

Chapter 94 ZONING

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[HISTORY: Adopted by the Merchantville Borough Council 10-24-1994. This ordinance superseded former Ch. 94, Zoning, adopted 1-10-1977 as Ord. No. 516, as amended. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention — See Ch. 29.

Swimming pools — See Ch. 75.

ARTICLE I Short Title and Purpose

§ 94-1. Short title.

This chapter shall be known and may be cited as the “Zoning Ordinance of the Borough of Merchantville.”

§ 94-2. Purpose.

To promote the appropriate use or development of land in the borough in a manner which will promote the public health, safety, morals and general welfare; to secure safety from fire, flood, panic and other natural and man-made disasters; to provide adequate light, air and open space; to promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods and the community and preservation of the environment; to provide sufficient space in appropriate locations for a variety of residential, recreational and commercial uses and open space; to encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging traffic routes which will result in congestion or blight; to promote a desirable visual environment through creative development techniques and good civic design and arrangements, and to that end to regulate the height, design, appearance, number of stories and size of buildings and other structures, the percentage of the area of the lot that may be occupied, the size of yards and other open space, the density of population and the location and use of buildings, structures and land for commerce, trade, residence or other purposes and the height, size and location of these uses within the limits of the borough, these regulations are hereby established and shall hereafter apply.

ARTICLE II Definitions and Word Usage

§ 94-3. Construction of terms.

Whenever used herein, the present tense shall include the future; the singular number shall include the plural, and the plural the singular. The word “shall” is always mandatory.

§ 94-4. Incorporation of statute definitions by reference.

Whenever a term is used in this chapter which is defined in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., such term is intended to have the meaning set forth in the definition of such term found in said statute, unless a contrary intention is clearly expressed from the context of this chapter.

§ 94-5. Terms defined.

Certain words, phrases and terms of this chapter are defined for the purpose thereof as follows:

ACCESSORY USE OR BUILDING — A use or building customarily incidental to the principal use or building, located on the same lot with such principal use or building.

ADDITION— The construction of a new improvement as part of an existing improvement when such improvement changes or affects the exterior of the improvement. [Added 10-13-2004 by Ord. No. 04-19]

ALTER — [Deleted 10-13-2004 by Ord. No. 04-19]

ALTERATION — Any change in the appearance of a building, structure, site or improvement which is not otherwise covered by the definition of Demolition. [Added 10-13-2004 by Ord. No. 04-19]

BASEMENT — The portion of a building in which the ceiling or underside of beams averages more than four (4) feet above the natural grade where such grade meets the outside walls of the building, and which has a clear floor-to-ceiling height of six (6) feet or more. Such space shall be considered to be a story. (See “cellar.”)

BOROUGH — The Borough of Merchantville, New Jersey. [Added 10-13-2004 by Ord. No. 04-19]

BUILDING — See definition in Municipal Land Use Law (N.J.S.A. 40:55D-3).

BUILDING COVERAGE — The ratio of the area of a horizontal section of a building taken at its greatest outside dimensions on the ground floor, including all attached structures and detached accessory buildings, to the total lot area.

BUILDING FACE SIGN — A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that such sign is parallel to and does not project more than twelve (12) inches from the facade of such building or structure. Lettering, messages and graphics applied to awnings shall be considered a “building face sign,” and such awnings may exceed the twelve-inch projection set forth herein for other “building face signs.”

CELLAR — Any space in which the ceiling or underside of beams averages less than four (4) feet above the natural grade where such grade meets the outside walls of the building. Such space shall not be considered to be a story. (See “basement.”)

CERTIFICATE OF APPROPRIATENESS — A document that states that the Regulated Activity or Demolition that is required to be approved by this Commission pursuant to Article VIII B, Section 94-51.5 has been approved by the Commission. **[Added 10-13-2004 by Ord. No. 04-19]**

CHANGE OF TENANCY — As determined by the Zoning Officer, a change in the occupancy of a building, or portion thereof, which utilizes the same parking requirement as that which is set forth for the preceding legal occupant of the space, in accordance with the standards set forth in § 94-53 of this chapter, and which is essentially similar in function to the prior use.

CHANGE OF USE — A change in the occupancy of a building which does not meet the definition of a change of tenancy.

COMMERCIAL VEHICLE — Any motor vehicle (automobile, truck, van or bus) used for a commercial purpose, in interstate or intrastate commerce, for the transportation of property, goods, wares and merchandise or for the transportation of persons for hire, compensation or profit. The display of commercial, omnibus or contractor registration plates on any motor vehicle shall, for the purposes of this chapter, be presumptive evidence that the vehicle is a “commercial vehicle.”

COMMISSION — The Historic Preservation Commission of the Borough of Merchantville. **[Added 10-13-2004 by Ord. No. 04-19]**

CONDITIONAL USE — See definition in Municipal Land Use Law.

CONVENIENCE STORES — A store, generally less than 5,000 square feet in size, where the primary business is the sale of packaged goods and/or groceries and a wide variety of sundries, including, but not limited to, food, beverages, cigarettes, candy, confectionary items, film and film processing, small appliances, clothing, toys, nonprescription medicines, cards, pain relievers and pharmacy items purchased with or without medical prescriptions, health, hygiene and medical aids and supplies, refrigerated items, cosmetics, paper products, seasonal decorations and similar items. **[Added 10-13-2004 by Ord. No. 04-19]**

DEMOLITION — The razing or destruction, whether entirely or in part, of a building, structure, site or improvement. Demolition includes the removal of a building, structure or improvement from its site. A project that proposes to remove a facade or surface of a building or structure for the sole purpose of immediately replacing such facade or surface with a new facade or surface shall not be considered a Demolition, although such work may be a Regulated Activity pursuant to Article VIII B, Section 94-51.5A(3)(c). **[Added 10-13-2004 by Ord. No. 04-19]**

DWELLING UNIT or DWELLING — One (1) or more rooms used or intended to be used for living purposes by one (1) or more persons living together and maintaining a common household, having separate cooking and sanitary facilities and accessible from the outdoors either directly or through an entrance hall shared with other dwelling units.

- A. **APARTMENT** — A suite of rooms designed for or occupied by one (1) family or household and situated in a building containing three (3) or more such suites of rooms.

- B. SINGLE-FAMILY DWELLING UNIT — A detached building on a lot designed and occupied exclusively as a residence for one (1) family or household.
- C. DETACHED BUILDING or DETACHED DWELLING — A building or dwelling which has yard or open areas on all sides, having no common or party walls with any other building or dwelling.
- D. TWO-FAMILY DWELLING UNIT — A building on a lot designed and occupied exclusively as a residence for two (2) families or households.
 - (1) DUPLEX — A detached building occupying a single lot where the family dwelling units are separated by a horizontal floor unpierced except for access to the outside or to a common basement or cellar.
 - (2) SEMIDETACHED DWELLING — A dwelling which has a common or party wall with one (1) adjacent dwelling and yard or open areas on all other sides. Each of two (2) adjacent “semidetached dwellings” shall have a separate, full complement of utilities and facilities and separate means of ingress and egress.
- E. ATTACHED DWELLING — A one-family dwelling which has common or party walls with two (2) or more adjacent one-family dwellings. Each dwelling in a group of “attached dwellings” shall have a separate, full complement of utilities and facilities and separate means of ingress and egress.
- F. MULTIFAMILY BUILDING — A building containing three (3) or more dwelling units. It includes apartment houses, apartment hotels and grouped houses wherein each household occupies a separate dwelling unit, but all dwelling units may share some facilities, utilities or services, such as entrance halls, electric or water connections, basement areas, heating plant or refuse disposal facilities.

EMERGENCY REPAIRS — Those immediate remedial actions necessary to preserve the continued habitability of a site or improvement and/or the health and safety of its occupants or others where time will not permit the owner to obtain a Certificate of Appropriateness prior to the undertaking. **[Added 10-13-2004 by Ord. No. 04-19]**

FAMILY — A group of individuals living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability, and not necessarily related by blood, marriage, adoption or guardianship, and living together in a more or less stable and permanent relationship, as opposed to one which is short-term or transient.

GARAGE:

- A. COMMUNITY GARAGE — A building or group of buildings for housing private automobiles or house trailers in which no business is carried on, except the renting of storage space for such motor vehicles or adjuncts, permitted as a use accessory to a multiple dwelling.
- B. PRIVATE GARAGE — A building, either attached or detached from a dwelling, or space accessory, including a carport or garage attached to a dwelling, for housing automobiles, trucks, house trailers or any other motorized vehicle requiring registration with the New Jersey Division of Motor Vehicles, in which no business, service or industry connected directly or indirectly with motor vehicles or house trailers is carried on or permitted as an accessory use to a single-family dwelling.
- C. REPAIR GARAGE — A building or any portion thereof for the housing, maintenance or repair of private automobiles, commercial trucks, house trailers or other self-propelled vehicles, conducted as a business for gain.

GROSS FLOOR AREA — The sum of the areas of the several floors of a building, including those portions of basements, mezzanines and intermediate floored tiers and penthouses which have a headroom height of at least seven (7) feet. Floor area shall be measured from the exterior faces of exterior walls or from the center line of walls separating buildings. Covered walkways, open roofed-over areas that are paved, roofed porches and similar spaces which are roofed shall have the floor area multiplied by a factor of fifty hundredths (0.50)

and then included in “gross floor area.” “Gross floor area” shall not include such features as pipe trenches; exterior open terraces, decks or steps; parking lots; chimneys; or roof overhangs.

GROSS VEHICLE WEIGHT RATING (GVWR) — The weight specified by the manufacturer, loaded weight of a single or combination (articulated) vehicle or registered gross weight, whichever is greater. The GVWR found on the vehicle’s identification plate shall be presumptive evidence of the vehicle’s GVWR. In the event that the GVWR set forth on the vehicle’s identification plate is in conflict with the GVWR stated on the vehicle’s New Jersey registration certificate, then and in that event the GVWR on the vehicle identification plate shall be deemed controlling for purposes of this chapter.

HEIGHT OF BUILDING — The vertical distance measured from the average natural grade around the perimeter of the foundation to the highest point of the roof or parapet, exclusive of chimneys and similar fixtures.

HISTORIC DISTRICT — An area of the Borough designated as an Historic District pursuant to Section 94-51.2 or Section 94-51.4 of Article VIII.B. **[Added 10-13-2004 by Ord. No. 04-19]**

HISTORIC SITE — A site within the Borough designated as an Historic Site pursuant to Section 94-51.4 of Article VIII.B. **[Added 10-13-2004 by Ord. No. 04-19]**

HOME OCCUPATION — A business, charitable activity or occupation being conducted wholly or in part from a residence or the residential premises as an accessory use. For purposes of the regulation of “home occupations” under the terms of this chapter, they shall be exempt from site plan review and the following standards shall apply:

- A. No nonresident of the building may be employed on the premises.
- B. No more than five hundred (500) square feet or the equivalent of forty percent (40%) of the first floor area of the building, whichever is smaller, shall be used for such purposes.
- C. The home occupation remains subordinate and incidental to the principal residential use.
- D. No display of products or equipment shall be visible from the street.
- E. The residential character of the neighborhood or building shall not be changed.
- F. The occupation shall be conducted entirely within either the dwelling or accessory building, but not both.
- G. No occupational sound shall be audible outside the building.
- H. Articles shall not be offered for sale from the premises as a normal and customary part of the activity.
- I. No machinery or equipment shall be used which will cause interference with radio and television reception in the neighboring residences.
- J. The use does not reduce the parking or yard requirements of the principal residential use.
- K. There are no signs indicating the presence of the activity.
- L. There are no external indications that the site contains a business activity, such as the outdoor storage of materials or equipment or the use of the premises for the storage of commercial vehicles.
- M. There are no customer visits to the site as a normal and customary part of the activity.
- N. There are no deliveries to or pickups from the site as a normal and customary part of the activity, except as may be provided by ordinary mail and delivery services, such as the United States Postal Service, United Parcel Service and Federal Express.

IMPROVEMENT COVERAGE — That portion of a lot which is covered by buildings and other surfaces which are more impervious than the natural surface, including but not limited to paving, patios, decks, pools and driveways.

LOT — See definition in Municipal Land Use Law (N.J.S.A. 40:55D-5).

LOT AREA — In square feet, determined by the limits of the lot lines bounding the lot, not including any portion used or intended for use as a street or street right-of-way.

LOT, CORNER — A parcel of land located at the junction of, and fronting on, two (2) or more intersecting streets. A “corner lot” shall be considered to have two (2) front yards and two (2) side yards.

LOT FRONTAGE — A lot line abutting and extending along a street line.

LOT, INTERIOR — A lot fronting on one (1) street only.

LOT, THROUGH — An interior lot having frontage on two (2) parallel or closely parallel streets.

LOT, THROUGH CORNER — Any lot with three (3) street fronts.

LOT WIDTH — The mean horizontal width measured parallel to the lot frontage at the required front yard setback line.

NONCONFORMING STRUCTURE, USE OR LOT — See definitions in Municipal Land Use Law (N.J.S.A. 40:55D-5).

PORTABLE SIGN — A sign that is not permanently affixed to a building, structure or the ground. Temporary signs, as described and regulated herein, shall not be considered to be “portable signs.”

PROFESSIONAL OFFICE — The office of a member of a recognized profession maintained for the conduct of that profession, including the offices of physicians, dentists, chiropractors, podiatrists, optometrists, architects, engineers, landscape architects, attorneys, artists, authors, musicians and other similar professional occupations. The issuance of a state or local license for regulation of any gainful occupation is not dispositive of professional standing.

REGULATED ACTIVITY — Activity identified as such in Section 94-51.5(A) of Article VIII B. **[Added 10-13-2004 by Ord. No. 04-19]**

RESIDENTIAL ZONES — All areas of the Borough of Merchantville designated on the Zoning Map of the Borough of Merchantville as residential districts.

SIGN — Any item, device or structure containing a logo, graphics or lettering of any style intended to convey information and/or location so as to be visible from any thoroughfare. **[Added 2-26-01 by Ord. No. 01-02]**

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

SITE PLAN, EXEMPT — Site plan review shall not be required for the following:

- A. Single-family and two-family dwellings.
- B. A change of tenancy, as defined herein.
- C. Building or site alterations which do not involve a change of use, additional parking, additional impervious coverage or additional floor area.
- D. Additions or improvements to an attached dwelling on a fee simple lot, subject to prior approval by any association of owners within the development who have legal authority to review and approve exterior improvements. **[Amended 10-13-2004 by Ord. No. 04-19]**

SITE PLAN, MAJOR — A site plan not defined as either minor or exempt.

SITE PLAN, MINOR — Review as a “minor site plan” shall be required for the following unless the proposal meets the definition of “site plan, exempt”:

- A. A change of use, as defined herein.

- B. A new development, building alteration or building addition which requires no more than four (4) additional parking spaces and which involves a gross floor area of no more than one thousand (1,000) square feet of new construction.
- C. A site improvement which involves a change in traffic flow, designated parking spaces or designated loading spaces and which does not increase the paved surface of the site by more than ten percent (10%) and which does not involve the addition of more than four (4) parking spaces.
- D. Conditional uses, provided that they meet the other qualifying standards set forth herein for a minor site plan. If they exceed any of the qualifying standards for minor site plan review, they shall be reviewed as major site plans. **[Amended 10-13-2004 by Ord. No. 04-19]**

STORY — That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it. A basement shall be considered to be a “story” but a cellar shall not.

STORY, HALF — A space under a sloping roof that has the line of intersection of the roof and wall face not more than three (3) feet above the floor level and in which space the possible floor area with headroom of five (5) feet or less occupies at least forty percent (40%) of the total floor area of the story directly beneath.

STREET LINE — The edge of the existing or future street right-of-way, whichever would result in the widest right-of-way, as shown on the adopted Master Plan or Official Map or as required by this chapter, forming the dividing line between the street and the property line. For the purposes of relating the “street line” to the setback requirements of this chapter, this definition shall control.

YARD — A portion of a lot extending between any building and a lot line or street line. All “yard” dimensions shall be measured parallel to the horizon and at right angles to either a straight street line or lot line or perpendicular to the point of tangency of curved street lines or lot lines.

YARD, FRONT — The area extending across the full width of a lot between the street line and the nearest point of the building to the street line, extending to the side lot lines from such point in lines parallel or concentric to the street line. On lots with multiple lot frontages, such as corner lots, the “front yard” standards shall apply to all lot frontages.

YARD, REAR — The area extending across the full width of a lot between the rear lot line and the nearest point of the building to the rear lot line, extending to the side lot lines from such point in lines parallel or concentric to the street line.

YARD, SIDE — The area extending from the front yard to the rear yard and lying between each side lot line and the nearest point of the building to a side lot line. On corner lots, all yards not meeting the definition of a front yard shall be considered to be “side yards.”

ARTICLE III General Provisions and Exceptions

§ 94-6. General regulations.

No building or structure shall hereafter be erected nor shall any existing building or structure be moved, structurally altered, rebuilt, added to or enlarged nor shall any land be designated or used for any purpose other than those included among the uses listed as permitted uses in each district by this chapter; nor shall any space contiguous to any building be encroached upon or reduced in any manner, except in conformity to the area and yard, projection, minimum size, height, off-street parking, accessory use and building, fence and other such regulations set forth in this chapter for the district in which such building or space is located.

