marinas.

- A. Purpose and intent. It is the intent of this section of this chapter to maintain the residential character of existing waterfront properties while allowing private enjoyment of the back bays, thoroughfares and waterways of Brigantine for those residents and their guests abutting the water's edge. As the basic nature of the City is water-oriented, it is the purpose of the following sections to ensure the maximum freedom of boating uses, water sports and recreational activities, including public access to the water, while protecting the individual resident from unnecessary noise and intrusions into private areas due to over-intense marina uses, commercial activities and function.
- B. Permitted areas of use. A private residential marina is a permitted conditional use in all residential zone districts, where the tract or lot adjoins or abuts a navigable waterway.
- C. General criteria. All private residential marinas shall meet the following criteria:
 - (1) Docks, piers and other mooring facilities, whether floating or fixed, shall be legally recognized by the New Jersey Department of Environmental Protection and the Army Corps of Engineers through the issuance of a waterfront development permit for the construction and maintenance of the structure under the currently enforced rules and regulations of either or both agencies.

- (2) The size and the extension of any dock or pier shall be limited to that required for the intended use.
 - (3) All docks and piers shall be constructed and maintained in such a manner that will not degrade the waterfront environment, conflict with the existing residential character or infringe on the scenic values of the back bays.
 - (4) Bulkheads shall be constructed in accordance with the applicable building codes at the mean high-water line. Wherever possible, bulkheads shall be structurally tied into adjacent shoreline protection structures.
 - (5) All docks and piers shall be sited so as not to hinder navigation or the public use of the waterways.
 - (6) All docks and piers shall be designed and constructed so that alterations of the natural productive potential of the intertidal zone and littoral habitat is minimized.
 - (7) The intended use of a private residential marina shall be for the sole use and enjoyment of the occupant or owner of the uplands property and their guests; therefore, the number of permanent or seasonal mooring berths shall be limited to one berth for each bedroom within the principal residential use.
 - (8) An additional off-street parking space shall be required for each berth over two.
 - (9) Maintenance and repair work on any watercraft shall be limited to a type that can be normally done while the vessel is in the water, although nominal boating maintenance can include repair activities, such as scraping, sanding and painting, which are normally land-based.
- E. Approval of private residential marinas. Upon presentation of the required state and federal waterfront development permits, the Building Inspector shall issue a local building permit, if the general criteria in Subsection C have been met. Private residential marinas shall not require Planning Board review unless requested by the Building Inspector.
- F. Conditional use. Any private residential marina not meeting the general criteria of Subsection C shall be considered a conditional use and be granted or denied by the Planning Board upon full review at public hearing held according to the Municipal Land Use Law (N.J.S.A. 40:550-10).

§ 198-124. Automobile service stations.

- A. Permitted areas of use. Automobile service stations shall be permitted in any business zone where such use is specifically permitted.
- B. Site plan requirements.
- (1) An application to construct or expand an automobile service station shall be filed with the Planning Board in accordance with § 198-12, Site plan details.
 - (2) The site plan shall also show the following information:

- (a) The number and location of fuel tanks to be installed.
- (b) The dimensions and capacity of each storage tank.
- (c) The depth each tank will be placed below the finished grade.
- (d) The number and location of the fuel pumps or dispensers to be installed.
- (e) The type of structure and accessory buildings to be constructed.
- (f) The maximum number of automobiles that can be garaged or stored on-site.