§ 94-7. Area regulation.

No yard or other space provided about any building or structure for the purpose of complying with this chapter shall be considered as a yard or other open space for another building or structure.

§ 94-8. Corner lot vision clearance.

Within a triangular area which extends a distance of twenty (20) feet from the point of intersection of the curblines of two (2) streets, no fence or wall shall be erected and no hedge or shrub shall be maintained more than two and one-half (2 1/2) feet above the mean curb level, except that shade trees trimmed up to a distance of ten (10) feet as measured from the ground shall be permitted hereunder.

§ 94-9. Satellite Dish Antenna. [Added 9-28-1998; Amended 2-26-2001 by Ord. No. 01-03]

- A. Purpose. This section, entitled the Satellite Dish Antenna, is intended to provide regulations, standards and procedures for the use, dimensions and placement of satellite dish antennas within the Borough of Merchantville. The purpose of this provision is to promote the public health, safety, welfare, aesthetics and maintenance of a desirable visual environment as that term is used in N.J.S.A. 40:55D-2i. The right of a private property owner to use a satellite dish antenna is recognized subject to the terms and conditions of this section. The regulations imposed by this section are intended to permit such use in harmony with the intent and purpose of the Borough's Zoning Code and Master Plan.
- B. Use. Satellite dish antenna, including structural supports, shall be permitted as an accessory use provided that the satellite dish antenna conforms to the requirements of this section. A satellite dish antenna is permitted as an accessory use only on a lot that contains a principal structure.
- C. Permits and Approvals.
 - (1) A building permit shall be required for the installation of any satellite dish antenna having a dish diameter greater than twenty-four (24) inches.
 - (2) Submission Procedures. For any satellite dish which requires a building permit pursuant to Section C(1), a property owner shall submit an application and a plan to the Construction Official. The application and plan shall include the following information:
 - (a) The location of the proposed satellite dish antenna;
 - (b) Engineering drawings of the proposed satellite dish antenna demonstrating its method of support and its foundations;
 - (c) The method of installation;
 - (d) The materials to be used;
 - (e) The height and diameter of the satellite dish antenna and related structures;
 - (f) The location of all existing buildings and structures and all accessory buildings or structures on the lot, if any;

- (g) All existing and proposed plantings and/or fencing intended to provide screening;
- (h) The lot and block number(s) of the lot(s) from the Borough Tax Map, and the length and bearings of the lot lines of the property in question;
- (i) Any and all information deemed necessary by the zoning/construction official to meet any other requirements of this Ordinance not listed above.

D. Design Standards. Satellite dish antenna, as accessory uses, shall be permitted as follows:

- (1) Satellite dish antennas having a dish diameter not more than twenty-four (24) inches (“Small Dishes”):
 - (a) May be located in any zoning district;
 - (b) May be roof-mounted, building-mounted or ground-mounted;
 - (c) If roof-mounted or building-mounted, the satellite dish antenna may not project more than three (3) feet above the peak of a roof in the case of a peaked roof or more than three (3) feet above the flat roof line in the case of a flat roof;
 - (d) If roof-mounted on a peaked roof or if building-mounted, the satellite dish antenna shall be mounted on a roof or wall surface which faces a rear or side yard and if roof mounted on a flat roof, the satellite dish antenna shall be mounted on the center of the roof structure;
 - (e) If roof-mounted, building-mounted or ground mounted, the satellite dish antenna shall not be visible from the public right-of-way;
 - (f) If ground-mounted, must be located in a rear or side yard;
 - (g) If ground-mounted, may be placed on a pole; and
 - (h) If ground-mounted, must be set back from rear and side property lines at least: (i) six (6) feet, or (ii) the height from the ground to the highest point of the satellite dish antenna, whichever distance is greater.
- (2) Satellite dish antennas having a dish diameter greater than twenty-four (24) inches but not more than sixty (60) inches (“Large Dishes”):
 - (a) May be located in any zoning district;
 - (b) Must be ground-mounted only and located in a rear or side yard;
 - (c) May not be visible from the public right-of-way;
 - (d) May not be located in any required buffer area;
 - (e) Must be set back from rear and side property lines at least (i) six (6) feet or (ii) the height from the ground to the highest point of the satellite dish antenna whichever distance is greater;
 - (f) May not be pole-mounted; and
 - (g) Must be erected so that the bottom of the satellite dish antenna is no more than thirteen (13) inches above the ground.
- (3) For purposes of applying sections D(1)(f), D(2)(d) and D(2)(f) “ground” shall mean the average natural grade in the yard in which the satellite dish is located, excluding any berms, hills, mounds or like conditions that are located in such area.
- (4) Prohibited Diameter. Any satellite dish antenna having a dish diameter greater than sixty (60) inches is prohibited.
- (5) Exception to Design Standards. The design standards shall not apply to any public law enforcement apparatus, public safety apparatus or installations mounted within a fully enclosed principal building.

- (6) Screening. To the extent feasible given the locational requirements of receiving antennas, any ground-mounted satellite dish antenna shall be screened so that it is not visible from an adjacent residential property at ground level. Screening may be by use of opaque fencing, or shrubbery, or both.
- (7) Foundations. Any ground-mounted satellite dish antenna shall be erected on a secure ground-mounted foundation.
- (8) Construction. All satellite dish antennas shall be constructed to withstand wind velocities of at least one hundred (100) m.p.h. and are subject to any additional construction requirements imposed under the New Jersey Uniform Construction Code.
- (9) Reception. Satellite dish antenna shall be placed in such a manner so that they do not interfere with the reception of neighboring properties.
- (10) Any connection, whether electrical or otherwise, from a satellite dish antenna to the principal building or structure shall be by underground cable.
- (11) Any satellite dish antenna shall be used only by the occupants or residents of the principal building or structure on the subject premises. No connection shall be permitted, whether electrical or otherwise, to adjacent properties.

E. Number.

- (1) Residential Districts. There may be one (1) Small Dish for each dwelling unit on a lot. In addition to the permitted Small Dishes, there may be no more than one (1) Large Dish for each building on a residential lot.
- (2) Business Districts. There may be one (1) Small Dish for each business use on a lot. In addition to the permitted Small Dishes, there may be no more than one (1) Large Dish for each building on a lot.

F. Fees. The fee for an application to erect a satellite dish antenna shall be as set forth in the Borough Fee Schedule, adopted by resolution of the Borough Council on file in the Office of the Borough Clerk.

§ 94-10. Fire limits.

The fire zones are hereby established to include all sections of the borough within the business districts and shall comply with all the regulations as set forth in Chapter 29 of the Code of the Borough of Merchantville.

§ 94-11. Height exceptions.

- A. The height limitations of this chapter do not apply to any roof-mounted flagpole, mast, monument, standpipe, amateur radio tower, belfry, elevator bulkhead, chimney flue, church spire, clock tower, scenery loft, stage tower, television antenna, water tank or similar appurtenances usually carried above roof level; provided, however, that in no event shall such appurtenance exceed sixty (60) feet in height from curb level, and in no event shall the aggregate horizontal base area of such appurtenance(s) exceed twenty-five percent (25%) of the roof area.
- B. No ground-mounted flagpole, mast, monument, standpipe, amateur radio tower, television antenna or similar appurtenance shall exceed the height limitations imposed for the particular district in which said appurtenance is to be constructed or erected.
- C. **[Repealed 2-26-2000 by Ord. No. 01-03]**

§ 94-12. Noxious or offensive uses.

No building, structure, lot or parcel of land shall be used for any trade, business or purpose which is or may be reasonably expected to be noxious or offensive by reason of causing or emitting dust, gas, garbage, odor, refuse matter, smoke, vapor or noise, including the housing of internal-combustion engines or machinery, air-conditioning units, exhaust fans and heat exchangers, unless the objectionable noise, gases and vibrations are eliminated.

§ 94-13. Fences. [Amended 5-12-2003 by Ord. No. 03-06; 5-8-2006 by Ord. No. 06-04]

- A. GENERAL. Fences or walls, except a wall of a building, shall only be erected in the rear and side yard, shall not exceed four (4) feet in height and shall not project beyond the front building line. Barbed wire or similar material shall not be used in the erection or maintenance of a fence. An “ornamental iron fence,” as hereinafter defined, shall be permitted in the rear and side yard of a property. An ornamental iron fence shall also be permitted in the front yard (as defined, a corner lot will have two front yards) of a building, being it residential or business, in accordance with the terms and conditions set forth immediately hereafter.
- B. ORNAMENTAL IRON FENCE. An ornamental iron fence is a fence comprised of wrought iron or material such as aluminum, to resemble wrought iron, having a multi-finished surface, and being black, having pickets, posts and gates no higher than 36 inches, at any point, and not less than 30 inches in height, and at least 75% open as to the fence and any shrubbery, tree, ornamentation, or other features that will hinder visibility through the fence. Plastic, vinyl, wood, or wire, are not acceptable materials for an ornamental iron fence. An ornamental iron fence shall not be located in any public right of way, and may be located in a residential or business district, and may be installed in the front yard of a property, as defined in this ordinance, providing that it complies with the requirements of this ordinance, including but not limited to the requirements of Section 94-8. An ornamental iron fence located on a corner lot, or within fifteen (15) feet of a driveway, intersecting a public walkway, street, or right of way, shall be compliant with the above requirements. Attached to this section is a sample of three ornamental iron fences, which are acceptable in accordance with the terms of this section.¹ Using reasonable judgment the Zoning Officer of the Borough of Merchantville may approve an ornamental iron fence, if it is similar to the samples referred to above.
- C. POOLS. Swimming pools and wading pools, as defined and otherwise regulated Chapter 75 of the Code of the Borough of Merchantville, shall be fully enclosed with fencing a minimum of five (5) feet and a maximum of six (6) feet in height. Fencing erected to enclose a swimming pool or wading pool shall only be erected in the rear and side yard and shall not project beyond the front building line. Swimming pools or wading pools shall conform in all other respects with the provisions set forth for each residential zoning district as specifically found in Section 94-22A(4), Section 94-28A(4), and Section 94-31A(4).

§ 94-14. Outdoor displays.

Outdoor displays of items to be sold on the premises shall be permitted only if shown on an approved site plan.

§ 94-15. Structures prohibited as dwellings.

No barn, building or structure of a temporary nature or garage, house trailer, camper, outbuilding, shack or tent shall be used, either temporarily or permanently, for living or sleeping purposes in any district.

§ 94-15.1. Storage; Prohibited Uses. [Added 2-9-2004 by Ord. No. 04-01; Amended 5-10-2004 by Ord. No. 04-08]

- A. The parking, storage and/or use of commercial-type truck bodies, intermodal containers or trailers, which shall include any truck body commonly used for the haulage of goods and materials, whether or not such truck body, intermodal container or trailer remains on wheels or is affixed to a foundation, is prohibited in the Borough of Merchantville, unless said truck body, intermodal container or trailer is installed on a permanent

¹ Editor’s Note: Samples may be found in the office of the Zoning Officer.

foundation upon the issuance of a valid building permit and zoning permit in accordance with the provisions of the Uniform Construction Code and the Merchantville Borough Land Use Code. This prohibition shall not apply to the loading or unloading of said truck bodies, intermodal containers or trailers on industrial or commercial sites when said units are properly licensed under the motor vehicle laws of its state of origin.

- B. Any truck body, intermodal container or trailer currently existing upon private property upon adoption of this section which otherwise violates the provisions of this section shall not be considered a violation of the provisions of this section until four months following the effective date of this section, after which time any such use shall be considered a violation. It is the intention of this section to give all property owners sufficient time to remove any truck body, intermodal container or trailer before being in violation of the terms of this section.

§ 94-16. Projections.

- A. Windowsills, belt courses and other ornamental features shall not project more than six (6) inches into the required front, side or rear yard.
- B. Cornices, eaves, gutters or chimneys shall not project more than two (2) feet into the required front, side or rear yard.
- C. Ground floor entrance steps and turf terraces, when open to the sky, may project into the front, side or rear yard. Handicapped ramps, when open to the sky and meeting the standards of the New Jersey Uniform Construction Code, shall be permitted to project into front, side or rear yards but only to the extent necessary to meet the functional requirements of such a ramp, and further that such a ramp shall not be located within three (3) feet of any front, side or rear lot line.
- D. An open or enclosed outside stairway or fire escape leading to a floor above the ground shall not project more than four (4) feet into and only into the required rear yard.
- E. A patio or deck shall be included as part of the building for purposes of calculating front, rear and side yard clearances.

ARTICLE IV Establishment of Use Districts; Zoning Map

§ 94-17. Use districts designated.

For the purpose of this chapter, the Borough of Merchantville is hereby divided into the following six (6) use districts:

- R-1 Residential Single-Family District
- R-2 Residential Single-Family District
- R-3 Residential Single-Family District
- R-4 Residential Multifamily District
- B-1 Central Business District
- B-2 Neighborhood Business District

§ 94-18. Zoning Map.

The boundaries of said use districts shall be as shown upon the map attached to and made a part of this chapter entitled the “Zoning Map, Borough of Merchantville” on file in the office of the Borough Clerk. The map and all notations, references and other information shown thereon shall be as much a part of this chapter as if the matter and information shown by said map were all fully described herein.¹

§ 94-19. Schedule of District Regulations.

Area, yard and other district regulations shall be as shown upon the table attached to and made a part of this chapter entitled the “Schedule of District Regulations, Borough of Merchantville” which shall be read along with the text of this chapter, and such information shown thereon shall be as much a part of this chapter as if it were all fully described herein.²

ARTICLE V R-1 Residential Single-Family District

§ 94-20. Permitted principal uses.

Permitted principal uses shall be as follows:

- A. Single-family dwellings.
- B. Single-family dwellings with home occupations.
- C. All other uses required by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

§ 94-21. Area and yard requirements.

- A. See attached Schedule of District Regulations.³
- B. The minimum front yard setback shall be the same as the average front yards located within two hundred (200) feet on either side of the side lot lines of the applicant’s premises; provided, however, that no front yard shall be less than thirty (30) feet in depth or shall be required to have a depth greater than forty-five (45) feet.
- C. The minimum side yard may be reduced from nine (9) feet to the greater of ten percent (10%) of lot width or six (6) feet.
- D. The minimum rear yard may be reduced from twenty-five (25) feet to the greater of twenty percent (20%) of lot depth or twenty (20) feet, but in any event, the minimum rear yard shall be two (2) feet for each three (3) feet in building height.

¹ Editor’s Note: The Zoning Map is located at the end of this chapter.

² Editor’s Note: The Schedule of District Regulations is located at the end of this chapter.

³ Editor’s Note: Said Schedule is located at the end of this chapter.

§ 94-22. Permitted accessory uses and buildings.

A. Permitted accessory uses shall be as follows:

- (1) A single dog house, enclosed kennel or pen designed to contain and containing no more than two (2) dogs, provided that same shall not be placed nearer to a side or rear property line than six (6) feet nor exceed five (5) feet in height.
- (2) A detached private garage, provided that same shall not be constructed to house more than two (2) private automobiles or have an overall area in excess of five hundred (500) square feet. Such a garage shall not be closer to the principal building than ten (10) feet and shall be set back from the side property lines a minimum of six (6) feet and from the rear property line a minimum of three (3) feet. The front yard setback for a detached private garage shall be one and one-half (1 1/2) times the minimum front yard setback requirement for the principal building.
- (3) A stationary outdoor fireplace in a rear yard, provided that same shall not be placed nearer to a side or rear property line than six (6) feet nor exceed five (5) feet in height. In the case of a corner lot, a stationary outdoor fireplace meeting all other requirements herein may be placed in the side yard.
- (4) A private swimming or wading pool; provided, however, that the inside wall of same shall not be erected, installed or maintained nearer than fifteen (15) feet to any side or rear property line or structure, and that the deck, equipment and any other structures associated with the pool shall be no nearer than six (6) feet to any side or rear property line. Such a swimming or wading pool shall only be located in the rear yard, or in the case of a corner lot, it shall be no closer to any street line than two (2) times the required front yard setback for the principal building. Such a swimming or wading pool shall not occupy more than twenty-five percent (25%) of the rear yard area, or in the case of corner lots, it shall not occupy more than five percent (5%) of the total lot area.
- (5) One accessory building in addition to a garage; provided, however, that such accessory building shall be subject to the same setback requirements as a detached private garage and shall contain no more than 100 square feet. **[Amended 9-23-1996]**

B. The total area occupied by all accessory buildings and structures, including swimming and wading pools, shall not occupy more than seven percent (7%) of the total lot area.

§ 94-23. Conditional uses.

Permitted conditional uses shall be as follows:

A. Professional offices in a single-family dwelling, provided that the following conditions are met:

- (1) All lot and other bulk requirements of the R-1 District are followed.
- (2) The office use of the building shall occupy no more than thirty-five percent (35%) of the floor area of the main building and shall be conducted within the main building only.
- (3) The owner of the property shall be the resident of the property although it shall not be necessary for the resident to be the professional practitioner.
- (4) There shall be no exterior display or exterior sign other than a professional nameplate affixed to the building not exceeding one and one-half (1 1/2) square feet and a freestanding sign noting the profession and practitioner located not closer than three (3) feet to the street line and not exceeding three (3) square feet in size. The latter sign may be illuminated but nonflashing.
- (5) There shall be no activity producing any offensive noise, vibration, smoke, dust, odors, heat, glare, electrical or radio interference.

- (6) No more than four (4) resident or nonresident full-time persons, or the equivalent thereof, shall be employed in the operation of the professional office. This limitation shall apply to all professionals and supporting staff.
 - (7) One (1) off-street parking space shall be provided for each two hundred (200) square feet of floor area devoted to the professional use, and two (2) additional parking spaces shall be provided for the residential portion of the dwelling.
 - (8) No off-street parking shall be located in the area lying between the principal building and the street but shall be located in the side or rear yard only. In reviewing the design and location of off-street parking areas, careful consideration shall be given to any potential adverse effects on adjoining or nearby residential properties related to stormwater runoff, headlight glare or other problems normally associated with parking areas. Adequate buffers or screening shall be provided between parking areas and adjoining single-family residential properties. Off-street parking areas, whether paved or finished with gravel, shall be counted as a part of total improvement coverage, and they shall occupy no more than fifty percent (50%) of the rear yard area.
 - (9) The application for the conditional use shall follow all the requirements of this chapter for site plan review in order to assure that such use will not adversely affect neighboring properties or the general welfare.
 - (10) A separate conditional use approval shall be obtained for each new professional office user of a property.
- B. All conditional uses as required by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., subject to any and all conditions set forth therein.

ARTICLE VA R-2 Residential Single-Family District

§ 94-24. Permitted principal uses.

Permitted principal uses shall be as follows:

- A. Single-family dwellings.
- B. Single-family dwellings with home occupations.
- C. All other uses required by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

§ 94-25. Applicability of other provisions.

All other provisions applicable to the R-1 District shall apply to the R-2 District, except that there shall be no conditional uses permitted in the R-2 District.

ARTICLE VI R-3 Residential Single-Family District

§ 94-26. Permitted principal uses.

Permitted principal uses shall be as follows:

- A. Single-family dwellings.
- B. Single-family dwellings with home occupations.
- C. All other uses required by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

§ 94-27. Area and yard requirements.

- A. See attached Schedule of District Regulations.¹
- B. The minimum front yard setback shall be the same as the average front yards located within two hundred (200) feet on either side of the side lot lines of the applicant's premises; provided, however, that no front yard shall be less than twenty (20) feet in depth or shall be required to have a depth greater than thirty-five (35) feet.
- C. The minimum side yard may be reduced from eight (8) feet to the greater of twelve percent (12%) of lot width or six (6) feet.
- D. The minimum rear yard may be reduced from twenty-five (25) feet to the greater of twenty percent (20%) of lot depth or twenty (20) feet, but in any event, the minimum rear yard shall be two (2) feet for each three (3) feet in building height.

§ 94-28. Permitted accessory uses and buildings.

- A. Permitted accessory uses shall be as follows:

- (1) A single dog house, enclosed kennel or pen designed to contain and containing no more than two (2) dogs, provided that same shall not be placed nearer to a side or rear property line than six (6) feet nor exceed five (5) feet in height.
- (2) A detached private garage, provided that same shall not be constructed to house more than two (2) private automobiles or have an overall area in excess of five hundred (500) square feet. Such a garage shall not be closer to the principal building than ten (10) feet and shall be set back from the side property lines a minimum of six (6) feet and from the rear property line a minimum of three (3) feet. The front yard setback for a detached private garage shall be one and one-half (1 1/2) times the minimum front yard setback requirement for the principal building.
- (3) A stationary outdoor fireplace in a rear yard, provided that same shall not be placed nearer to a side or rear property line than six (6) feet nor exceed five (5) feet in height. In the case of a corner lot, a stationary outdoor fireplace meeting all other requirements herein may be placed in the side yard.
- (4) A private swimming or wading pool; provided, however, that the inside wall of same shall not be erected, installed or maintained nearer than fifteen (15) feet to any side or rear property line or structure and that the deck, equipment and any other structures associated with the pool shall be no nearer than six (6) feet to any side or rear property line. Such a swimming or wading pool shall only be located in the rear yard, or in the case of a corner lot, it shall be no closer to any street line than two (2) times the required front yard setback for the principal building. Such a swimming or wading pool shall not occupy more than twenty-five percent (25%) of the rear yard area, or in the case of corner lots, it shall not occupy more than five percent (5%) of the total lot area.
- (5) One accessory building in addition to a garage; provided, however, that such accessory building shall be subject to the same setback requirements as a detached private garage and shall contain no more than 100 square feet. **[Amended 9-23-1996]**

- B. The total area occupied by all accessory buildings and structures, including swimming and wading pools, shall not occupy more than ten percent (10%) of the total lot area.

¹ Editor's Note: Said Schedule is located at the end of this chapter.

ARTICLE VII R-4 Residential Multifamily District

§ 94-29. Permitted principal uses.

Permitted principal uses shall be as follows:

- A. Single-family dwellings.
- B. Single-family dwellings with home occupations.
- C. All other uses required by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

§ 94-30. Area and yard requirements.

- A. See attached Schedule of District Regulations for the requirements for detached single-family dwellings.²
- B. The minimum front yard setback shall be the same as the average front yards located within two hundred (200) feet on either side of the side lot lines of the applicant's premises; provided, however, that no front yard shall be less than twenty (20) feet in depth or shall be required to have a depth greater than thirty-five (35) feet.
- C. The minimum side yard may be reduced from eight (8) feet to the greater of twelve percent (12%) of lot width or six (6) feet.
- D. The minimum rear yard may be reduced from twenty-five (25) feet to the greater of twenty percent (20%) of lot depth or twenty (20) feet, but in any event the minimum rear yard shall be two (2) feet for each three (3) feet in building height.

§ 94-31. Permitted accessory uses and buildings.

A. Permitted accessory uses shall be as follows:

- (1) A single dog house, enclosed kennel or pen designed to contain and containing no more than two (2) dogs, provided that same shall not be placed nearer to a side or rear property line than six (6) feet nor exceed five (5) feet in height.
- (2) A detached private garage, provided that same shall not be constructed to house more than two (2) private automobiles or have an overall area in excess of five hundred (500) square feet. Such a garage shall not be closer to the principal building than ten (10) feet and shall be set back from the side property lines a minimum of six (6) feet and from the rear property line a minimum of three (3) feet. The front yard setback for a detached private garage shall be one and one-half (1 1/2) times the minimum front yard setback requirement for the principal building.
- (3) A stationary outdoor fireplace in a rear yard, provided that same shall not be placed nearer to a side or rear property line than six (6) feet nor exceed five (5) feet in height. In the case of a corner lot, a stationary outdoor fireplace meeting all other requirements herein may be placed in the side yard.
- (4) A private swimming or wading pool; provided, however, that the inside wall of same shall not be erected, installed or maintained nearer than fifteen (15) feet to any side or rear property line or structure, and that the deck, equipment and any other structures associated with the pool shall be no nearer than six (6) feet to any side or rear property line. Such a swimming or wading pool shall only be located in the rear yard, or in the case of a corner lot, it shall be no closer to any street line than two (2) times the required front yard setback for the principal building. Such a swimming or wading pool shall not occupy more than twenty-five percent (25%) of the rear yard area, or in the case of corner lots, it shall not occupy more than five percent (5%) of the total lot area.

² Editor's Note: Said Schedule is located at the end of this chapter.

(5) One accessory building in addition to a garage; provided, however, that such accessory building shall be subject to the same setback requirements as a detached private garage and shall contain no more than 100 square feet. **[Amended 9-23-1996]**

B. The total area occupied by all accessory buildings and structures, including swimming and wading pools, shall not occupy more than ten percent (10%) of the total lot area.

§ 94-32. Conditional uses.

Conditional uses shall be as follows:

A. Two-family dwellings subject to the lot area, yard and other bulk requirements for single-family dwellings in this district. Where two (2) semidetached dwellings are to be placed on adjoining lots, each lot shall be a minimum of one-half (1/2) the area and lot width requirements which are set forth for single-family detached dwellings in the Schedule of District Regulations.³ For semidetached dwellings, the minimum requirement for the single side yard shall be eight (8) feet.

B. Multifamily buildings, provided that the following conditions are met:

- (1) Minimum lot area of forty thousand (40,000) square feet.
- (2) Minimum lot width of one hundred fifty (150) feet.
- (3) Maximum building coverage of twenty-five percent (25%).
- (4) Maximum total improvement coverage of fifty percent (50%).
- (5) Maximum building height of two (2) stories and thirty (30) feet.
- (6) Maximum dwelling unit density of fourteen (14) units per acre.
- (7) Minimum setback from all property lines of twenty-five (25) feet.

C. Attached dwellings, provided that the following conditions are met:

- (1) Minimum lot area of two thousand (2,000) square feet.
- (2) Minimum lot width of twenty (20) feet.
- (3) Maximum building coverage of forty percent (40%).
- (4) Maximum total improvement coverage of sixty percent (60%).
- (5) Maximum building height of two (2) stories and thirty (30) feet.
- (6) Maximum dwelling unit density of eight (8) units per acre.
- (7) Minimum front yard setback of twenty-five (25) feet.
- (8) Minimum rear yard setback of twenty-five (25) feet.
- (9) Minimum side yard setback of ten (10) feet for each end unit.

D. Senior citizen multifamily buildings subject to the requirements for other multifamily buildings.

E. All conditional uses as required by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., subject to any and all conditions set forth therein.

ARTICLE VIII B-1 Central Business District

§ 94-33. Permitted principal uses.

Permitted principal uses shall be as follows:

³ Editor's Note: Said Schedule is located at the end of this chapter.

- A. Retail sales of goods and services.
- B. Travel agencies, real estate offices and opticians.
- C. Offices and professional offices other than those listed in § 94-33B above but not on the street level floor along the Park Avenue and Centre Street frontages.
- D. Restaurants.
- E. Apartments over other permitted uses but not on the street level floor.
- F. Banks and other similar financial institutions.
- G. All other uses required by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.
- H. Senior citizen multifamily buildings. **[Added 2-12-1996]**

§ 94-33.1. Permitted principal uses — Maple Avenue Redevelopment Zone. [Added 4-28-2003 by Ord. No. 03-04]

Permitted principal uses shall be as follows:

- A. Retail sales of goods and services, other than convenience stores.
- B. See Section 94-33(B).
- C. See Section 94-33(C).
- D. See Section 94-33(D).
- E. See Section 94-33(E).
- F. See Section 94-33(F).
- G. All other uses required by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., excluding Senior Citizen multi-family buildings.

§ 94-34. Area and yard requirements.

- A. See attached Schedule of District Regulations.⁷
- B. There shall be no front yard required. However, in no case shall a building be erected or constructed within twelve (12) feet of the curbline of any street as now established and existing at the date of the passage of this chapter, and eighteen (18) feet of the curbline on either the north or south side of Maple Avenue as now established and existing as of the effective date of this chapter, and including the east and west sides of South Centre Street from Maple Avenue South to the borough line.
- C. For properties situated on the east side of Centre Street between Maple Avenue and Park Avenue, the minimum rear yard requirement shall be three (3) feet.
- D. Where a building extends through from street to street, it may occupy the entire distance from property line to property line of each street on which the lot abuts, and provided that other than the front yard restriction shall be observed on both streets.

§ 94-35. Accessory uses and buildings.

Permitted accessory uses and buildings include parking and loading areas, enclosed trash and recycling dumpsters and bins and accessory buildings for storage. Outdoor storage shall not be permitted. Accessory buildings shall be limited in size based on the size of the principal building, and they shall not exceed twenty-five percent (25%) of the building coverage of the principal building.

⁷ Editor's Note: Said schedule is located at the end of this chapter.

§ 94-36. Provisions of Historic District shall apply. [Amended 10-13-2004 by Ord. No. 04-19]

The provisions set forth for the Historic District in Article VIII B of this chapter shall apply to the B-1 District in its entirety.

ARTICLE VIII A B-2 Neighborhood Business District

§ 94-37. Permitted principal uses.

Permitted principal uses shall be as follows:

- A. Retail sales of goods and services.
- B. Travel agencies, real estate offices and opticians.
- C. Offices and professional offices.
- D. Restaurants.
- E. Apartments over other permitted uses but not on the street level floor.
- F. Multifamily buildings, subject to the requirements as set forth in the R-4 District.
- G. Banks and other similar financial institutions.
- H. All other uses required by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

§ 94-38. Area and yard requirements.

- A. See attached Schedule of District Regulations.⁸
- B. There shall be no front yard required. However, in no case shall a building be erected or constructed within twelve (12) feet of the curblin e of any street as now established and existing at the date of the passage of this chapter, and eighteen (18) feet of the curblin e on either the north or south side of Maple Avenue as now established and existing as of the effective date of this chapter, and including the east and west sides of South Centre Street from Maple Avenue South to the borough line.

§ 94-39. Accessory uses and buildings.

Permitted accessory uses and buildings include parking and loading areas, enclosed trash and recycling dumpsters and bins and accessory buildings for storage. Outdoor storage shall not be permitted. Accessory buildings shall be limited in size based on the size of the principal building, and they shall not exceed twenty-five percent (25%) of the building coverage of the principal building.

§ 94-40. Historic District review. [Amended 10-13-2004 by Ord. No. 04-19]

The provisions set forth for the Historic District in Article VIII B of this chapter shall apply to the B-2 District in its entirety.

§§ 94-41 through 94-51. (Reserved)

**ARTICLE VIII B Historic Preservation Commission.¹
[Added 10-13-2004 by Ord. No. 04-19]**

⁸ Editor's Note: Said schedule is located at the end of this chapter.

¹ Editor's Note: Former Article VIII B, Design District, was deleted 10-13-2004 by Ord. No. 04-19.

§ 94-51.1. Purpose.

It is the intent and purpose of this article:

- A. To safeguard the heritage of the Borough by preserving that part of the Borough which reflects elements of its cultural, social, economic and architectural history;
- B. To preserve the integrity of design of the buildings and streetscapes within the Historic District, and the preservation of Historic Sites;
- C. To maintain and improve property values;
- D. To preserve and promote the Historic District as an essential element of municipal character and identity and as an important factor in the economy of the Borough;
- E. To foster civic beauty;
- F. To promote the use of the Historic District for the education, pleasure and welfare of the citizens of the Borough and its visitors; and
- G. To further assure that construction, alterations, repairs and replacements such as lighting, fencing, walkways, signs, color and landscaping are compatible with the Borough's historic, cultural, aesthetic and architectural heritage.

§ 94-51.2. Designation of Historic District.

The Historic District as designated by this article shall be the B-1 Central Business District and the B-2 Neighborhood Business District, as more particularly described and defined in Articles VIII and VIIIA, respectively, of the Zoning Ordinance and such other areas that are subsequently determined to be Historic Districts pursuant to Section 94-51.4

§ 94-51.3. Establishment.

- A. The Historic Preservation Commission ("Commission") of the Borough is hereby established pursuant to N.J.S.A. 40:55D-107 et seq. The Commission shall consist of five (5) regular members and two (2) alternate members appointed by the Mayor. At least two (2) of the regular members shall be of Classes A and B. The regular members who are not designated as Class A or B shall be designated as Class C. The two (2) alternates must meet the qualifications of Class C and shall be designated "Alternate No. 1" and "Alternate No. 2." The classes are defined as:
 - (1) **Class A:** a person who is knowledgeable in building design and construction or architectural history and who may reside outside the Borough.
 - (2) **Class B:** a person who is knowledgeable of or who has a demonstrated interest in local history and who may reside outside the Borough.
 - (3) **Class C:** any citizen of the Borough who shall hold no other municipal office, municipal position or municipal employment except for membership on the Planning Board.
- B. Terms of regular members.
 - (1) The initial terms of the appointment of the regular members of the Commission shall be as follows:
 - (a) One (1) member shall be appointed for a term of two (2) years.
 - (b) Two (2) members shall be appointed for terms of three (3) years.
 - (c) Two (2) members shall be appointed for terms of four (4) years.
 - (2) All subsequent appointments shall be for terms of four (4) years or until appointment and qualification of a successor. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term only.

C. Terms of alternate members.

- (1) The initial terms of the appointment of the alternate members of the Commission shall be as follows:
 - (a) Alternate No. 1 shall be appointed for a term of one (1) year.
 - (b) Alternate No. 2 shall be appointed for a term of two (2) years.
- (2) All subsequent appointments shall be for terms of two (2) years or until appointment and qualification of a successor. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term only.

D. Notwithstanding any other provision, the term of any member who is also a member of the Planning Board shall be coterminous with his membership on the Planning Board.