C. General criteria.

- (1) The minimum lot area for an automobile service station shall be 30,000 square feet.
- (2) The minimum lot frontage shall be 150 feet.
- (3) Off-street parking areas shall be furnished in accordance with Article XI, Off-Street Parking.
- (4) Landscaping shall be provided in accordance with Article XII, Landscaping, Buffers and Open Space Design.
- (5) The entire area of the site dedicated to the travel movement, parking or storage of automobiles shall be paved according to the minimum requirements of this chapter.
- (6) Site coverage shall not exceed 60%.
- (7) Except for gasoline or oil sales, changing of tires and other similar minor automobile servicing, all other repair work shall be performed in a fully enclosed building.
- (8) No automobile or any other vehicle shall be offered for sale, lease or rent while parked or stored on-site.
- (9) No automobile or vehicle shall be permitted to be standing or parked on the premises other than those used by the employees in the direct or indirect operation of the automobile service establishment. This shall not prohibit the temporary parking of automobiles actually serviced on the premises, including the overnight parking of a maximum of two vehicles per service bay.
- (10) All fuel pumps or dispensers shall be located a minimum of 25 feet from any street right-of-way or property line and shall be manned and operated by an attendant during operating hours. All fuels shall be stored underground.
- (11) Not more than two vending machines, whether or not coin-operated, shall be located outside the principal building. These machines shall be subject to the bulk requirements of the zone district in which the use is located.
- (12) Accessory goods for sale, if located outside the principal building, shall be located either on the fuel pump island or the building island. The outdoor display of oil

cans and/or antifreeze and similar products shall be permitted on these islands only if contained within suitable metal stands or racks. Tires shall only be stored inside the principal building or in the waste materials area.

- (13) Any outdoor storage of waste materials or supplies shall be in a shielded location but suitable for containerized collection and within an area screened adjacent to the building or fenced to a height of not less than six feet. The area of this enclosure shall not exceed 120 square feet and shall be set back a minimum of 25 feet from any residentially zoned property or street right-of-way line opposite a residential zone.
- (14) No waste material whatsoever shall be discharged into any watercourse or storm drainage system unless specifically permitted by a state or federal permit.

D. Special considerations.

- (1) In its evaluation and review of the site plan, the Planning Board shall consider the impact of the structure upon the established character of the surrounding neighborhood in respect to size, location, building materials, architectural style and massing.
- (2) The Planning Board shall review means of access and egress, internal traffic patterns, placement of accessways and projected traffic volumes to determine the impacts on streets serving the automobile service station.

§ 198-125. Dry-cleaning establishments.

- A. Permitted areas of use. Dry-cleaning establishments are prohibited from operating in an area within 500 feet of any residential structure or of any establishment which sells, prepares, dispenses, stores or handles food in any manner.
- B. Discharge of toxic wastes. No toxic waste material from a dry-cleaning establishment shall be discharged into any watercourse or any sanitary sewer line except in accordance with existing state, county or municipal requirements and regulations.
- C. Right to inspect the premises. The City of Brigantine, at its discretion, shall have the right to inspect the premises of a dry-cleaning establishment for compliance with toxic waste regulations.

§ 198-126. Amusement devices.

- A. Purpose. The purpose and intent of this section of this chapter is to regulate and control amusement devices which are operated for the purpose of making a profit so as to prevent nuisances to patrons and the public, safety hazards from overcrowding and poor access to premises where amusement devices are located and to discourage the promotion of gambling and loitering or the creation of an unhealthy atmosphere for the youth of the community or other foreseeable, undesirable effect from such devices.