E. Rules and Organization of the Commission.

- (1) The Commission shall elect from its membership a Chairperson, a Vice Chairperson and a Secretary.
- (2) The Commission shall establish a regular schedule of meetings at least once a month or as often as required to meet the needs of its business, to handle emergencies or to meet time constraints imposed by law.
- (3) A quorum for the transaction of business shall be three (3) members.
- (4) The Commission's Secretary shall keep minutes and records of all meetings and proceedings, including voting records, attendance, resolutions, findings, determinations, decisions and applications for Certificates of Appropriateness. A verbatim record of Commission meetings and proceedings shall be kept and made available in accordance with provisions of the Municipal Land Use Law.
- (5) All Commission records and minutes shall be made public records, and all Commission meetings shall comply with the Open Public Meetings Act (N.J.S.A. 10:4-7 et seq.).
- (6) The Commission shall adopt written bylaws and procedures for the transaction of its business and for the consideration of applications for Certificates of Appropriateness.
- (7) No member shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest.
- (8) A member may be removed by the governing body for cause but only after a public hearing if he or she requests one.
- (9) Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

F. Expenses and costs; employment of experts and staff. The governing body shall make provision in its budget and shall appropriate funds for the expenses of the Commission. The Commission may employ, contract for and fix the compensation of experts and other staff and services as it shall deem necessary. The Commission shall appoint and receive its legal counsel from an attorney licensed to practice law in this State. Expenditures pursuant to this Section shall not exceed, exclusive of gifts and/or grants, the amount appropriated by the governing body.

G. Powers and duties. It shall be the responsibility of the Commission to:

- (1) Prepare a survey of Historic Sites of the Borough pursuant to criteria identified in the survey report.
- (2) Make recommendations to the Planning Board and the governing body on the preparation and periodic updating of the historic preservation plan element of the Borough's Master Plan, including but not limited to the addition or deletion of Historic Sites and Historic Districts identified in the Borough's Master Plan.

- (3) Make recommendations to the Planning Board and governing body on the historic preservation implications of any plan element of the Borough's Master Plan which has been or may be adopted.
- (4) Advise the Planning Board on the inclusion of Historic Sites in the recommended capital improvement program.
- (5) Recommend to the governing body sites and districts to be designated through amendment of this Article VIII B. The criteria and procedures for designation are set forth in Section 94-51.4 of this Article VIII B.
- (6) Advise the Planning Board on development and zoning applications affecting Historic Districts and Historic Sites, in accordance with the procedures established in Section 94-51.6 of this Article VIII B.
- (7) Review all applications for a Certificate of Appropriateness in accordance with the procedures established in Section 94-51.5 of this Article VIII B.
- (8) Provide advisory, educational and informational services to promote historic preservation in the Borough.

§ 94-51.4. Designation of Historic Districts and Historic Sites.

- A. Criteria for designation. The Commission shall consider for nomination districts and sites that have integrity of location, design, setting, materials, workmanship and association and that meet one (1) or more of the following criteria:
 - (1) Character, interest or value as part of the development, heritage or cultural characteristics of the Borough, state or nation.
 - (2) Identification with a person or persons who significantly enriched the Borough, state or nation.
 - (3) Site of an historic event which had a significant effect on the development of the Borough, state or nation.
 - (4) Embodiment of distinguishing characteristics of a type, period or method of construction, architecture or engineering.
 - (5) Identification with the work of a builder, designer, artist, architect or landscape architect whose work has influenced the development of the Borough, state or nation.
 - (6) Embodiment of elements of design, detail, material or craftsmanship that render a site architecturally significant or structurally innovative.
 - (7) Unique location or singular physical characteristics that make a district or site an established or familiar visual feature.
 - (8) Likely to yield information important in prehistory or history.
- B. Procedures for designation. Based on the Commission's review of a potential district or site or upon the recommendations of other Borough bodies or of interested parties, the Commission shall consider nomination of a district or a site according to the procedures outlined below:
 - (1) The Commission or interested party shall prepare a nomination report for each proposed district or site. For Historic District designations, the report shall include a building-by building inventory of all properties within the district; black and white photographs of representative properties within the district; a property map of the district showing boundaries; and a physical description and statement of significance for the district. For Historic Site designations, the report shall include one (1) or more black-and-white photographs; the tax lot and block number of the property as designated on the Official Borough Tax Map; and a physical description and statement of significance for the site.
 - (2) The Commission shall refer its nomination report to the Planning Board for review and consideration as an amendment to the Master Plan of the Borough.

- (3) The Planning Board may schedule a public hearing on the proposed designation of a district, or site, in accordance with the procedures set forth for adoption or amendment of the Master Plan as set forth in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. At least ten (10) days prior to the hearing, the Commission shall, by personal service or certified mail:
 - (a) Notify each owner of a proposed Historic Site or of property within a proposed Historic District that his or her property is being considered for historic designation and the reasons therefor.
 - (b) Advise each owner of the significance and consequences of such designation and of his or her rights to contest such designation.
 - (c) Notify each owner of the date, time and place of the hearing.
- (4) Public notice of the hearing shall be given at least ten (10) days prior to the hearing by publication in the official newspaper of the Borough. A copy of the nomination report shall also be made available for public inspection at least ten (10) days prior to the hearing.
- (5) Upon Planning Board review and adoption of the Historic District or Historic Site designation in the Master Plan, the Commission or the Planning Board shall forward the adopted Master Plan to the governing body. The governing body may disapprove or change or take no action on the adoption of an ordinance to implement the Historic District or Historic Site aspects of the Master Plan. Governing body action on Historic District or Historic Site designations shall be otherwise subject to those procedures and statutes which apply to designation and regulation of Historic Districts and Historic Sites, including but not limited to N.J.S.A. 40:55D-65.1 and those that apply to a change of a zoning designation and the adoption, revision or amendment of any development regulation.
- (6) Notice of designation shall be made public by publication in the official newspaper of the Borough and distributed to all municipal agencies reviewing development applications and permits. A certificate or letter of designation shall be sent to each owner affected by the designation.
- (7) A protest of designation status signed by twenty percent (20%) or more of the property owners within a designated Historic District or by the owner of the property on which there is a designated Historic Site may be filed with the Borough Clerk. Such designation shall not become effective following the filing of such a protest except by the favorable vote of two-thirds (2/3) of all members of the governing body.

§ 94-51.5. Review of applications requiring a Certificate of Appropriateness.

A. Actions requiring Certificate of Appropriateness.

- (1) A Certificate of Appropriateness issued by the Commission shall be required before the issuance of a permit for the removal or demolition of any building or structure defined as a dwelling unit in Section 94-5 of the code of the Borough of Merchantville located anywhere in the borough.
- (2) A Certificate of Appropriateness issued by the Commission shall also be required before the issuance of a permit for the removal or demolition of any building or structure located anywhere in the borough (regardless of whether it is a dwelling unit) having a building footprint of 300 square feet or more.
- (3) A Certificate of Appropriateness issued by the Commission shall also be required before a permit is issued for any of the following activities (“Regulated Activity”) or, in the event that no permit is required, before any work can commence on any Regulated Activity within any Historic District or involving an Historic Site:
 - (a) The demolition of an Historic Site or an improvement within an Historic District.
 - (b) The relocation of an Historic Site or an improvement within an Historic District.
 - (c) A change in the exterior appearance of an Historic Site or of any improvement within an Historic District by addition, alteration or replacement.
 - (d) Any new construction of a principal, or accessory structure on any Historic Site or in any Historic District.

- (e) Any replacement, alteration in or addition of signs, shutters, outdoor displays, fences, hedges, awnings, off-street driveway and parking materials or exterior lighting for an Historic Site or an improvement within an Historic District.
- B. Actions not requiring Certificate of Appropriateness. A Certificate of Appropriateness issued by the Commission is not required for:
 - (1) A Regulated Activity which is the subject of an application for development before the Planning Board. In such instance, the provisions of Section 94-51.6 shall govern.
 - (2) Changes to the interiors of structures.
 - (3) Material changes not visible from a public street.
 - (4) The repainting, repairing or exact replacement of any existing improvement, provided that the work does not alter the exterior appearance of the improvement. The following are some of the activities which are permitted under this criteria:
 - (a) Complete identical replacement of existing windows and doors.
 - (b) Repair of existing windows and doors that does not change their designs, scale or appearance, and the installation of storm doors and windows;
 - (c) Maintenance and repair of existing roofing materials involving no change in the design, scale or appearance of the structure.
 - (d) Structural repairs which do not alter the exterior appearance of the structure.
 - (e) Replacement of existing clapboards, shingles or other siding with identical material.
 - (f) Maintenance and repair of existing clapboards, shingles or other siding (including masonry) involving no change in the design, scale or appearance of the structure.
 - (g) Exterior painting of existing structures using identical colors.
- C. Emergency repair. When a structure or improvement affecting an Historic Site or within an Historic District requires emergency repair, emergency repair may be performed in accordance with borough codes without the necessity of first obtaining a Certificate of Appropriateness. Under such circumstances, the emergency repair performed shall be only such as is necessary to protect the health and safety of the occupants of the structure or others and/or to maintain the habitability of the structure. A request for the Commission's review shall be made simultaneously with the onset of emergency repair, and no further work shall be performed on the structure until an appropriate request for approval is made and approval is obtained in accordance with the procedures set forth in this article. All work performed under this section shall conform to the criteria set forth in Section 94-51.7 of this article.
- D. Informal review of concept plan for proposed undertakings.
 - (1) At the request of applicants considering a regulated activity that may require a Certificate of Appropriateness, as set forth above, the Commission shall grant an informal review of a concept plan for the proposed regulated activity for which the applicant intends to prepare and submit an application for a Certificate of Appropriateness. Neither the applicant nor the Commission shall be bound by any informal review.
 - (2) In the case of very minor projects involving exterior repairs or alterations, the Commission, if the preliminary data and drawings are sufficiently complete, may grant a Certificate of Appropriateness at an informal meeting.
- E. Application procedures.
 - (1) Applications for a Certificate of Appropriateness shall be made on forms available from the Zoning Officer at the Zoning Office. Completed applications shall be delivered or mailed to the Zoning Officer

at the Zoning Office fourteen (14) days prior to a hearing date of the Commission in order to appear on the agenda for the next hearing date.

- (2) The Zoning Officer shall refer all applications for a Certificate of Appropriateness to the Commission.
- (3) The Zoning Officer shall advise the applicant of the date, time and place of the meeting at which his or her application is to be reviewed at least ten (10) days prior to the hearing. An applicant shall appear or be represented at any hearing to consider the application.
- (4) If the application is for demolition, the applicant must follow the requirements of Chapter 20 of the Code of the Borough of Merchantville in addition to the requirements of this chapter. In such case the applicant must also provide notice in accordance with Sections 94-91 and 94-92 of the Zoning Ordinance.
- (5) Contents of applications.
 - (a) Applications for a Certificate of Appropriateness shall include:
 - [1] Complete application forms, which contain a precise written description of the proposed regulated activity.
 - [2] Sufficient photographs of the existing improvement or lot.
 - [3] Scaled drawings showing site plan layout and facade elevations and specifying materials.
 - [4] For new construction applications, a street scape elevation drawn to scale, showing the new structure in the context of neighboring buildings.
 - [5] The Commission may require the submission of additional information reasonably necessary to make a decision.

F. Action on applications.

- (1) The Commission shall reach a decision on the application and report such decision to the Zoning Officer within forty-five (45) days of submission or referral of the application to the Commission by the Zoning Officer. Nothing herein shall prohibit an extension of time by mutual agreement of the applicant and the Commission.
- (2) If an application is approved, the Commission shall issue a Certificate of Appropriateness, which shall be forwarded to the Zoning Officer or Construction Official, as appropriate. If the Commission disapproves an application, the Commission shall state its reasons, in writing, in resolution form which shall be forwarded to the Zoning Officer or Construction Official, as appropriate.
- (3) If the Commission issues a Certificate of Appropriateness, the Zoning Officer or Construction Official, as appropriate, shall issue the permit to the applicant and provide the applicant with a copy of the Certificate of Appropriateness. If the Commission issues a Certificate of Appropriateness with conditions, the Zoning Officer or Construction Official, as appropriate, shall include the conditions in the permit and provide the applicant with a copy of the Certificate of Appropriateness with conditions. If the Commission disapproves an application, the Zoning Officer or Construction Official, as appropriate, shall deny issuance of the permit and provide the applicant with a copy of the resolution from the Commission. Failure of the Commission to report within the forty-five (45) day period shall be deemed to constitute a report in favor of issuance of the permit without conditions.
- (4) When a Certificate of Appropriateness has been issued, the Zoning Officer or the Construction Official, as appropriate, shall, from time to time, inspect the work approved by the Certificate of Appropriateness and report to the Commission any work not in accordance with such Certificate of Appropriateness. The Commission shall also make inspections of work approved by a Certificate of Appropriateness whenever it considers such to be desirable.
- (5) A Certificate of Appropriateness shall be valid for a period of two (2) years from the date of issuance unless reasonable extensions are granted by the Commission. If a permit is also required for the

regulated activity and is obtained prior to the expiration of said two (2) year period, then the Certificate of Appropriateness shall be valid for the life of the permit and any extensions thereof.

§ 94-51.6. Review of development and zoning applications by Historic Preservation Commission.

- A. The Planning Board shall refer to the Commission every application for development submitted to the Planning Board for development and/or zoning changes in Historic Districts or on Historic Sites or identified in any component element of the Master Plan. This referral shall be made when the application for development is deemed complete or is scheduled for a hearing, whichever occurs sooner. Failure to refer the application as required shall not invalidate any hearing or proceeding. The Commission shall make its recommendations to the Planning Board, which shall be conveyed through its delegation of one of its members or staff to testify orally at the hearing on the application and to explain any written report which may have been submitted.
- B. The Commission's recommendations shall focus on how the proposed development would affect an Historic Site or Historic District's historic or architectural significance as outlined in Section 94-51.4(A) of this Article VIII B and shall be guided by the review standards established in Section 94-51.7 of this Article VIII B. In considering the Commission's recommendations, the Planning Board shall be guided by the same standards.
- C. On all matters referred to the Commission which require approval or action by the Planning Board, the decision of the Commission shall be a recommendation only, which may be approved, disapproved or amended by the Planning Board. In the event that the Planning Board should disapprove or amend the decision of the Commission, it shall state its reasons therefor at a public hearing and in its resolution of memorialization.

§ 94-51.7. Standards for review by Historic Preservation Commission.

- A. In regard to all applications, the Commission shall be guided by the following standards:
 - (1) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure or site and its environment or to use a property for its originally intended purpose.
 - (2) The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
 - (3) All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
 - (4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
 - (5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
 - (6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event that replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
 - (7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
 - (8) Every reasonable effort shall be made to protect and preserve archaeological resources affected by or adjacent to any project.

- (9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural materials and when such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
- (10) Wherever possible, new additions and alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

B. In regard to applications for new construction, additions and alterations, the following visual compatibility factors shall be considered:

- (1) Height. The height of the proposed building shall be visually compatible with adjacent buildings.
- (2) The proportion of a building's front facade. The relationship of the width of the building to the height of the front elevation shall be compatible with the buildings and places to which it is visually related.
- (3) The proportion of openings within the facility. The relationship of the width of the windows to the height of the windows in a building shall be visually compatible with the buildings and places to which it is visually related.
- (4) The rhythm of solids to voids in front facades. The relationship of solids to voids in the front facade of a building shall be visually compatible with the buildings and places to which it is visually related.
- (5) The rhythm of spacing and buildings on streets. The relationship of the building to the open space between it and adjoining buildings shall be visually compatible with the buildings and places to which it is visually related.
- (6) The rhythm of entrance and/or porch projections. The relationship of the entrance and porch projections to the street shall be visually compatible with the buildings and places to which it is visually related.
- (7) The relationship of materials, texture and color. The relationship of the materials, texture and color of the facade and roof of a building shall be visually compatible with the predominant materials used in the buildings to which it is visually related.
- (8) Roof shapes. The roof shape of a building shall be visually compatible with the buildings to which it is visually related.
- (9) Walls of continuity. Appurtenances of a building such as walls, open-type fencing and evergreen landscape masses shall form cohesive walls of enclosure along a street to the extent necessary to maintain visual compatibility of the building with the buildings and places to which it is visually related.
- (10) The scale of a building. The size of a building, the mass of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with the buildings and places to which it is visually related.
- (11) The directional expression of the front elevation. A building shall be visually compatible with the buildings and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or nondirectional character.
- (12) Exterior features. A structure's related exterior features, such as lighting, fences, signs, sidewalks, driveways and parking areas, shall be compatible with the features of those structures to which it is visually related and shall be appropriate for the historic period for which the structure is significant.

C. In regard to applications for demolition, the following matters shall be considered:

- (1) Its historic, architectural, cultural or scenic significance in relation to the criteria established in this article.

- (2) If it is within an Historic District, its significance to the Historic District and the probable impact of its demolition on the character and ambience of the Historic District and the criteria which were the basis of the designation of the Historic District.
- (3) Its potential for use for those purposes currently permitted by the Zoning Ordinance.
- (4) Its structural condition and the economic feasibility of alternatives to the proposal.
- (5) Its importance to the Borough and the extent to which its historical or architectural value is such that its demolition would be detrimental to the public interest.
- (6) The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it would not be reproduced or could be reproduced only with great difficulty and expense.
- (7) The extent to which its retention would promote the general welfare by maintaining and increasing the real estate values, generating business, attracting tourists, attracting new residents, stimulating interest and study in architecture and design or making the Borough an attractive and desirable place in which to live.
- (8) Whether the property can be put to reasonable beneficial use without the approval of the demolition application. The Commission may ask applicants for additional information to be used in making this determination.