- B. Permitted zone districts. Any business offering the use of amusement devices to the public shall be prohibited in all zone districts, except that such use shall be permitted as a conditional use within the B-6 Zone District.
- C. Additional site plan requirements. In addition to compliance with all area and bulk requirements for the applicable zone district and the requirements for site plan approval as provided herein, an applicant who wishes to operate such a business shall submit plans and specifications, prepared and certified by a licensed professional engineer or architect of the State of New Jersey, which show proposed improvements to both the interior and exterior of the premises and, in addition, drawings of the exterior elevation of that part of the premises accessible to the public. Such plans and drawings shall provide sufficient details to demonstrate compliance with the following requirements:
- (1) All amusement devices shall be permitted only on the first floor of the premises, and the plans shall show the proposed number, type and location of each amusement device.
 - (2) Each amusement device shall be located so as to provide a three-foot perimeter of open space around the three linear borders of each device.
 - (3) A five-foot-wide aisle shall be located between each row of amusement devices.
 - (4) No amusement device shall be located within 10 feet of any entrance to the premises.
 - (5) There shall not be permitted more than one amusement device for each 100 square feet of net floor area in the premises.
 - (6) Sufficient window area shall be provided on the exterior frontage of that portion of the premises accessible to the public so as to permit a view through such windows of all mechanical devices operated within the premises.
- D. Location of amusement device businesses. No business offering the use of amusement devices to the public shall be permitted within any zone district if such premises are located within 250 feet of any residential property or within 500 feet of any church or public or private school. In addition, no such business shall be permitted within 800 feet of any other business offering amusement devices to the public.
- E. Accessory uses. No other principal or accessory uses shall be permitted within the same premises as a business offering use of amusement devices to the public.
- F. Parking requirements. There shall be one vehicle parking space provided for each four amusement devices to be provided on the premises, and, in addition, two bicycle parking spaces shall be provided for each five proposed amusement devices. The applicant shall be required to provide a bicycle parking facility which shall be permanently affixed to the ground and constructed of steel pipe in a manner approved by the City Engineer.
- G. Hours of operation. No business offering the use of amusement devices to the public shall be permitted to operate between the hours of 12:00 midnight and 9:00 a.m.

- H. Supervision of premises. During hours of operation, such businesses must be supervised at all times by at least one adult who shall be employed by the applicant and who shall be responsible for supervision, maintenance and operation of the premises. At least one such individual shall be present on the premises during all hours of operation.
- I. Rest room facilities. A minimum of two rest rooms shall be provided within the premises, one to be designated for each gender.

§ 198-127. Wind energy conservation systems.

- A. Permitted areas of use. Wind energy conservation systems (WECS) shall be permitted in any residential and business zone district where the general criteria of Subsection D are met.
- B. Site plan requirements. Building permit applications for a wind energy conservation system shall be accompanied by a site plan drawn in sufficient detail to clearly show the following information:
 - (1) Property lines and lot dimensions.
 - (2) Location, dimension and type of existing structures and uses on the site.
 - (3) Location and elevation of the proposed wind energy conservation system.
 - (4) Location of all aboveground utility lines on-site within one radius of the total height of the wind energy conservation system.
 - (5) Zoning designation of the adjacent properties within a two-hundred-foot radius of the subject property.
- C. Building permit requirements. Building permit applications shall be accompanied by standard drawings of the structural components of the wind energy conservation system, including support structures, tower, base and foundation. Drawings shall be signed and sealed by a professional engineer licensed in the State of New Jersey.
- D. General criteria.
 - (1) Each wind energy conservation system shall be equipped with both manual and automatic controls to limit the rotational speed of the blade below the design limits of the rotor.
 - (2) The maximum level of noise generated by a wind energy conservation system shall not exceed 50 decibels, as measured on the DBA scale, measured at the nearest property line.
 - (3) The wind energy conservation system shall be located in the rear yard only and shall be set back a minimum of one rotor radius plus five feet from any property line.
 - (4) A wind energy conservation system shall have a minimum allowable height of 40 feet and a maximum allowable height of 80 feet, unless otherwise prohibited by

any applicable state or federal statute. The minimum distance between the ground and any part of the rotor or blade of the wind energy conservation system shall be a minimum of 20 feet, as measured from the lowest point of the arc of the blade.

- (5) The following items shall be certified by the manufacturer in writing:
- (a) That the wind energy conservation system has operated safely in atmospheric conditions for a period of not less than three months.
 - (b) That the wind energy conservation system has a minimum survival wind speed of 90 miles per hour.
 - (c) That the wind energy conservation system has provided energy not less than the equivalent of 25% of the predicted annual energy output under a 12 miles per hour annual wind regime.
 - (d) That the wind energy conservation system and all accompanying electrical equipment conforms to the 1981 National Electrical Code.

§ 198-127.1. Mixed Use – Commercial & Residential.

- A. The area and bulk requirements in the Lighthouse One District are:
- (1) Maximum height (measured from BFE): 35 feet (Principal);
 - (2) Minimum lot area: 6,000 square feet;
 - (3) Minimum lot depth: 100 feet;
 - (4) Minimum lot width: 60 feet;
 - (5) Minimum lot frontage: 60 feet;
 - (6) Maximum building coverage: 60 percent;
 - (7) Maximum impervious coverage: 80 percent;
 - (8) Minimum front yard: 5 feet;
 - (9) Minimum side yard: 10 feet;
 - (10) Minimum rear yard: 20 feet;
 - (11) Maximum density (dwelling units per acre): 1 DU/A
- B. All parking for the residential component of any mixed use shall be provided in accordance with the Residential Site Improvement Standards (RSIS).
- C. All site improvements shall be in accordance with Article IX Design Standards.

ARTICLE XVII Administration and Enforcement

§ 198-128. Zoning Officer.

- A. Power of enforcement. The duty of administering and enforcing the provisions of this chapter shall be conferred upon the Zoning Officer upon the adoption of this chapter. The Zoning Officer shall have such powers as specifically conferred upon him by this chapter and those powers as may be reasonably implied from this chapter, or otherwise conferred by law.
- B. Appointment. The Zoning Officer shall be appointed by the City Manager and receive such compensation as the Council shall determine.

- C. Review for conformance. The Zoning Officer, or his duly authorized assistants, shall review, examine or inspect any plans, buildings, structures or premises in order to determine that they are not in violation of this chapter.
- D. Right of entry. The Zoning Officer shall have the right to enter any building or premises during the daytime or during the normal hours of operation in the course of executing his duties.
- E. Notice of violation and appeal. Where the Zoning Officer, in the course of his duties, determines that any plans, buildings, structures or premises are in violation of the provisions of this chapter, he shall order the responsible party in writing to remedy such conditions. Said written order shall specify the nature of the violation found to exist, the remedy order and the time permitted for such action, the penalties and remedies which may be invoked by the City and the violator's right of appeal; all as provided for by this chapter as well as the laws of the State of New Jersey. See§ 198-15A.

- F. Loss of zoning permit. On the serving of notice by the Zoning Officer to the owner of any violation of any provisions of this chapter, the zoning permit for such building or use shall be held null and void. A new zoning permit shall be required for any further or continued use of such building or premises.
- G. Maintenance of records. The Zoning Officer shall maintain a permanent record of all matters considered and all action taken by him. Such records shall form a part of the records of his office and shall be available for the use of the City Council and other officials of the City, county and state.
- H. Application files. The Zoning Officer shall establish an individual permanent file for each application for a permit provided for by this chapter at the time of making the application. This file shall contain one copy of the application and all supporting documents, maps and plans; notations regarding pertinent dates, fees paid, notes, etc., one copy of the decision and resolution of the Planning Board and the date the permit applied for was either issued or denied by the Zoning Officer.

§198-129. Jurisdiction.

The Municipal Court of the City of Brigantine, or such other court of record of this state as shall be designated by the Supreme Court of the State of New Jersey, shall have jurisdiction to hear complaints or citations for violations committed under this chapter.

§198-130. Violations and penalties.

- A. Violation of any provision of this chapter, as amended and supplemented, upon conviction for a first offense, shall subject the offender to pay a fine not to exceed \$500. Upon conviction for a second or subsequent offense within two years of the date of the first conviction, such person or entity being convicted shall pay a fine not to exceed \$1,000, and such person or entity being convicted shall be subject to imprisonment for a period not exceeding 30 days, or both, in the discretion of the Municipal Court Judge.
- B. Each day of offense may be treated as a separate offense. Each day of offense subsequent to the cease-and-desist notice described in § 198-131 shall be treated as a separate offense.
- C. If any applicant receives site plan or subdivision approval and does not comply with any of the conditions imposed by the Planning Board as part of said site plan or subdivision approval, said applicant or any successor in title will be in violation of this chapter and subsection A and B above will be applicable.

§198-131. Cease-and-desist orders.