D. In regard to applications for removal, the following matters shall be considered:

- (1) The historic loss to the site of the original location and, if the present location is within an Historic District, to the Historic District as a whole.
- (2) The reasons for not retaining the landmark or structure at its present site.
- (3) The compatibility, nature and character of the current and of the proposed surrounding areas as they relate to the protection of the interest and values referred to in this article.
- (4) If the proposed new location is within an Historic District, visual compatibility factors as set forth in Subsection B of this section.
- (5) The probability of significant damage to the landmark or structure itself.
- (6) If it is to be removed from the Borough, the proximity of the proposed new location to the Borough, including the accessibility to the residents of the Borough and other citizens.

§ 94-51.8. Effect of approval or denial by Historic Preservation Commission; appeals.

- A. Approval: Issuance of a Certificate of Appropriateness shall be deemed to be final approval pursuant to this Article VIII B. Such approval shall neither cause nor prevent the filing of any collateral application or other proceeding required by any other Borough ordinance to be made prior to undertaking the Regulated Activity concerning the Historic Site or the structure in an Historic District or the demolition.
- B. Denial: Denial of a Certificate of Appropriateness shall be deemed to preclude the applicant from undertaking the Regulated Activity or demolition applied for.
- C. Postponement of demolition: In its review of applications for demolition, the Commission may recommend the postponement of demolition for a period not to exceed one (1) year. The Commission shall utilize this time period to consult with the governing body, the New Jersey Department of Environmental Protection and Energy or other similarly qualified organizations to ascertain how the Borough may preserve the site or improvement to be demolished. The Commission shall be empowered to assist the owner in developing plans to preserve the site or improvement when moving or demolition would be a great loss to the Borough.
- D. Appeals: The granting or the denial of a Certificate of Appropriateness and/or the action of the Zoning Officer and/or Construction Official in reliance upon same may be appealed to the Planning Board in the same

manner as an appeal is taken pursuant to N.J.S.A. 40:55D-72. Nothing herein shall be deemed to limit the right of judicial review of the Borough action after an appeal is concluded by the Planning Board.

§ 94-51.9. Enforcement; violation; notice; failure to comply.

- A. Any person who shall undertake any Regulated Activity which affects an Historic Site or an improvement within an Historic District or removes or demolishes a building or structure which requires a Certificate of Appropriateness, without obtaining the approval of the Commission, shall be deemed to be in violation of this article.
- B. Upon learning of the violation, the Zoning Officer and/or Construction Official shall personally serve upon the owner of the property whereon the violation is occurring a notice describing the violation in detail and giving the owner ten (10) days to abate the violation by restoring the site or improvement to the condition it was in prior to the violation. If the owner cannot be personally served within the Borough with said notice, a copy shall be posted on the site and a copy sent to the owner at his last known address as it appears on the Borough tax rolls.
- C. In the event that the violation is not abated within ten (10) days of service or posting on site, whichever is earlier, the Zoning Officer and/or Construction Official shall cause to be instituted any appropriate action or proceeding to prevent such unlawful activity; to restrain, correct or abate such violation; to prevent the occupancy of said site or improvement; or to prevent any illegal act, conduct, business or use in or about such site or improvement.
- D. If any person shall undertake any Regulated Activity or shall remove or demolish a building or structure requiring a Certificate of Appropriateness without first having obtained approval, he or she shall be required to immediately stop the activity, apply for approval and take any necessary measures to preserve the site or improvement affected, pending a decision. If the Certificate of Appropriateness is denied, he or she shall immediately restore the site or improvement to its pre-activity status. The Zoning Officer and/or Construction Official is hereby authorized to seek injunctive relief regarding a stop action on restoration in the Superior Court, Chancery Division, not less than ten (10) days after the delivery of notice pursuant to Subsection B hereof.
- E. In the event that any regulated activity or demolition or removal of a building or structure that requires a Certificate of Appropriateness which would permanently and adversely change a property is about to occur without approval having been issued, the Zoning Officer and/or Construction Official is empowered to apply to the Superior Court of New Jersey for injunctive relief as is necessary to prevent such actions.

§ 94-51.10. Limitation on duties and powers of Historic Preservation Commission.

No duties or powers of the Commission shall supersede or infringe on the powers of other borough boards or committees.

**ARTICLE VIII C Special Residences and Shelters
[Added 12-12-1994; Deleted 1-14-2002 by Ord. No. 02-01]**

§ 94-51.11. (Reserved)

ARTICLE IX Off-Street Parking Regulations

§ 94-52. General requirements.

- A. All off-street parking shall be provided as further specified in this article.
- B. All off-street parking shall be maintained on the same lot with the building or structure in any residential district. No off-street parking for a single-family dwelling shall be permitted in the front yard except on an improved driveway extending into and having unobstructed access to the rear yard or private garage. The

width of said driveway shall not exceed twenty (20) feet, except that a ten-by-twenty-foot turnaround shall be permitted where required by Camden County Planning Board regulations.

- C. In all business districts, off-street parking space as required may be maintained on the same lot with the building or on another lot or lots owned or controlled by the owner of the building, provided that such parking space is within one thousand five hundred (1,500) feet of the building; and provided, further, that the off-street parking space is located within the same zoning district. In order to assure long-term control of the off-site parking area, deed restrictions may be required.
- D. None of the off-street parking requirements of this section shall be required for any existing building or use not now conforming to these requirements, unless said building or use shall be increased in area or in intensity of use, in which case the provisions of this Article shall apply, equivalent to the area added.
- E. Where lighting facilities are provided on off-street parking spaces and commercial parking lots, the lights shall be so arranged as to reflect the light away from any building or structure containing rooms for dwelling or convalescent purposes.
- F. The off-street parking areas and commercial parking lots in all business districts shall be provided with a protective masonry, structural iron or steel curb or bumpers eight (8) inches in height wherever abutting a public highway or sidewalk, which shall be so located as to prevent parked vehicles from overhanging such highway or sidewalk.
- G. Parking lots for multiple dwellings or similar uses shall be located in the side and rear yards, and where a parking lot abuts a residential property, there shall be a shrubbery strip of at least six (6) feet in height and/or a solid wall of masonry or concrete at least five (5) feet high to provide a barrier for privacy, subject to approval of the Planning Board.
- H. The surface of all off-street parking areas, including driveways of private dwellings, and commercial parking lots shall be paved with macadam, concrete or preformed pavers so as to provide a dustless surface and shall be so graded, pitched and drained as to prevent surface water from flowing onto and over adjacent properties. Parking areas for five (5) or more cars shall require a site plan showing details for water drainage. The plan must be prepared by a licensed New Jersey professional engineer and submitted to the Borough Engineer and Planning Board for approval.
- I. The minimum size of each commercial parking space shall be no less than nine by eighteen (9 x 18) feet, with a maneuvering space of not less than twenty-four (24) feet between rows of parking spaces.

§ 94-52.1. Commercial vehicles.

- A. No more than one (1) commercial vehicle with a gross vehicle weight rating (GVWR) of less than eight thousand (8,000) pounds may be parked, stored or garaged off street within a residential zone within the borough; provided, however, that such vehicle is parked, stored or garaged to the rear of the front building line and, if outside a garage, that it be parked on a hard surface.
- B. The parking, storing or garaging of any commercial vehicle with a GVWR of eight thousand (8,000) pounds or more and any commercial-type of equipment, such as trailers, chippers, mixers, backhoes, bulldozers, etc., are prohibited within the residential zones of the borough.
- C. Recreational vehicles and equipment owned and used by the owner or occupant of the dwelling, such as boats, trailers, campers, etc., may be parked, stored or garaged off street within the residential zones as long as they are parked, stored or garaged to the rear of the front building line and, if outside a garage, that they be parked on a hard surface.
- D. Nothing herein, however, shall prohibit the temporary parking of a commercial vehicle for the purpose of performing services or making pickups or deliveries in the regular course of business.

§ 94-53. Parking schedule.

All uses permitted by this chapter or hereafter permitted in any of the use districts established shall provide, as a minimum, the number of off-street parking spaces specified in the following schedule:

- A. Auditoriums, clubs, community centers, theaters, sport centers or other similar places of public assembly shall be provided with off-street parking space accommodating not less than one (1) private automobile for every three (3) seats comprising the total seating capacity of such building or structure.
- B. Stores for retail purposes, personal service shops, businesses and office buildings shall be provided with off-street parking space accommodating not less than one (1) private automobile for every two hundred fifty (250) square feet of floor space used by or open to the public.
- C. Multiple dwellings shall be provided with off-street parking space accommodations for not less than two (2) private automobiles for each apartment. Each parking space shall be clearly marked and a minimum of nine (9) feet in width and eighteen (18) feet in length.
- D. Restaurants, tearooms or any other establishments serving food and/or beverages, in which seats are provided for ten (10) persons or more, shall be provided with off-street parking spaces accommodating not less than one (1) private automobile for every three (3) seats.
- E. Single-family dwellings shall be provided with off-street parking space accommodating not less than two (2) private automobiles.

ARTICLE X Signs

§ 94-54. Scope of applicability. [Amended 2-26-2001 by Ord. No. 01-02]

In all use districts within the Borough of Merchantville, signs may be erected, altered, maintained, used, removed or moved, only when in compliance with the provisions of this Article and any and all other ordinances and regulations of the Borough of Merchantville relating to the erection, alteration, maintenance, use, removal or moving of signs and similar devices.

Any sign that is not expressly permitted by the ordinance or regulation of the Borough of Merchantville shall be prohibited.

§ 94-55. General requirements applicable to all signs.

- A. The overall height of ground signs permitted herein shall not exceed five (5) feet above the ground, except that signs over eighteen (18) square feet may extend to an overall height of not more than ten (10) feet above the ground, and an open space of at least three (3) feet in height shall be maintained between the bottom of the sign and the ground, provided that necessary supports may extend through such spaces.
- B. Identification signs for schools, churches, municipal buildings and similar uses are allowed, provided that the size of any one (1) side of any such sign shall not exceed twelve (12) square feet. Such signs shall be limited to one (1) per street frontage.
- C. No sign shall be placed in such a position that it may cause danger to traffic on a street by obscuring vision.
- D. All signs in any district shall comply with all provisions and requirements of the Building Code of the Borough of Merchantville and its amendments or supplements governing same, including the wind-load requirements.
- E. No portion of any sign erected in a residential district shall be situated within two (2) feet of the back edge of the sidewalk.
- F. Illumination of signs. Signs with internal illumination are not allowed. Only external illumination of signs by incandescent flood lamps is allowed. [Added 2-26-2001 by Ord. No. 01-02]

§ 94-56. Signs permitted.

- A. The following signs are permitted when located on the same lot or property of the permitted use to which each refers:
- (1) One (1) nonilluminated or one (1) illuminated nonflashing white-light sign on the grounds of a single-family dwelling, appertaining to professional use, provided that the sign does not exceed three (3) square feet in area and bears only the name and occupation of the practitioner.
 - (2) One (1) nonilluminated sign affixed to the wall of a multiple dwelling or a professional office use in the R-1 District, provided that each sign does not exceed one and one-half (1 1/2) square feet in area and bears only the name and occupation of the practitioner.
 - (3) One (1) nonilluminated or one (1) illuminated nonflashing white-light sign, appertaining to a multiple dwelling, provided that such sign does not exceed six (6) square feet in area.
 - (4) One (1) nonilluminated sign advertising the sale or rental of a building or lot, provided that such sign does not exceed six (6) square feet in area. In case such a building or lot fronts on more than one (1) street, similar signs may be erected on each frontage.
 - (5) One (1) nonilluminated sign bearing the words “sold” or “rented” with the name of the person affecting the sale or rental, provided that such sign complies with the regulations as provided in Subsection D of this section, and provided further that such sign shall be removed within seven (7) days after installation.
 - (6) Nonilluminated signs bearing the name and profession or trade of each firm performing construction or repair work on the premises, provided that such individual signs do not exceed six (6) square feet in area and are removed upon completion of the work.
 - (7) For each street frontage, two (2) nonilluminated or two (2) illuminated nonflashing white-light signs appertaining to a church, convalescent or nursing home, school or other institution of a similar nature, provided that such signs do not exceed a total of eighteen (18) square feet in area per frontage.
 - (8) For each street frontage, one (1) nonilluminated or one (1) illuminated nonflashing white-light sign appertaining to a civic or service organization or club, provided that such sign does not exceed twelve (12) square feet in area per frontage.
 - (9) One residential sign of professional appearance not to exceed 1.5 square feet in size attached to the dwelling, or to the dwelling’s mailbox, post or lamp post, which may set forth the names of the residents, the address and street name and also may include a logo, symbol or house number. **[Added 2-26-2001 by Ord. No. 01-02]**
 - (10) One historical identification sign, which may identify an historic structure or site, and may provide information about the significance of the structure or site, and shall be posted by a governmental entity or agency, or by the Merchantville Historical Society, the Camden County Historical Society, the New Jersey Historical Society or the Daughters of the American Revolution. Historical Identification Signs shall not exceed 1.5 square feet in size. **[Added 2-26-2001 by Ord. No. 01-02]**
- B. Signs necessary to public welfare, posted or erected by public authority, or advertisements required by law are not intended to be regulated by this chapter.

§ 94-57. Commercial signs.

- A. Scope. In the B-1 and B-2 Districts, signs may be erected, altered, maintained, used, removed or moved only in compliance with the provisions of this section. Approval of a sign may be granted only when such sign conforms to the historical or distinctive character of the building.
- B. General regulations.
- (1) Allowed signs. Overhanging signs, building face signs, window and door glass signs, freestanding signs, temporary signs, directional signs and traffic control signs are allowed as specifically provided herein.

- (2) Restrictions applying to all allowed signs.
- (a) Signs may be placed only on the principal frontage of a building facing a public street or public parking lot having a principal entrance used by the public. The use of allowable signs by first floor uses and by those uses which lie above or below the first floor are limited as specifically set forth herein. A first floor use located at the intersection of two (2) public streets shall be allowed to place signs on each of the two (2) street frontages, with each street frontage regulated separately.
 - (b) Total area. The total area of all signs on each street frontage shall not exceed ten percent (10%) of the width of the street facade of the building multiplied by twelve (12) feet. [e.g. a building which is twenty-five (25) feet in width at the street frontage is multiplied by ten percent (10%), resulting in two and one-half (2 1/2) feet, which is then multiplied by twelve (12) feet, yielding a total allowable sign area of thirty (30) square feet.] Where there are multiple tenants on the first floor of a building, the sign area limitation shall apply to that portion of the first floor street frontage which is occupied by the use which proposes the sign. Directional signs which are less than three (3) square feet and traffic control signs which conform to New Jersey Department of Transportation requirements shall be permitted but shall not be included in the calculation of total sign area.
 - [1] The area of a sign shall be calculated by multiplying its greatest width by its greatest height, including any frame but exclusive of any device solely providing support. For signs which consist of letters or other graphics applied directly to a building surface, the area shall be calculated by enclosing the letters or other graphics with the smallest rectangle which can contain all the letters or other graphics and calculating the area of the rectangle by multiplying its width by its height.
 - [2] A registered trademark, logo or iconographic sign shall be a part of the sign or separate from the principal sign as a second sign. The area of this type of display shall be considered as a part of total sign area allowed and shall be determined by enclosing it with the smallest rectangle which can contain the display and calculating the area of the rectangle by multiplying its width by its height. This separate calculation of sign area for a trademark, logo or iconographic sign can be applied even if the display item is an integral part of a single sign with other information.
 - [3] Two-sided signs shall be measured by using the surface of one (1) side only. Signs with more than two (2) sides shall be measured by using the surface of the greatest number of sides which is visible at one (1) time.
 - (c) Professionally made signs only. Only signs created and built by professional sign fabricators are allowed.
 - (d) Illumination of signs. Signs with internal illumination are not allowed. Only external illumination of signs by incandescent flood lamps is allowed.
 - (e) Sign content. The sign copy or message allowed on signs is limited to the following:
 - [1] Primary copy:
 - [a] The registered name of the business.
 - [b] The names of the owners or proprietors.
 - [c] An identification of the trade or type of business.
 - [2] Secondary copy at a smaller size, such as:
 - [a] The hours of operation.
 - [b] The telephone number.
 - (f) Lettering style and sign graphics. Lettering for primary copy shall be of a serif, script or other decorative lettering style. Lettering for secondary copy may be of any lettering style.

- (g) Materials for signs. Signs shall be made of durable materials such as steel, bronze, copper, aluminum, painted or preserved wood or other material which can be shown to be durable. Plastic may be used for incidental components of signs, including applied letters and graphics or as a facing applied to a panel of a durable material. Plastic may be used for structural components of signs or for panels forming or supporting the sign's display area, provided that the plastic is shown to be durable, suited for the intended use and compatible in appearance and intent with the durable materials listed in the first sentence of this subsection.
 - (h) Structural requirements. All signs shall be of sound construction and shall be permanently affixed to either the ground or building, as defined for each particular allowable sign, in a manner conforming with the New Jersey Uniform Construction Code.
 - (i) Maintenance. All signs shall be periodically maintained by the owner of said signs in order to assure that the signs are not dangerous to the safety of others. If a sign is determined to be unsafe by an enforcement official of the Borough of Merchantville, it shall be repaired by the owner of said sign within fourteen (14) days of a notice requiring said repair. Otherwise, said unsafe sign shall be immediately removed by the owner. If said unsafe sign is not removed by the owner, the borough shall be empowered to remove said sign and to assess the owner of said sign an administrative fee of one hundred dollars (\$100.), a sign removal fee of an additional one hundred dollars (\$100.) and those fines which are otherwise authorized by this chapter. Signs which do not conform with the requirements of this chapter and which are in an unsafe condition and cannot be repaired or which have been displaced from their structural supports shall not be permitted to be restored or replaced unless they are brought into compliance with the standards of this chapter.
 - (j) Abandoned uses. All signs and their related supporting structures which pertain to a use or business which is no longer in existence or operation at that location shall be removed within thirty (30) days from the date said use or business ceases to exist or operate. If said signs are not removed by the owner, the borough shall be empowered to remove said signs and to assess the owner of said signs an administrative fee of one hundred dollars (\$100.), a sign removal fee of an additional one hundred dollars (\$100.) and those fines which are otherwise authorized by this chapter. Subsequent uses or businesses shall make an application for a new sign. All variances granted from this code, or nonconforming characteristics of the preexisting sign, shall not be allowed to continue or apply to any new signs. This shall apply whether or not a prior owner has complied with this regulation by removing the preexisting sign.
 - (k) Real estate signs. Real estate signs are permitted in the B-1 or B-2 District in accordance with the following requirements:
 - [1] They shall not be illuminated.
 - [2] They shall not pertain to any property other than the one at which it is posted.
 - [3] They shall not exceed six (6) square feet in area.
 - [4] They shall be removed within seven (7) business days after the closing or settlement on said property or the execution of a lease.
- (3) Prohibited signs.
- (a) Colored, flashing, blinking, twinkling, internally lit, animated or moving signs of any type or signs which present an illusion of movement are prohibited. Signs which incorporate a clock with conventionally moving hands and signs which incorporate digital time and temperature displays are permitted as part of an otherwise allowable sign as set forth herein, and the sign area for the portion of the sign which includes such an item shall be computed in the same manner as a sign that incorporates a logo.

- (b) Exposed-tube neon signs are prohibited. However, those which reflect the period of an historically significant building may be acceptable, but in no case shall lettering exceed six (6) inches in height nor shall said sign exceed three (3) feet in width.
- (c) No sign shall be erected or maintained on a lot, tract or parcel, including any improvement thereon, unless the message on the sign directly relates to the use of said lot, tract or parcel.
- (d) Flags, banners, strings of banners, pennants, pinwheels, A-type signs, sidewalk signs, curb signs and similar advertising devices and search lights, balloons or other gas-filled figures are prohibited.
- (e) Portable signs are prohibited.
- (f) No sign shall be placed in such a position that it causes or is likely to cause danger to vehicular or pedestrian traffic on any street, sidewalk or right-of-way. No sign other than an official sign may be placed within the right-of-way of any street within the borough. However, overhanging signs shall be permitted to extend from the building into the right-of-way in accordance with the provisions of this chapter.
- (g) No sign shall be attached, affixed or painted on trees, fences, rocks, curbs, walks, hydrants or benches, except for warning signs, as defined herein, such as "No trespassing." No sign of any type shall be attached to utility poles.
- (h) No billboards, billboard-type signs or rooftop signs shall be erected or maintained on any lot or in any location within the borough.
- (i) No vehicle shall be regularly parked, stopped or located in such a manner as to be used as or considered as a sign.

C. Specific regulations for allowed signs.

(1) Overhanging signs.

- (a) General. One (1) overhanging sign is allowed per principal street/ground floor use. Overhanging signs are allowed only for uses which are at the street or ground floor. The supports for overhanging signs shall be made of metal with the design in keeping with the character of the district.
- (b) Area. Overhanging signs shall be no more than six (6) square feet.
- (c) Position. Overhanging signs shall be hung perpendicular to the building face and shall be positioned so that the maximum projection from the outer edge of the sign to the front plane of the building does not exceed three (3) feet. The distance between the ground and the bottom of the sign shall be no less than nine (9) feet. Overhanging signs shall be permitted to extend beyond the front lot line.

(2) Building face signs.

- (a) General. For a single above-street use, a building face sign may identify the name of the business. For multiple above street uses, a building face sign may identify only the name and address of the building. Awnings and signs on awnings, which are included in the definition of building face signs, may not be illuminated.
- (b) Area. All building face signs shall be included in the total sign area.
- (c) Position. For principal street/ground floor uses, signs shall be painted, applied or fastened securely to the face of the building in a position corresponding to the space occupied by the use. For above-street uses, building face signs shall be placed adjacent to the door serving the lobby or stairway which is the primary entrance to the space occupied by the use. In any event, no portion of any sign shall be higher than eighteen (18) feet above ground elevation. Awnings shall be permitted to extend beyond the front lot line.

- (d) Signs on awnings. Building face signs may be placed only on the flap of awnings. Flaps shall extend no lower than eight (8) inches below the bottom frame of the awning, and no lower than seven and one-half (7 1/2) feet above the ground. The flap shall be considered to be the length of awning fabric which extends below the lowest framing member of the awning and shall be unrestrained at the lower edge of the flap. Any portion of an awning which is fastened to a frame at the bottom edge of the fabric shall not be considered a flap.
- (3) Window and door-glass signs.
- (a) General. Only one (1) window or door-glass sign is allowed per use per principal street frontage. Window and door-glass signs shall be painted on the window glass or consist of permanently applied plastic film.
 - (b) Area. For principal street/ground floor uses, window signs shall not exceed forty percent (40%) of the window area, and the area of the window sign shall be included in the total sign area allowed herein. For uses above the ground floor, window signs shall be no more than thirty percent (30%) of the overall window area. Door-glass signs shall be no more than thirty percent (30%) of the overall glass area, and they shall be included in the total sign area allowed herein.
 - (c) Position. Window signs shall be placed only on fixed, nonoperable window panes.
- (4) Freestanding signs.
- (a) General. Freestanding signs shall be permanently attached to the ground. One (1) freestanding sign is allowed per building. Freestanding signs are only allowed where the building occupied by the use is thirty (30) feet or more from the street frontage of the lot on which the building sits.
 - (b) Area. Freestanding signs shall be no more than fifteen percent (15%) of the area of the wall of the building facing the street frontage of the lot on which the building sits nor shall it exceed twenty-five (25) square feet. The area of the wall shall be considered to be the width of the street facade of the building multiplied by twelve (12) feet.
 - (c) Position. Freestanding signs shall only be placed on land owned or leased by the person. Freestanding signs shall not exceed ten (10) feet in height, and all portions of the sign shall be set back from the sidewalk a minimum of two (2) feet.
- (5) Temporary signs.
- (a) General. Temporary signs are allowed only within the window area of principal street/ground floor uses. They shall be typed, typeset or brush lettered or shall use decorative hand calligraphy or hand lettering which is presented in a form which is compatible in appearance. Ordinary handwritten signs are not allowed.
 - [1] Intermittent display. Temporary signs displayed on an intermittent basis are allowed without application to the borough and within the limits set forth herein. The intermittent display of temporary signs is limited to a maximum of twenty-one (21) days of display, with a minimum period of twenty-one (21) days between such displays. The dates of the period of display shall be posted on the temporary sign.
 - [2] Continuous display. Where continuous display of temporary signs is desired, it shall be limited as set forth herein. The temporary sign display area shall be identified within a designated window. This area shall be marked with an unobtrusive black line inked onto the window surface. Temporary signs are not permitted outside this display area. When there are continuous displays of temporary signs without the designation of a display area, and without the review and approval of such a display area by the borough, the party shall be informed by the borough of the requirement for a designated display area and shall make application to the borough for the designation of such a display area.

- (b) Area. Temporary signs shall occupy no more than thirty percent (30%) of the area of the window in which they are displayed. Temporary sign display areas shall occupy no more than thirty percent (30%) of the area of the window in which they are designated.
- (c) Position. Temporary signs shall be placed along the lower edge of the window in which they are displayed. Temporary sign display areas shall occupy the bottom area of the window in which they are designated.
- (d) Special events. Any person may have one (1) temporary sign permit for an unusual commercial event, such as a grand opening. Said temporary sign or signs shall not exceed twenty percent (20%) of the width of the street facade of the building multiplied by twelve (12) feet for that portion of the building to which the sign is attached, and said sign shall not exceed in length the width of the street facade of the building. Said temporary sign or signs shall be attached to the building and shall not extend more than eighteen (18) inches from the facade, and they shall not extend above the roofline of the building. No more than three (3) such signs shall be permitted under any temporary sign permit. Such permit shall be valid for no less than fifteen (15) consecutive days, and it shall not exceed a total of thirty (30) days in any two (2) consecutive six-month periods. At least six (6) months shall elapse between the starting dates of such permits.

§ 94-58. Political signs.

Signs relating solely to the candidacy of any person for a public office or pertaining to a public question which will appear on a ballot shall be permitted, provided that such signs shall be displayed no earlier than four (4) weeks prior to any election in which such person is a candidate or such issue is submitted to the voters, and the sign shall be removed within five (5) days after the election. Any sign erected pursuant to this section shall be unlighted and shall not exceed nine (9) square feet in area. No more than one (1) sign shall be permitted on any lot.

ARTICLE XI Nonconforming Structures, Lots and Uses

§ 94-59. Continuation of use.

Any nonconforming use or structure existing on the effective date of this chapter may be continued upon the lot or in the structure so occupied; however, no nonconforming use, if once changed to a use permitted in the district, shall be changed back to a nonconforming use. If a nonconforming use of land or structure is abandoned, subsequent use of such land or structure shall be in conformance with the provisions of this chapter.

§ 94-60. Damage by fire or other causes.

If a nonconforming structure, including a sign, is totally destroyed by fire or other cause, reconstruction of the structure shall be in conformance with the provisions of this chapter. Any nonconforming structure, including signs, may be restored or repaired in the event of partial destruction thereof.

§ 94-61. Extension.

A nonconforming use or structure cannot be extended, altered or increased nor can the land associated with such use or structure be increased or reduced in size or converted to any other nonconforming use or uses without a variance.

§ 94-62. Nonconforming lots.

Any nonconforming lot legally existing on the date of adoption of this chapter, and not under the same ownership with any contiguous lot, may have a building permit issued for a permitted use without an appeal for a variance, provided that the building and improvement coverages are not exceeded; the new structure does not violate any height or setback requirements, and parking requirements are met.

§ 94-63. Nonconforming signs.

In addition to the provisions of this Article, see also the provisions of Article X of this chapter regarding signs.

ARTICLE XII Planning Board

§ 94-64. Establishment; composition.

There is hereby established pursuant to c. 291, P.L. 1975 (N.J.S.A. 40:55D-1 et seq.) in the Borough of Merchantville a Planning Board of nine (9) members and two (2) alternates consisting of the following classes:

- A. Class I: the Mayor.
- B. Class II: one (1) of the officials of the municipality, other than a member of the governing body, to be appointed by the Mayor.
- C. Class III: a member of the governing body to be appointed by it.
- D. Class IV: six (6) other citizens of the municipality to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, except that one (1) member may be a member of the Zoning Board of Adjustment and one (1) may be a member of the Board of Education.
- E. Alternates: There shall also be two (2) residents of the Borough of Merchantville appointed by the Mayor who shall be alternate members and designated "Alternate No. 1" and "Alternate No. 2." The alternate members shall meet the qualifications of Class IV members. Their terms shall be for two (2) years, except that the terms of the alternate members shall be such that the term of not more than one (1) alternate member shall expire in any one (1) year. The roles of the alternate members shall be as set forth in the provisions of N.J.S.A. 40:55D-23.1.

§ 94-65. Terms.

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

§ 94-66. Vacancies.

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

§ 94-67. Organization; officers.

The Planning Board shall elect a Chairman and Vice Chairman from the members of Class IV and select a Secretary who may either be a member of the Planning Board or a municipal employee designated by it.

§ 94-68. Attorney.

There is hereby created the office of Planning Board Attorney. The Planning Board may annually appoint and fix the compensation of or agree upon the rate of compensation of the Planning Board Attorney, who shall be an attorney other than the Municipal Attorney.

§ 94-69. Experts and staff.

The Planning Board may also employ or contract for the services of experts and other staff services as it may deem necessary. The Board shall not, however, exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

§ 94-70. Powers and duties.

The Planning Board shall have those powers and duties as set forth under the provisions of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

§§ 94-71 through 94-73. (Reserved)

ARTICLE XIII Planning Board Acting as the Zoning Board of Adjustment.¹
[Amended 1-14-2002 by Ord. No. 02-01]

§ 94-74. Planning Board to exercise powers of Zoning Board of Adjustment.

Pursuant to N.J.S.A. 40:55D-25(c), as amended, the Planning Board of the Borough of Merchantville shall exercise, to the same extent and with the same restrictions, all of the powers of a Zoning Board of Adjustment.

§ 94-75. Participation by members on certain applications.

Pursuant to N.J.S.A. 40:55D-25(c), as amended, the Class I and Class III members of the Planning Board of the Borough of Merchantville shall not participate in the consideration of applications for development which involve relief pursuant to N.J.S.A. 40:55D-70(d).

§ 94-76. Inconsistent references in Code.

All other inconsistent references in the Code of the Borough of Merchantville are hereby deleted or amended consistent with the intent of this article to allow the Planning Board of the Borough of Merchantville to exercise, to the same extent and with the same restrictions, all of the powers of the Zoning Board of Adjustment.

§ 94-77. Reserved.

§ 94-78. Reserved.

§ 94-79. Powers.

The powers of the Planning Board acting as the Zoning Board of Adjustment shall be in accordance with N.J.S.A. 40:55D-1 et seq., and amendments and supplements thereto, and with the provisions of this chapter.

¹ Editor's Note: Previous Article VIII, Zoning Board of Adjustment, was amended 1-14-2002 by Ord. No. 02-01 to delete § 94-74 through § 94-78 and amend § 94-79 through § 94-83.

§ 94-80. Appeals and applications.

- A. Appeals to the Planning Board acting as the Board of Adjustment may be taken by any interested party affected by any decision of an administrative officer of the municipality based on or made in the enforcement of this chapter. Such appeal shall be taken within twenty (20) days by filing a notice of appeal with the officer from whom the appeal is taken specifying the grounds of such appeal. The officer from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- B. Applications addressed to the original jurisdiction of the Planning Board acting as the Board of Adjustment without prior application to a zoning or enforcement official shall be filed with the Secretary of the Zoning Board of Adjustment. Three (3) copies of the application shall be filed. At the time of filing the appeal or application, but in any event no less than ten (10) days prior to the date set for the hearing, the applicant shall also file all plot plans, maps or other papers required by virtue of any provision of this chapter or any rule of the Planning Board acting as the Board of Adjustment. The applicant shall obtain all necessary forms from the Secretary of the Zoning Board of Adjustment. The Secretary of the Board shall inform the applicant of the steps to be taken to initiate proceedings and of the regular meeting dates of the Board.
- C. An appeal stays all proceedings in furtherance of the action in respect to which the decision appealed from was made, unless the zoning or enforcement official from whom the appeal is taken certifies to the Planning Board acting as the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Planning Board acting as the Board of Adjustment or by the Superior Court of New Jersey on application or notice to the zoning or enforcement official from whom the appeal is taken and on due cause shown.
- D. An appeal from any final decision of the Planning Board acting as the Zoning Board of Adjustment approving an application for development pursuant to N.J.S.A. 40:55D-70d may be taken to the governing body, provided that such appeal shall be made within ten (10) days of the date of publication of such decision of the Planning Board acting as the Zoning Board of Adjustment. Such appeal shall be made in accordance with the provisions of N.J.S.A. 40:55D-17.

§ 94-81. Power to reverse or modify decisions.

In exercising the above-mentioned power as set forth in § 94-80A, the Planning Board acting as the Board of Adjustment may, in conformity with the provisions of N.J.S.A. 40:55D-74, or amendments thereto or subsequent statutes applying, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination as ought to be made, and to that end have all the powers of the zoning or enforcement official from whom the appeal was taken.

§ 94-82. Time limit for decision.

The Planning Board acting as the Board of Adjustment shall render its decision not later than one hundred twenty (120) days after the date an appeal is taken from the decision of an administrative officer or not later than one hundred twenty (120) days after the date of the submission of a complete application for development to the Board pursuant to the provisions of N.J.S.A. 40:55D-70. 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.

§ 94-83. Expiration of variance.

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

been commenced, within twelve (12) months from the date of publication of the notice of the judgment or determination of the Planning Board acting as the Board of Adjustment; except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Planning Board acting as the Board of Adjustment to the governing body or to a court of competent jurisdiction until the termination in any manner of such appeal or proceeding.