The Zoning Officer shall first direct the offending party to cease and desist from carrying out activities in violation of this chapter. Such notice shall be sent by certified and regular United States mail to the owner of the premises listed on the tax assessment rolls of the City of Brigantine and may be sent to any other person known to the Zoning Officer to be an offending party. Each day such violation continues after the cease-and-desist order shall

constitute grounds for a separate complaint. Upon the failure of the offending party or the owner of the premises, or either of them, to cease and desist such activity as is described in the notice and within the time limit specified in such notice, the Zoning Officer may cause to be sworn out appropriate complaints and/or citations for prosecution in any court having jurisdiction over offenses committed under this chapter, and such complaint and/or citation, as the case may be, shall be prosecuted by the Municipal Prosecutor of the City of Brigantine or other appropriate legal representation.

§ 198-132. Additional costs and expenses.

In addition to the fines and/or penalties specified by this chapter, the offending party may be required to pay all costs and expenses incurred by the City of Brigantine in enforcing the terms and conditions of this chapter, including but not limited to publication costs, postage, legal fees, court costs and any other costs. Failure to pay over to the City of Brigantine such amounts, on demand, shall entitle the City to commence appropriate collection actions, and any additional costs or expenses so incurred shall also be charged against the offending party.

**ARTICLE XVIII
Permits and Certificates**

§ 198-133. Purpose and intent.

The certificates and permits herein are hereby established for the equitable enforcement and administration of the provision of this chapter.

§ 198-134. Zoning permit

The Zoning Officer is hereby empowered to issue a zoning permit for any plans regarding the construction or alteration of any building or part of any building, or the change in the use of any land or building or part thereof, where he shall determine that such plans are not in violation of the provisions of this chapter.

§ 198-135. Temporary use permit.

Upon written direction of the Planning Board, the Zoning Officer is hereby empowered to issue a temporary use permit. A temporary use permit shall only be effective for a period not to exceed six months; such permit may be extended by the Zoning Board not more than once for a period not to exceed six months.

§ 198-136. (Reserved)

§ 198-137. Conditional certificate of occupancy.

(Reserved)

§ 198-138. Application procedures.

- A. Procedures for a zoning permit. All applications for zoning permits shall be made to the Zoning Officer in such detail as described in Article III, Development Application Review and Approval Procedures. Where the proposed use does not require site plan review by the Planning Board, the Zoning Officer shall carefully consider the application and supporting documents for compliance with this chapter and either issue or deny the zoning permit applied for. When the application is for a use for which site plan review is required, the Zoning Officer shall, prior to the issuance of any permit, refer one copy of such plans, drawings and statements to the Planning Board and one copy to the Municipal Engineer for their review and recommendations.
- B. Procedures for temporary use permits and conditional use permits. All applications for temporary use permits and conditional use permits shall be made to the Zoning Officer. The Zoning Officer, after determining that an application is in the proper form, shall transmit one copy of the application and all supporting documents to the Secretary of the Planning Board for referral to the Board for action thereon in accord with § 198-9, Application procedure.
- C. Procedures for a certificate of occupancy. Following the completion of the construction, reconstruction or alteration of any building, or for any change in the use of the structure the applicant shall transmit by registered mail to the Zoning Officer a letter stating that such construction has been completed or that a new use has been proposed. Within seven days of the receipt of this letter, the Zoning Officer shall make all necessary inspections of the completed structure and proposed use to determine the conformance with this chapter. A certificate of occupancy shall be issued by the Construction Official only if the Zoning Officer finds that the construction and proposed use comply with all the requirements and provisions of this chapter or the approval granted to the applicant.

§ 198-139. Severability

If any section or part of this chapter is deemed to be invalid or illegal in any court of competent jurisdiction, then said part is severable from this chapter as a whole and the remaining sections or parts of this chapter shall remain in full force and effect.

§ 198-140. Repealer.

All ordinances or portions thereof inconsistent with this chapter are hereby repealed to the extent of said inconsistency.