- B. The Planning Board acting as the Board of Adjustment may, upon good cause shown, extend the period specified in Subsection A above for a reasonable period of time in order to avoid undue hardship and unfairness to the applicant.

§§ 94-84 and 94-85. (Reserved)

ARTICLE XIV Provisions Applicable to Both Planning Board and Zoning Board of Adjustment

§ 94-86. Conflicts of interest.

No member of the Planning Board or Zoning Board of Adjustment shall act on any matter in which he has either directly or indirectly any personal or financial interest. Whenever any such member shall disqualify himself from acting on a particular matter, he shall not continue to sit with the Board on the hearing of such matter nor participate in any discussion or decision as a member of the Board.

§ 94-87. Meetings.

- A. Meetings of both the Planning Board and Zoning Board of Adjustment shall be scheduled no less often than once a month, and any meeting so scheduled shall be held as scheduled unless canceled for lack of applications for development to process.
- B. Special meetings may be scheduled by the Chairman or on the request of any two (2) Board members. All meetings shall be held on notice to its members and the public in accordance with all applicable legal requirements.
- C. No action shall be taken at a meeting unless a quorum is present other than to adjourn the meeting to a specified time and place.
- D. All regular meetings and all special meetings shall be open to the public.

§ 94-88. Minutes.

Minutes for every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the Board and of the persons appearing by attorney, the action taken by the Board, the findings, if any, made by it and the reasons therefor. The minutes shall thereafter be made available for public inspection during the normal business hours of the office of the Municipal Clerk. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party may be charged a fee for reproduction of the minutes for his use as provided for in the rules of the Board.

§ 94-89. (Reserved)

§ 94-90. Hearings.

- A. Rules. The Planning Board and Zoning Board of Adjustment shall make rules governing the conduct of hearings before such bodies, which rules shall not be inconsistent with the provisions of N.J.S.A. 40:55D-1 et seq. or of this chapter.
- B. Oaths. The officer presiding at the hearing or such person as he may designate shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence,

including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law, c. 38, P.L. 1953 (N.J.S.A. 2A:67A-1 et seq.), shall apply.

- C. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.
- D. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.
- E. Records. Each Board shall provide for the verbatim recording of the proceedings by either stenographer or mechanical or electronic means. The Board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his expense.

§ 94-91. Notice requirements.

For all hearings on an application for minor or major site plan approval before the Planning Board, all hearings on an application or appeal before the Planning Board, and all hearings for a Certificate of Appropriateness for Demolition before the Historic Preservation Commission, the applicant shall give notice thereof as follows: **[Amended 10-13-2004 by Ord. No. 04-19]**

- A. Public notice shall be given by publication in the official newspaper of the municipality at least ten (10) days prior to the date of the hearing.
- B. Notice shall be given to the owners of all real property as shown on the current tax duplicate or duplicates located within two hundred (200) feet in all directions of the property which is the subject of such hearing and whether located within or without the municipality in which the applicant's land is located. Such notice shall be given by serving a copy thereof on the owner as shown on the said current tax duplicate or his agent in charge of the property or by mailing a copy thereof by certified mail to the property owner at his address as shown on the current tax duplicate. A return receipt is not required. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its President, a Vice President, Secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.
- C. Notice of all hearings on applications for development involving property located within two hundred (200) feet of an adjoining municipality shall be given by personal service or certified mail to the Clerk of such municipality, which notice shall be in addition to the notice required to be given pursuant to § 94-91B of this Article to the owners of lands in such adjoining municipality which are located within two hundred (200) feet of the subject premises.
- D. Notice shall be given by personal service or certified mail to the County Planning Board of a hearing on an application for development of property adjacent to an existing county road or proposed road shown on the Official County Map or on the County Master Plan, adjoining other county land or situate within two hundred (200) feet of a municipal boundary.
- E. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a state highway.
- F. Notice shall be given by personal service or certified mail to the State Planning Commission of a hearing on an application for development of property which exceeds one hundred fifty (150) acres or five hundred (500) dwelling units. The notice shall include a copy of any maps or documents required to be on file with the Municipal Clerk as a part of the application for approval of the development.
- G. Notice of hearings on applications for approval of a major subdivision, or a site plan not defined herein as a minor site plan, requiring public notice pursuant to this chapter shall be given, in the case of a public utility, cable television company or local utility which possesses a right-of-way or easement within the borough and which has registered with the borough in accordance with N.J.S.A. 40:55D-12.1, by serving a copy of the

notice on the person whose name appears on the registration form on behalf of the public utility, cable television company or local utility or by mailing a copy thereof by certified mail to the person whose name appears on the registration form at the address shown on that form.

- H. All notices hereinabove specified in this section shall be given at least ten (10) days prior to the date fixed for the hearing. At the time of the hearing, the applicant shall file with the Board an affidavit of proof of service, accompanied by a copy of the form of the notice served and a copy of the certified list of property owners obtained from the Borough Clerk as required by § 94-92.
- I. Any notice made by certified mail as hereinabove required shall be deemed to be complete upon mailing in accordance with the provisions of N.J.S.A. 40:55D-14.
- J. Form of notice. All notices required to be given pursuant to the terms of this chapter shall state the date, time and place of the hearing; the nature of the matters to be considered; identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the Municipal Tax Assessor's office; and the location and times at which any maps and documents for which approval is sought are available as required by law.

§ 94-92. List of property owners.

All applicants may obtain from the Borough Clerk a certified list of property owners to whom the applicant is required to give notice pursuant to § 94-91 of this chapter. The Borough Clerk shall, pursuant to N.J.S.A. 40:55D-12c, within seven (7) days after receipt of a request therefor and upon receipt of payment of a fee as set forth in § 94-108C(7) of this chapter, make and certify a list from the current tax duplicates of the names and addresses of owners to whom the applicant is required to give notice.

§ 94-93. Decisions.

- A. Each decision on any application for development shall be set forth in writing as a resolution of the Board, which resolution shall include findings of fact and legal conclusions based thereon.
- B. A copy of the decision shall be mailed by the Board within ten (10) days of the date of the decision to the applicant or, if represented, then to his attorney, without separate charge. A copy of the decision shall also be mailed to persons who have requested it and who have paid the fee prescribed for such service. A copy of the decision shall also be filed by tax block and lot in the office of the Municipal Clerk, who shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the municipality.
- C. A brief notice of every final decision shall be published by the borough in the official newspaper of the municipality. Said notice shall be sent to the official newspaper for publication within ten (10) days of the date of any such decision.

§ 94-94. Withdrawal of applications.

No application filed with the Planning Board or Zoning Board of Adjustment may be withdrawn by the applicant without the consent of the board before whom the application is pending. The board may condition its consent to withdraw upon such terms and conditions as the board deems appropriate, including for example the condition that the applicant reimburse the board and any objector for all expenses, including attorneys' fees, incurred in responding to the application. No application fees shall be returned to the applicant. In determining whether to grant consent for withdrawal of an application, a board shall consider the following factors:

- A. The amount of time and effort spent by the municipality and its agents in reviewing the application prior to the request for withdrawal.
- B. The lack of finality that would result if the application were permitted to be withdrawn.
- C. The point in the proceedings at which time the request for withdrawal is made.

- D. The interests of any member of the public that has opposed the application and whether any such person has retained counsel or incurred other expenses.
- E. Whether any conditions or terms could be imposed on the withdrawal to mitigate the adverse consequences of withdrawal.
- F. Any other relevant factors or considerations that bear on the request for withdrawal.

§ 94-95. Payment of taxes.

Pursuant to the provisions of N.J.S.A. 40:55D-39 and 40:55D-65, every application for development submitted to the Planning Board or to the Zoning Board of Adjustment shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such application; or, if it is shown that taxes or assessments are delinquent on said property, any approvals or other relief granted by either board shall be conditioned upon either the prompt payment of such taxes or assessments or the making of adequate provision for the payment thereof in such manner that the municipality will be adequately protected.

ARTICLE XV (Reserved)

§§ 94-96 and 94-97. (Reserved)

ARTICLE XVI Site Plan Review

§ 94-98. When required.

Prior to the issuance of a certificate of occupancy or construction permit, site plan approval by the Planning Board or Zoning Board of Adjustment, as applicable, shall be required for all applications not meeting the definition of "site plan, exempt." Minor site plans shall require only final approval. Major site plans shall require preliminary and final approval which, at the discretion of the Planning Board or Zoning Board of Adjustment, as applicable, may be granted at the same time.

§ 94-99. Application procedures; information required.

A. Information required.

- (1) Completed application form. The applicant shall submit twelve (12) copies of an application on the form prescribed by the Planning Board.
- (2) Plans and drawings. The applicant shall submit twelve (12) copies of a plan or plans describing the integrated or overall development of the tract of land for which site plan approval is required, drawn to a scale of not less than one (1) inch equals fifty (50) feet and showing:
 - (a) The location, use and dimensions of the land to be included and the zoning district or districts in which located.
 - (b) The size, shape, location, arrangement and dimensions of any existing or proposed buildings, structures, parking areas, loading areas, open space, entrances, exits, streets and sidewalks.
 - (c) All setback, lot and right-of-way lines and the dimensions, locations and purposes of all easements.
 - (d) A comparison of the zoning district and parking regulations, as set forth in this chapter, with the development or use proposed. Included within this comparison shall be all the lot, dimensional, height and setback comparisons along with coverage and parking comparisons. The gross floor area of all buildings shall be shown, including a separate tabulation for cellars and basements.
 - (e) For major site plans only, existing and proposed contours with intervals of one (1) foot. The location of any existing or proposed ditches, swales, berms or streams shall also be shown.

- (f) For major site plans only, a drainage plan containing the following:
 - [1] The size, location and slope of any existing or proposed pipes.
 - [2] The size, type, invert elevation and location of any existing or proposed drainage inlets.
 - [3] The disposition of all off-site drainage.
 - (g) For major site plans only, all existing and proposed waterlines, sanitary sewer lines, gas lines, utility poles and fire hydrants.
 - (h) All existing and proposed signs and lighting.
 - (i) A complete landscape plan, including size and type of existing and proposed plantings, and provisions to be made for maintenance of same.
 - (j) A description, rendering, sketch or picture of the existing and proposed building and other structures, including front, side and rear elevations.
 - (k) The proposed floor plan, including a typical floor plan for each type of dwelling unit in a proposed multiple dwelling.
 - (l) The location of refuse storage areas, the handling of solid waste and the method of handling and disposing of recyclable materials.
 - (m) Any other information which is deemed to be necessary for the review of the site plan by the Planning Board, including but not limited to:
 - [1] Information sufficient to demonstrate that satisfactory arrangements can be made to accommodate probable increases in traffic and to facilitate traffic movement on all streets in the vicinity of the proposed use.
 - [2] Sufficient data in all instances to enable the Planning Board to judge the effectiveness of the design and character of the proposed development, to consider properly the relationship of the proposed development or use to surrounding development, anticipated traffic, public health, safety and general welfare and the like and to determine that the proposed plan and use comply with the requirements of the district and all other pertinent requirements of the Borough of Merchantville and are consistent with the concepts and intent of the Merchantville Master Plan, as amended.
- B. Waiver and modification. In accordance with the provisions of N.J.S.A. 40:55D-51 and/or N.J.S.A. 40:55D-10.3, the Planning Board may waive or modify any of the above submission requirements in any instance where the Planning Board finds that said requirement is not necessary in order to review said site plan.
- C. Procedures for filing. All information required by § 94-99A, as well as proof of payment of taxes, shall be filed with the Borough Clerk at least ten (10) days prior to the regularly scheduled meeting of the Planning Board at which the applicant desires his application to be considered. Upon acceptance of the application and the requisite fees, the Borough Clerk shall retain one (1) copy of the application and other information in his office for review by any interested person during normal business hours and shall forward the remaining copies to the Zoning Officer, who shall review the application and issue a report to the Planning Board as to compliance or noncompliance of the proposed site plan with the requirements of all borough ordinances.

§ 94-100. Review procedures.

- A. Preliminary review of major site plans.
 - (1) The Planning Board shall make a preliminary review of the application at the first regularly scheduled meeting of the Planning Board occurring at least fourteen (14) days after the filing of the application as set forth in § 94-99C.

- (2) The applicant and/or his attorney, architect, engineer or contractor shall be present at the preliminary review to testify as to the proposed site plan application, and any other interested person shall have the right to testify and be heard.
- (3) At the preliminary review, the applicant shall present proof of notice as required by § 94-91. In the event that the applicant fails to comply with the notice provisions of § 94-91, the application shall not be considered until the next regularly scheduled meeting of the Planning Board at which proper proof of notice is presented.
- (4) In conducting a preliminary review, the Planning Board may make suggestions for modifications, revisions or alterations of the proposed site plan. In the event that the applicant accepts such modifications, revisions or alterations of the site plan, the applicant shall file with the Borough Clerk, at least fourteen (14) days prior to final review, all plans, drawings and other information necessary to incorporate such modifications, revisions or alterations in the site plan.

B. Final review of major and minor site plans.

- (1) The Planning Board shall take final action on all applications for site plan approval at the first regularly scheduled meeting of the Planning Board following preliminary review.
- (2) The applicant and/or his attorney, architect, engineer or contractor shall be present at the final review to testify as to the proposed site plan application, and any other interested person shall have the right to testify and be heard.
- (3) At the final review, the applicant shall again present proof of notice as required by § 94-91. In the event that the applicant fails to comply with the notice provisions of § 94-91, final action shall not be taken until the next regularly scheduled meeting of the Planning Board at which proper proof of notice is presented.
- (4) In the event that all plans and drawings and other information incorporating all modifications, revisions or alterations of the proposed site plan agreed to by the applicant at preliminary review have not been filed as required by § 94-100A(4), the Planning Board shall take no final action until same have been properly filed in accordance with § 94-100A(4).
- (5) The Planning Board shall either approve, approve with conditions or disapprove the site plan.
- (6) In the event of approval with conditions, no building permit shall be issued until the applicant submits building plans incorporating the conditions imposed.
- (7) No certificate of occupancy shall be issued and no occupancy shall take place until and unless all construction and required improvements shall be completed in conformity with the approved site plan and any conditions required under the terms of the site plan approval.

§ 94-101. Standards for review.

In addition to the requirements of this chapter and of the Merchantville Master Plan, as amended, the following standards shall be used by the Planning Board as guidelines in reviewing site plan applications:

- A. The existing landscape shall be preserved in its natural state insofar as possible and tree and soil removal kept to a minimum. Grade changes shall be made in keeping with the general appearance of neighboring developed areas. New landscaping and grass and ground cover areas shall be developed as screening and environmental protection for the site.
- B. Proposed structures shall be related harmoniously to the terrain and to existing buildings and structures in the vicinity that have a visual relationship to the proposed development. Provision shall be made for screening of all parking, service and loading areas, playgrounds, equipment and storage areas from adjacent properties.
- C. Adequate provision shall be made for vehicular and pedestrian circulation, including walkways, interior drives and parking. Special attention shall be given to location and number of access points to the public streets, width of interior drives, general interior circulation, separation of pedestrian and vehicular traffic and

arrangement of parking areas that are safe and convenient and do not detract from the design of proposed structures and the neighboring properties.

- D. Provision shall be made for the proper location and adequate intensity and direction of outdoor lighting, so that lighting shall be reflected away from adjoining premises and public rights-of-way. The size, location, design, color, texture, lighting and materials of all signs shall not detract from the design of the proposed buildings and structures and the surrounding properties and streets or create confusion with other signs or for drivers of vehicles or pedestrians, and shall conform to the provisions of Article X.
- E. There shall be a careful review by the Borough Engineer, at the applicant's expense, of the anticipated average and maximum rates of sewage flow from any proposed structure, and a determination shall be made, to the satisfaction of the Planning Board, that existing sewerage and sewage treatment capacity are sufficiently adequate to convey and treat such anticipated sewage flow.
- F. The Planning Board, after consultation with the Borough Engineer, shall determine that there is adequate provision for drainage from the proposed site, such drainage to be so arranged that no deleterious effect can reasonably be expected in this regard upon adjacent properties or upon the general health and welfare of the community.
- G. The Planning Board shall be assured that the proposed development will not interfere with the ecological balance of the community or the surrounding properties.
- H. Adequate provision shall be made for the collection, disposition and recycling of recyclable materials consistent with the goals of the State Recycling Plan.

§ 94-102. Miscellaneous regulations.

- A. Performance assurances. In approving a site plan, the Planning Board may require that the applicant first furnish to the borough a surety performance bond, guaranty or other form of security, acceptable in form and content to the Borough Solicitor, for the purpose of assuring the completion and maintenance of such off-site and on-site improvements included in the site plan as will affect the public health, safety or general welfare, such as but not limited to drainage, streets, curbs, gutters, curb cuts, fire hydrants, recreational areas, shade trees, shrubbery, other landscaping, trash disposal, off-street parking, loading and unloading zones, artificial lighting and sidewalks. Such surety performance bond, guaranty or other form of security shall be required for no more than two (2) years after issuance of the certificate of occupancy.
- B. Failure to act deemed approval. The failure of the Planning Board to act within the time periods prescribed by N.J.S.A. 40:55D-1 et seq. shall constitute final approval; provided, however, that the time periods prescribed herein may be extended by mutual agreement between the Planning Board and the applicant.
- C. Effect of County Planning Board approval.
 - (1) In the event that Camden County Planning Board approval of the site plan is required, a building permit shall not be issued following Merchantville Planning Board approval until the Merchantville Planning Board is notified by the Camden County Planning Board.
 - (2) In the event that County Planning Board review and approval results in any changes in the site plan, a building permit shall not be issued until such changes are reviewed and approved by the Merchantville Planning Board in accordance with § 94-100B.

ARTICLE XVII Administration; Enforcement; Permits

§ 94-103. Enforcement.

The provisions of this chapter shall be enforced by one (1) or more annual appointees of the Mayor with the confirmation of the Borough Council, hereinafter called the "Zoning Officer," whose duty it shall be to ascertain whether the erection, construction, alteration or use of buildings, premises or land complies with the provisions of this chapter. He shall keep a record of all applications and a record of all permits issued with a notation of all

special conditions involved and shall safely file and keep all such applications and permits in the offices of the Borough Clerk or such offices as the Borough Council shall provide.

§ 94-104. Applications for approval.

Prior to the erection, construction or structural alteration of any building, structure or portion thereof or change in use of any building, lot or parcel of land, application forms in duplicate shall be obtained from the Zoning Officer or Borough Clerk and filled out by the owner or his authorized agent. Such forms shall be accompanied by a plot plan drawn to scale showing the actual dimensions, radius and location of the building or buildings in its or their exact relation to the lot and front property lines and such other information as may be necessary to determine compliance with or provide for the enforcement of this chapter. One (1) application with accompanying plot plan shall be returned to the owner, approved or rejected by the Zoning Officer. Applications for certain uses are subject to site plan approval as provided for in Article XVI.

§ 94-105. Zoning permits and occupancy permits.

- A. Upon the completion, erection, location or alteration of any building or portion thereof for which a building permit shall have been issued by the Building Inspector, or upon any change in the use of hitherto unused land or the change in any existing use, but prior to the use or occupancy of such building or alteration of land, the owner of such land shall notify the Zoning Officer of the Borough of Merchantville of such completion or proposed change in use, whereupon the Zoning Officer shall inspect the premises and, upon ascertaining that the erection, location or alteration referred to in the building permit has been done in conformity with said permit and in compliance with all other applicable codes, and/or the use is in conformity with the terms and provisions of this Chapter, the statutes of New Jersey or any other decision of the Planning Board or Board of Adjustment, shall issue a certificate in writing to be designated a zoning permit or occupancy permit, that said work has been inspected by him and the use approved is in conformity with all zoning requirements of the Borough of Merchantville. No person shall use or occupy any building hereafter erected or located on any lot, or use or occupy any alteration of any building hereafter made, or use or occupy any land, unless and until a certificate of occupancy or conformity shall have been duly issued as required by this chapter. Notwithstanding the foregoing, in the case of a single-family dwelling occupied immediately prior to commencement of any alteration, the occupant shall not be required by this subsection to vacate the premises pending the issuance of a final zoning permit or occupancy permit. [Amended 1-28-2002 by Ord. No. 02-04]
- B. The zoning permit or occupancy permit required by this section is in addition to and not in lieu of any and all other permits or certificates that are or may be required by law or by any governmental agency or by virtue of this chapter or any other ordinance of the Borough of Merchantville or otherwise.

§ 94-106. Building permits.

No building permit shall be issued by the Building Inspector until all applications required under this chapter have been granted or approved.

ARTICLE XVIIIA Violations, Penalties and Fees

§ 94-107. Violations and penalties.

If any building or structure shall be erected, constructed, extended or added to in violation of this chapter or any building, structure or land used or maintained in violation of this chapter, any person, firm or corporation so offending shall be subject to a fine of not more than five hundred dollars (\$500.00) for each day such a violation shall continue, to be collected in the manner provided by law.

§ 94-108. Fees.

- A. The fees set forth in this section are identified either as application fees or escrow fees. The application fee is payable to the Borough of Merchantville and is a flat fee to cover direct administrative expenses and is nonrefundable. The escrow fee shall be placed in an escrow fund with the Borough Treasurer. Said fund shall be used to pay the fees of any professional personnel employed to process, review, inspect and make recommendations on said application, together with any costs or expense, such as preparation of a transcript of the concerned hearing or hearings or a duplication of the respective tape recordings. Application fees and escrow fees are to be made commensurate with or prior to the filing of the application. In the event that the escrow deposited by the applicant exceeds the actual costs incurred, the balance of moneys on deposit with the Borough Treasurer shall be returned to the applicant. If at any time it becomes evident that the escrow fund is or will be insufficient to cover the expenses as set forth above, said funds shall be increased as required by the Planning Board or Zoning Board of Adjustment or Historic Preservation Commission by notification to the applicant. The applicant shall submit a cashier's check in the amount of such additional charges, payable to the Borough of Merchantville, to the Zoning Officer who shall then notify the appropriate board of the availability of such funds. All costs incurred by the Planning Board or Zoning Board of Adjustment or Historic Preservation Commission in obtaining engineering, stenographic, legal, planning or other professional services relating to and arising out of the application review shall be payable by the applicant and shall be deducted from the applicant's deposit. Any unexpended funds remaining in this deposit shall be returned to the applicant following disposition of the application. Escrow deposits shall be administered in accordance with the requirements of N.J.S.A. 40:55D-53.2. If the escrow account is depleted or in arrears, no further action shall be taken on such application until the applicant has satisfied its obligations to fund the escrow account. In the event approval has been secured from either the Planning Board or Zoning Board of Adjustment or Historic Preservation Commission and it becomes apparent that the account will be insufficient to cover all professional expenses, the account shall be funded to cover such expenses, and in the event that the applicant is unwilling or unable to meet its obligations hereunder, no further permits shall be issued in connection with the development. **[Amended 10-13-2004 by Ord. No. 04-19]**
- B. In the event an application involves more than one (1) application, such as a variance and a site plan, the total fee to be paid shall be the total of all the fees called for herein.
- C. Fees enumerated.
- (1) Occupancy permit. An application fee of fifty dollars (\$50.) shall be submitted with the application for each occupancy permit, made payable to the Borough of Merchantville. This fee shall also apply to an occupancy permit for a change of tenancy, as defined herein.
 - (2) Variance.
 - (a) All applications made to the Merchantville Planning Board for hearings and relief as specified in N.J.S.A. 40:55D-70(a) and (b) shall be accompanied by a fee of one hundred fifty (\$150.00) dollars and the posting of an escrow fee of two hundred fifty (\$250.00) dollars. **[Amended 1-24-2005 by Ord. No. 05-01; 5-8-2006 by Ord. No. 06-04]**
 - (b) All applications made to the Merchantville Planning Board for hearings and relief as specified in N.J.S.A. 40:55D-70(c) and (d) shall be accompanied by a fee of three hundred (\$300.00) dollars and the posting of an escrow fee of five hundred (\$500.00) dollars. **[Amended by 5-8-2006 by Ord. No. 06-04]**
 - (3) Major Site Plan Review. There shall be a fee of three hundred (\$300.00) dollars for each application for preliminary or final approval of a major site plan. In addition, an escrow fee of one thousand five hundred (\$1,500.00) dollars shall accompany each application. **[Amended 5-8-2006 by Ord. No. 06-04]**
 - (4) Minor Site Plan Review. There shall be a fee of one hundred fifty (\$150.00) dollars for each application qualifying as a minor site plan. In addition, an escrow fee of two hundred fifty (\$250.00) dollars shall accompany each application, but this escrow fee shall be waived for change of use, a sign application

and for exterior changes visible from a public street, way or place. [Amended 10-13-2004 by Ord. No. 04-19; 5-8-2006 by Ord. No. 06-04]

- (5) Fence. A fee of twenty-five (\$25.00) dollars shall be submitted with each application for a fence erected pursuant to Section 94-13. With respect to a fence to be erected which is not compliant with Section 94-13 of this chapter, a fee of twenty-five (\$25.00) dollars shall be submitted with each application, together with an escrow fee of two hundred fifty (\$250.00) dollars. [Amended 11-22-2004 by Ord. No. 04-24; 1-24-2005 by Ord. No. 05-01]
- (6) Historic Preservation Commission Review. There shall be an application fee of two hundred dollars (\$200.00) for each application for new construction, whether the application is for a Certificate of Appropriateness or for review of an application for development and/or zoning changes referred to the Commission by the Planning Board pursuant to Section 94-51.6 of the Zoning Ordinance. There shall be an application fee of one hundred dollars (\$100.00) for each application for alterations, additions or for demolition, whether the application is for a Certification of Appropriateness or for review of an application for development and/or zoning changes referred to the Commission by the Planning Board pursuant to Section 94-51.6 of the Zoning Ordinance. There shall be an application fee of fifty dollars (\$50.00) for any other application for a Certificate of Appropriateness or for review of any other application for development and/or zoning changes referred to the Commission by the Planning Board pursuant to Section 94-51.6 of the Zoning Ordinance.

There shall be an escrow fee of two hundred and fifty dollars (\$250.00) for each application for demolition, whether the application is for a Certificate of Appropriateness or for review of an application for development and/or zoning changes referred to the Commission by the Planning Board pursuant to Section 94-51.6 of the Zoning Ordinance. These application and escrow fees shall be in addition to the fees regularly charged by the Planning Board for any other approval required for the project. [Amended 10-13-2004 by Ord. No. 04-19]

- (7) A fee of ten dollars (\$10.00) shall be submitted with each request for a certified list of property owners secured from the Borough Clerk in accordance with the provisions of § 94-92 of this chapter.
- (8) Zoning permit. An application fee of twenty-five dollars (\$25.00) shall be submitted with the application for each zoning permit, made payable to the Borough of Merchantville. This application fee shall only be required if there are no other fee payments to be submitted as required under the provisions of Subsections C(2) through (6) of this section, or for which a fee is required under the provisions of the New Jersey Uniform Construction Code.

§ 94-109. (Reserved)

ARTICLE XVIII Miscellaneous Provisions

§ 94-110. Amendments.

- A. The Borough Council of the Borough of Merchantville reserves the right to amend, change, supplement, modify or repeal any portion of this chapter, including the Zoning Map. No such amendment, change, supplement, modification or repeal shall be adopted until after a public hearing is held thereon by the Borough Council, at which parties in interest and citizens shall have an opportunity to be heard.
- B. No amendment, change, supplement, modification or repeal of this chapter shall become effective unless the ordinance proposing same shall first have been referred to the Planning Board for approval, disapproval or suggestions. The Planning Board shall make and transmit to the Borough Council, within thirty-five (35) days of referral, a report, including recommendations concerning the proposed amendment, change, supplement, modification or repeal. The Borough Council shall review the report, including recommendations concerning the proposed amendment, change, supplement, modification or repeal, and may disapprove or change any recommendation only by a vote of a majority of its full authorized membership and shall record in its minutes the reasons for not following such recommendations. Failure of the Planning Board to transmit its report

within the thirty-five-day period provided herein shall relieve the Borough Council from the requirements of this section.

§ 94-111. Repealer.

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

§ 94-112. Filing with Camden County Planning Board.

Immediately upon adoption of this chapter, the Borough Clerk shall file a copy of this chapter with the Camden County Planning Board as required by law. Thereafter every ordinance proposing an amendment, change, supplement, modification or repeal of this chapter shall be filed immediately upon adoption with the Camden County Planning Board as required by law.

§ 94-113. Protest against proposed changes.

In the event of a protest by owners in or in the vicinity of a proposed amendment or revision of this chapter, as provided for in N.J.S.A. 40:55D-63, any proposed amendment, change, supplement, modification or repeal of this chapter shall not become effective except by the favorable vote of two-thirds (2/3) of all the members of the Borough Council.

§ 94-114. Pending applications.

All applications filed or pending prior to the effective date of this chapter may be continued.

§ 94-115. Severability.

If the provisions of any Article, section, subsection, paragraph, subdivision or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of any Article, section, subsection, paragraph, subdivision or clause of this chapter and, to this end, the provisions of each Article, section, subsection, paragraph, subdivision or clause of this chapter are hereby declared to be severable.

§ 94-116. Effective date.*

This chapter shall take effect on _____.

* Editor's Note: This chapter was adopted October 24, 1994.

SCHEDULE OF DISTRICT REGULATIONS

**Borough of Merchantville
Camden County, New Jersey**

STANDARDS	R-1 and R-2	R-3	R-4	B-1	B-2
<i>Minimums</i>					
Lot area, corner lot (square feet)	13,800	8,750	8,750	NA	NA
Lot area, interior lot (square feet)	12,000	7,500	7,500	NA	NA
Lot width, corner lot (feet)	92	70	70	NA	NA
Lot width, interior lot (feet)	80	60	60	NA	NA
Front yard (feet)	30	20	20	0	0
Side yard (feet)	9	8	8	0	0
STANDARDS	R-1 and R-2	R-3	R-4	B-1	B-2
Side yards, combined (feet)	23	18	18	NA	NA
Rear yard (feet)	25	25	25	10	10
<i>Maximums</i>					
Building coverage	20%	25%	25%	90%	80%
Total improvement coverage	40%	45%	45%	90%	90%
Principal building height					
Feet	35	35	35	40	35
Stories	2.5	2.5	2.5	3	2.5
Senior citizen multifamily building ¹ (feet)	NA	NA	NA	60	NA
Accessory building height					
Feet	15	15	15	20	20
Stories	1.5	1.5	1.5	1.5	1.5

The text of Chapter 94 must be read along with this Schedule since it contains additional regulations which in some cases modify the standards shown above.

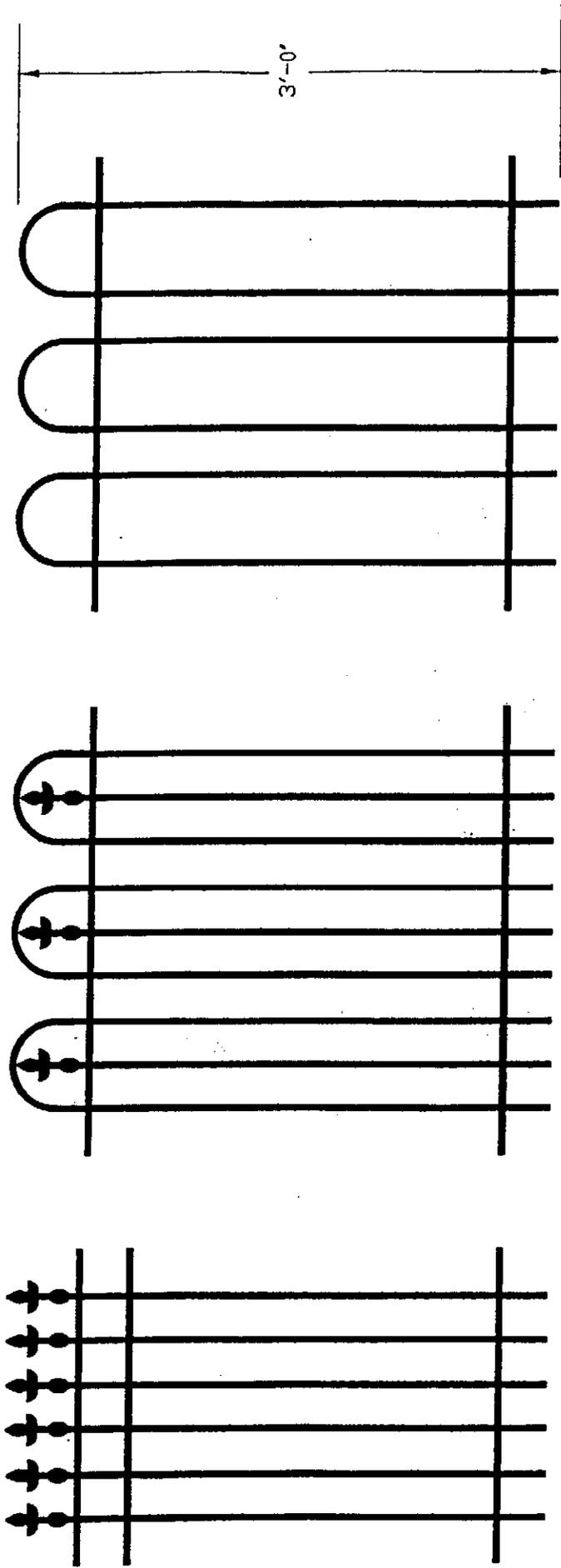
NOTES:

¹ [Added 2-12-1996]

Table of Zoning Map Amendments

[The following is a list of amendments to the Zoning Map adopted 10-24-1994. The complete text of each amendment is available in the borough offices.]

Adopted	Description of Change
2-12-1996	Block 22, exclusive of Lots 2 through 7, as a redevelopment area, pursuant to N.J.S.A. 40A:12A-6



Merchantville Front Yard Iron Fence Guidelines